



The Shared Societies Project
Democratic Leadership for Dialogue, Diversity and Social Cohesion
Building a world safe for difference

**SPEECH OF THE OMBUDSMAN, BEATRIZ MERINO, TO THE
HIGH – LEVEL PANEL ON “SOCIAL INTEGRATION”**

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Chairman, Distinguished Delegates, Ladies and Gentlemen,

I would like to start my presentation by thanking the Commission for Social Development of the United Nations for the invitation to take part in the High-Level Panel on “Social Integration”.

From the agreement with the organizations to start from a brief reflection on the need to construct an inclusive society, I will focus my intervention on the issue of equality and non discrimination, as well as the situations of exclusion of some sectors of the population that require special protection, and for that I will return to the Peruvian reality.

I have organized my presentation in the following way:

1. Social integration as an imperative.
2. General aspects of the right to equality and non discrimination.
3. The Situation of indigenous people, women, disabled people, people suffering from HIV/AIDS, and people without papers; and
4. Final reflection.

1. Social integration as an imperative

In the Copenhagen Declaration, world leaders identified the principal social problems as poverty, unemployment and social marginalization. At that time, there was full consensus about the tight bonds that maintains these problems and their evil interaction

On the other hand, there is also agreement in considering “social integration” as a key factor in sustainable development, jointly with economic and environmental aspects.

Today nobody can deny the relationship that exists between the generation of economic value and the objectives of full employment and well-being. Today nobody can be unaware that besides environmental limits of growth, there are also the social ones.

Is it possible to generate economic value with significant deficit of trust among members or groups that make up society? Is it possible that the State adequately fulfills its role to promote well being and development when its institutions record limited levels of civic trust? Is the creation of development possible in societies that are not able to adequately deal with their own identities.

The answer of such questions shows us a truth with potential of becoming an axiom. Growth, in order to become development and well-being, it must be socially inclusive and environmentally sustainable.

One of the factors that clearly obstructs social integration, and therefore general well-being and the fight against poverty, is the persistence of actions of discrimination within our societies.

2. General aspects of the Right to Equality and Non discrimination.

The Universal Declaration of Human Rights recognizes that “All human beings are born free and equal in dignity and rights” So, one of the basic values coming from that instrument – and from all declarations and conventions after it – is the equality of every person and the respect of their dignity.

The fundamental premise, in the words of Professor Gerard Quinn, Member of the Commission of Human Rights of Ireland, is that every person has not only an intrinsic inestimable value, but also – apart from any difference- are inherently equal with reference to their value.¹

¹ Quinn, Gerard y Degener, Theresia. Human Rights and Disability. Current use and future possibilities for instruments of the United Nations Human Rights in disability context. United Nations Paper HR/PUB/02/1. Geneva and New York. UN, 2002, p.13.

It does not mean that there is no difference among persons. We can not deny that there are differences. What I mean is that a society that fully respects the principle of equality, is one that adopts an inclusive criterion in respect of such differences, giving them positive value.² After all, as the Cuban poet Jose Marti wrote in his essay *Our America*: “Soul springs, equal and eternal, from bodies with different shapes and colors”.³

We don't want to become a common shade of grey. Convention 169 of the ILO moved away from the paradigm of “assimilation” to embrace the concept of inclusion and *interculturalidad*, which implies the recognition that indigenous people (and other groups) are the principal agents of their own prosperity and have the right to decide on the way of life they want as well as be part of the decision making processes. How do we ensure that that happens? The answer of Convention 169 lies in the rights to participation and consultation.

I like the Spanish word “*interculturalidad*” because it reflects that perspective. In English the expression that seems to capture that sense best is “shared society”.

For the first time, equality was focused on its formal or legal dimension; that is to say, avoiding regulations and policies that treated people unequally, or restricted the exercise of their rights. Accordingly, all people are equal before the law, and the State must forbid and fight against discrimination for whatever reason.

However, this concept ignores the actual differences between people. As Amartya Sen, Nobel Laureate in Economics, stated: “The intention to consider everyone equal may result in giving unequal treatment to those that are in a disadvantaged position”.⁴

Besides this concept of equality, similarly we find the concept of non-discrimination, that goes further in prohibiting unequal treatment and is geared toward the eliminate and opposition to different treatment of people because of their innate characters (race, origin, gender, ethnicity, disability) or the position they adopt in society in the exercise of individual free will (religion, opinion, political affiliations).

