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June 26, 2017

**Re: Information on Paraguay for Consideration by the Committee against Torture at its 61st Session (24 July – 11 August 2017)**

Dear Distinguished Committee Members,

Equality Now respectfully submits this letter to the Committee against Torture (“the Committee”) for consideration during its 61st session meeting, taking place 24 July – 11 August 2017, including on Paraguay’s periodic report for review. Equality Now writes to express its concern about human rights violations faced by girls in Paraguay. This letter focuses on Paraguay’s obligations under Article 2 (obligation to prevent torture, including through legislative means) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”). In particular, this letter addresses the high number of girls in Paraguay who are forced to become mothers as a consequence of rape or incest after being denied access to legal abortion services.

Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries. Following our work in the Latin America and Caribbean (LAC) and as a consequence of our collaboration with our in-country partner in Paraguay, Equality Now has learned of the epidemic of sexual abuse against young girls, specifically girls under 14 years of age, often at the hands of family, family friends or people co-habiting with them. The high number of sexual abuse survivors has translated into a high number of young girls becoming pregnant as a consequence of the abuse. According to a report researched and published by our partner in Paraguay, the Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres (CLADEM), in 2012 an estimated 60,690 girls under 14 years of age in 12 countries studied in LAC become mothers while they themselves are still children in part due to a lack of access or denial of their legal and human rights.<sup>1</sup>

### **Sexual violence in Paraguay**

Sexual violence against girls is widespread in Paraguay. Nearly one in three girls will suffer physical, emotional or sexual abuse by age 19. Between January and May 2015, the Department of Criminal Complaints of the Public

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<sup>1</sup> Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres (CLADEM), *Girl Mothers – Forced Child Pregnancy and Motherhood in Latin America and the Caribbean*, pg. 20 (Feb. 2016), available in Spanish <https://www.cladem.org/images/imgs-noticias/nin%CC%83as-madres-balance-regional.pdf> and English [https://www.equalitynow.org/sites/default/files/Girl%20Mothers\\_English\\_Final\\_To%20Publish\\_0.pdf](https://www.equalitynow.org/sites/default/files/Girl%20Mothers_English_Final_To%20Publish_0.pdf).

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Ministry had already received reports of 421 cases of child sexual abuse, though the actual number of victims is likely to be much higher due to under-reporting.<sup>2</sup> Even though the Penal Code criminalizes forced sexual acts, sexual abuse of minors, and incest, the laws are poorly implemented.

Furthermore, adolescent pregnancies resulting from sexual abuse are very common in Paraguay. The Ministry of Health reported that in 2014, 704 girls between ages 10 and 14 gave birth in Paraguay and there are reports of even higher numbers in 2015.<sup>3</sup>

### **Legal Access to Abortion**

Under Article 109 of Paraguay's Criminal Code, women and girls have a right to access abortion services only when the life or health of the mother is at risk.<sup>4</sup> However, there are no guidelines clarifying how or when this exception can be utilized and it is rare that women and girls are actually able to access abortion under this provision.

### **Forced Motherhood**

Equality Now would like to highlight to the Committee an example of the risks to life too many girls face, particularly when they are pregnant as a result of sexual abuse and denied life-saving abortions. "Mainumby" is a 12-year-old girl in Paraguay who became pregnant as a result of alleged sexual abuse by her stepfather.<sup>5</sup> When doctors first diagnosed her pregnancy at 21 weeks, they determined that her life would be at risk if she carried the pregnancy to term and recommended she have an abortion. Based on this recommendation, Mainumby's mother requested for Mainumby to be provided an abortion. However, though Paraguayan law permits abortions when a woman or girl's life is at risk, the Ministry of Health intervened, prevented Mainumby from obtaining an abortion, and had Mainumby's mother imprisoned. Mainumby was subsequently removed from her family and institutionalized until she gave birth via C-section. Today, Mainumby lives with the consequences of the abuse she suffered and the denial of reproductive health care by the Paraguayan government.

Paraguay prioritized protecting the fetus over the right to life of Mainumby, who faced a greater risk of death with each day that her pregnancy advanced. As an impoverished and still developing child, Mainumby was extremely ill and seriously undernourished when she was pregnant. The risk to her life could have been prevented had Paraguay protected Mainumby from sexual violence and, after her mother requested an abortion based on a medical recommendation, provided her access to a safe, therapeutic abortion earlier in her pregnancy.