² Palacios, Agustina y Bariffi, Francisco. *Disability as a matter of human rights* Madrid: CERMI, 2007, p.81

³ Martí, José. *Our America*. Caracas: Fundación Biblioteca Ayacucho, 2005 pp. 36-37.

⁴ Sen, Amartya. *New Inequality Test*. Madrid: Alianza, 1995. p.13

The silent practice of discrimination is present in all of society, making it that much more difficult to eliminate.

When facing material inequality and discrimination, we must look to the concepts of equality of opportunities and inclusion. In accordance with these concepts, factors that people can not control – like social position, race, gender or disability - must not have a bearing on their opportunities in life.

The concept of equality of opportunity concept requires the state to have an active role when guaranteeing a true equality for everybody. It requires confronting structural exclusion of the most marginal and invisible groups in society through the elimination of the political, social and cultural boundaries that they face.

Moreover, this concept requires that the political, social and economic processes of the society have a more inclusive structure in the future, so that people from the most excluded groups can participate. This means, among other factors, going forward in respect to differences and accepting them as a part of human diversity and the human condition.

Inclusion not only attempts to incorporate people who are different in a society that does not respond to their interests. Inclusion means to be prepared in advance to face diversity.

Unfortunately, the limitations and - in many cases - the absence of policies that take into account the needs of all of the people, make it impossible to construct inclusive societies. Therefore, to take forward this demand not only requires the existence of a proper legal framework, but also – above all - the real commitment of policy makers of the State. to inclusive decisions. Public policies based on a focus on rights must be the support for effective action of a State that is looking to eliminate discrimination.

3. Situation of groups that require special protection

3.1. Indigenous peoples

The social division in Peruvian society is reflected, perhaps in its most terrible form, in the situation of indigenous peoples.

The poor understanding of their culture by the State is expressed in the census of population that it carries out. To explain, according to official figures, the indigenous population of Peruvian Amazon amounts to 330 000 people. However, the census uses the mother tongue as the only criterion for identification, disregarding other objective criteria established in Convention 169 of the International Labor Organization (ILO), and in particular the subjective criteria of self-ascription.

This situation causes a smaller register in the official figures referring to the indigenous population in the Amazon.

That description is explained, in part, by the weakness of the state institution dedicated to indigenous affairs. The National Institute for Development of Amazon and Afro-American Indigenous Peoples (INDEPA) has suffered numerous organizational and location changes in the structure of the State; a situation that has affected its institutional consolidation and strength.

For that reason, indigenous people are one of the communities that has to face several obstacles at different levels of the State because of indifference and lack of sensitivity.

Let me say that the Office of the Ombudsman in Peru is promoting topics such as: the right to consultation of indigenous peoples; intercultural bilingual education; health care for indigenous people, and many others with the aim of helping to safeguard the rights of these communities' and build a State based on dialogue and interculturality.

In relation to right of consultation, we submitted to the Peruvian Congress a special report and introduced a legislative initiative with the guiding principles, the social objective of the right of consultation and a procedure for implementation.

In this respect it is relevant to mention that such a Project is useful as the basis for the debate between indigenous representatives and the State at the heart of the National Group of Coordination for Amazon Peoples Development, which was created after the tragic events in the province of Bagua located in the North-west of Peru, in June 2009.

To this extent, we recently requested the Peruvian Congress to approve the Framework Law of Consultation with Indigenous Peoples which will guarantee the establishment of dialogue mechanisms in the country between the State and the indigenous population. Remember that the lack of an established legal procedure to facilitate the execution of this right, recognized by an international convention in force for 15 years ago, was precisely one of the causes that led to the violent outcome in Bagua.

Today, I must say with satisfaction that the level of awareness of the importance of the right to consultation has been evident in recent statements of representatives of the different Congress Parties, and also of the Prime Minister. All of them have agreed on the need to pass a law urgently that facilitates the application of the Right of Consultation in Peru.

With respect to intercultural and bilingual education, positive measures must be adopted for young people to be able to follow bilingual intercultural courses in reception and primary levels. Only in this way can we guarantee that indigenous children will be educated by intercultural bilingual teachers, with a solid professional training. In doing so, we can guarantee the quality of the education of children, and at the same time, preserve the different cultural and linguistic expressions of the country

Regarding the health of indigenous peoples, the scarcity of medical services available for a large part of native population is very troubling, as well as the lack of specialized equipment, material and medicines for providing proper care for the patients.