This case is only one example of the many girls in Paraguay and around the world who become pregnant following sexual abuse and are forced to become mothers. Sexual violence is disproportionately committed against girls, and an estimated 150 million girls under age 18 have experienced rape or other forms of sexual violence. Many girls like Mainumby, who suffer from sexual abuse, become pregnant as a result. Adolescent girls are two to five times more likely to die during pregnancy or childbirth than women in their twenties. Complications during pregnancy and childbirth are the second leading cause of death among girls aged 15-19

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<sup>2</sup> *10 Facts About Women's Health*, PARAGUAY.COM (May 27, 2015), available at <http://www.paraguay.com/nacionales/10-datos-sobre-salud-de-las-mujeres-128589>. See also Rico, *Child Sexual Abuse the Most Reported Crime in Paraguay*, Q COSTA RICA (Dec. 28, 2015), available at <http://qcostarica.com/child-sexual-abuse-the-most-reported-crime-in-paraguay/>.

<sup>3</sup> Linda Pressly, *Pregnant at 10 and Abortion's Not an Option*, BBC NEWS MAGAZINE (Sept. 10, 2015), available at [www.bbc.com/news/magazine-34195973](http://www.bbc.com/news/magazine-34195973).

<sup>4</sup> Republic of Paraguay Penal Code, Law No. 1160/97, Article 109.

<sup>5</sup> Mainumby is a pseudonym used to protect the survivor's identity and privacy. To learn more about Mainumby's story, visit <https://www.equalitynow.org/action-alerts/justice-mainumby>.

globally. Girls who are pregnant as a result of rape must have their right to life protected so that they can grow up to enjoy all their human rights.

Systematic lack of access to therapeutic abortion and prioritization of an interest in protecting a fetus at the expense of the right to life of a pregnant girl can lead to grave violations of the Covenant. This Committee has in the past expressed its concern with restrictions on access to abortion as violating the Convention's prohibition of torture and ill treatment.<sup>6</sup> In its review of Paraguay in 2011, this Committee expressed its concern with "the general prohibition in article 109 of the Criminal Code, which applies even to cases of sexual violence, incest... with the sole exception of cases where the foetus dies as an indirect result of an intervention that is necessary to avert a serious threat to the life of the mother."<sup>7</sup> Moreover, this Committee expressed its concern over "the denial of medical care to women who have decided to have an abortion," which the Committee rightfully noted "could seriously jeopardize their physical and mental health and could constitute cruel and inhuman treatment."<sup>8</sup> The Committee recommended to Paraguay that it review its legislation and consider allowing for access to abortion in cases of rape or incest.<sup>9</sup> In 2013, in his report to the Human Rights Council, then UN Special Rapporteur on Torture Juan Mendez highlighted the "denial of legally available health care services such as abortion" as an example of abuse and mistreatment of women in the healthcare setting that amounts to torture or ill-treatment recognizing it can "cause tremendous and lasting physical and emotional suffering."<sup>10</sup>

### **Suggested Questions for the State Party**

We would respectfully urge the Committee to raise with the Paraguayan government the following questions with regard to violations of the Convention addressed in this letter:

1. What steps is the Government taking to ensure that women and girls who request abortion services under Article 109 receive the medical care they are entitled to?
2. What is the Government doing to protect the growing number of young girls who become pregnant as a consequence of rape or incest and are forced to become mothers?

### **Suggested Recommendations for the State Party**

We would respectfully urge the Committee to make the following recommendations to the Paraguayan government with regard to violations of the Convention addressed in this letter:

1. Take all efforts to address the risks to life that women and girls face, including by reforming laws to ensure women and girls can access safe abortion services;
2. Develop clear and transparent guidelines and protocols explaining how determinations are made to allow abortions and who makes them when there is a threat to the health or life of a pregnant woman or girl under Article 109 of Paraguay's Penal Code; and
3. Amend its Penal Code to provide a further exception to its general ban on abortion, in particular for cases of rape or incest.

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<sup>6</sup> See CAT/C/PER/CO/4, para 23.

<sup>7</sup> Committee against Torture, *Consideration of Reports Submitted by States Parties Under Article 19 of the Convention*, para 22, U.N. Doc. CAT/C/PRY/CO/4-6 (Dec. 14, 2011).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez*, para 46, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013).

Thank you very much for your kind attention. Please do not hesitate to contact us if we can provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shelby Quast', written in a cursive style.

Shelby Quast  
Americas Director  
Equality Now