Such reality led us to undertake a review of health services provided by the Peruvian State for the Amazon indigenous population. This review allowed us to formulate a series of recommendations for improving the service in five important areas: i) Basic health, ii) Intercultural training of medical and assisting personnel, iii) Traditional medicine, iv) Traditional health practitioners, and v) Strengthening permanent and peripatetic health services.

3.2. Women

In Peru, discrimination on grounds of gender is a complex and unresolved problem that seriously affects women's rights and is an obstacle for our integration, cohesion and development as a nation.

Peruvian Government passed the Equality of Opportunities Act (LIO) between men and women, which consolidates public policies, that must be adopted by national, regional and local public bodies, to guarantee respect for equality and the principle of non discrimination on grounds of gender.

Nevertheless, as the Office of the Ombudsman noted, several public entities charged with meeting this regulation have put a major emphasis in the plans designed to carry out it out, but have done very little on its implementation, even in the evaluation phase, that would provide information on whether the implemented policy implemented is meeting with the proposed objectives and goals, as well as identify those elements that make its completion difficult.

Due to that fact, our institution has implemented a tracking system, with structured , of the process and results, which allow us to measure the progress of this matter.

3.3. Disabled people

Disabled people are facing a series of problems which do not arise from their condition itself, but from the scarcity of opportunities and conditions for their development in a proper way. This is the case in great measures because of existing prejudices and because the society has organized its operations without reference to the requirements of the disabled. Therefore, this sector is constantly facing a variety of social, cultural, economical, and physical barriers impeding their personal growth and social inclusion.

Regarding integrated education that allows disabled people access to the same learning opportunities that are available to the general population, the Office of the Ombudswoman included in the public agenda the situation of separate educational that 87% disabled children and young people experience, which at this time has fostered a positive change in educational policies in favor of this group.

3.4. People suffering from HIV/AIDS

The creation of a favorable non-discriminatory and non-prejudicial environment rooted in public and private sectors, and mainly, in

social sector, is an unavoidable task in which all citizens must be engaged. In this direction, it is important to note that discrimination is one of the most principal barriers in the fight against the HIV/AIDS.

Lack of information on this disease and its forms of treatment, prejudices related to homosexuality, as well as social fears, are all barriers that must be overcome to guarantee the full protection of the human rights of this group. Unfortunately, these behaviours make it difficult to provide assistance, support, treatment and mitigate the impact.

Finally, the Peruvian government, receiving the recommendations formulated by the Office of the Ombudsman with the aim of guaranteeing the rights of these people, has included the protection of rights in its answer to this epidemic.

3.5. People without identity

Lack of documentation is one of the most extreme expressions of exclusion that thousands of people suffer from in Peru. A person without papers does not exist for the State; therefore, they are outside all public policy formulated for the benefit of the population, even that intended to fight against poverty and social exclusion.

According to the National Population and Housing Census of 2007, 1% of the Peruvian population (277,628) does not have a birth certificate, and 3,2% of the Peruvian population (552,084 people) does not have a National Identity Card - DNI. The highest percentage of people not included in the civil registers live in rural areas, and women are the most affected. In the regions, the provinces in the jungle areas have the higher percentages of people without birth certificate.

At this time, the Office of the Ombudsman believes that lack of documentation is one of the more severe consequences of subversive violence in our country, and motivated us to intervene and restore the right of identity for population affected by violence.

4. Final reflection

Discrimination not only hurts those that are in different groups, but also those that practice it. The tendency to feel deep hatred that

feeds discrimination spreads out as an infection to all those who do not fit an increasingly narrow definition of what we understand as “normal”.

Discrimination attacks those that “think differently”, to those that “look different” to those with “other skin color”, to those we consider “mad”, to those that have “different sexual orientations,” to those belonging to “other cultures”, to those are not similar to standard human forms. It attacks all of us.

Federico Garcia Lorca, the great Spanish poet, wrote in one of his poems that were most critical of contemporary society most significant book of poems: “I denounce all people that ignore the other half”. Today, following the poet – in the frame of the 48th Session of the United Nations Commission for Social Development- I denounce everyone who is on the side of injustice, discrimination and exclusion.

Thank you very much.
(End)

(Check against delivery)