Dubravka Šimonović
UN Special Rapporteur on Violence against Women, Its Causes and Consequences
OHCHR-UNOG,
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
By e-mail: vaw@ohchr.org

17 May 2019

Re: Information for the upcoming thematic report on mistreatment and violence against women during reproductive health care with a focus on childbirth

Dear Ms. Šimonovic,

Equality Now, Human Rights and Social Studies Lawyers of the Argentine Northwest (ANDHES) and CLADEM respectfully submit this letter to you as the UN Special Rapporteur on Violence against Women, Its Causes and Consequences (UN Special Rapporteur on Violence against Women) to provide information in advance of the submission of your next thematic report to be presented at the 74th session of the General Assembly in September 2019. Equality Now is an international human rights organization with ECOSOC status working for the protection and promotion of the rights of women and girls worldwide. The Committee of Latin America and the Caribbean for the Defense of Women's Rights (CLADEM) is a network created in 1989 dedicated to the promotion and defense of the human rights of women, which brings together people and non-governmental organizations in 14 countries of the region. ANDHES is a non-profit organization that works with total independence of political parties and religious institutions since 2001 and has a presence in San Miguel de Tucumán, San Salvador de Jujuy, and the Northwest Argentine region (NOA).

We are writing to provide information about sexual violence against and subsequent abuse and mistreatment of girls seeking reproductive health care in Latin America and the Caribbean, leading to forced pregnancy and motherhood, by highlighting specific examples from Paraguay, Argentina, Colombia, and Bolivia. We respectfully request that the UN Special Rapporteur on Violence against Women include information about these forms of violence and human rights violations, and recommendations to prevent them, in your upcoming report.

It is estimated that up to 50% of sexual assaults worldwide are committed against girls under 16[1] and up to one in five girls under the age of 15 experience sexual abuse.[2] One horrific consequence of the sexual violence of girls is that it often results in pregnancy and the frequent inability to terminate these pregnancies, despite the health consequences to the girl. A forced pregnancy occurs when a girl unwillingly becomes pregnant, and termination of the pregnancy is denied or otherwise delayed.[3] Forced motherhood occurs when a girl is forced to become a mother against her will, such as through the denial of a therapeutic abortion.[4]

Sexual violence and resulting pregnancies in young girls have serious negative impacts on a girl's health. The Pan American Health Organization,[5] the World Health Organization,[6] and others have noted the harmful physical and mental consequences of early pregnancy including, but not limited to, high maternal mortality rates, risk of fistula[7] and other complications during birth,[8] higher child mortality rates for the children of young mothers,[9] and psychiatric illnesses including depression and suicidal thoughts.[10] Complications during pregnancy and childbirth are the second leading cause of death among girls aged 15 to 19 globally.[11] Adolescent girls are two to five times more likely to die during pregnancy or childbirth than women in their twenties.[12]

In 2016, CLADEM presented its research on forced pregnancy and child maternity in fourteen countries in Latin America and the Caribbean, including Paraguay and Argentina.[13] According to their report, thousands of girls in Latin America and the Caribbean have been forced

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[1] UN Women, *Fast facts: statistics on violence against women and girls*, *available at* www.endvawnow.org/en/articles/299-fast-facts-statistics-on-violence-against-women-and-girls-.html.

[2] World Health Organization, *WHO Multi-country Study on Women's Health and Domestic Violence against Women*, Page 49, *available at* https://apps.who.int/iris/handle/10665/43309.

[3] 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. 6 (Feb. 2016), *available* in Spanish https://www.cladem.org/images/imgs-noticias/nin%CC%83as-madres-balance-regional.pdf and English https://d3n8a8pro7vhmx.cloudfront.net/equalitynow/pages/311/attachments/original/1528286922/Girl_Mothers_English_Final_To_Publish_0_%283%29.pdf?1528286922 [hereinafter CLADEM].

[4] *Id.*

[5] Pan-American Health Organization, *International Interagency Meeting: Current Evidence, Lessons Learned and Best Practices in Adolescent Pregnancy Prevention in Latin America and the Caribbean* (17-19 March 2014), *available at* www.paho.org/derechoalaSSR/wp-content/uploads/Documentos/Final-Report-Nicaragua.pdf

[6] *See generally*, World Health Organization & United Nations Population Fund, *Pregnant Adolescents: Delivering on Global Promises of Hope*, at 14 (2006), *available at* whqlibdoc.who.int/publications/2006/9241593784_eng.pdf (*citing* Alan Guttmacher Institute, *Into a New World: Young Women's Sexual and Reproductive Lives* (1998).

[7] World Health Organization, *Report by the Secretariat, Early Marriages, Adolescent and Young Pregnancies*, A65/13, ¶ 11 (Mar. 16, 2012), *available at* http://apps.who.int/gb/ebwha/pdf_files/WHA65/A65_13-en.pdf?ua=1.

[8] World Health Organization & United Nations Population Fund, *Pregnant Adolescents: Delivering on Global Promises of Hope*, at 14 (2006), *available at* https://apps.who.int/iris/bitstream/handle/10665/43368/9241593784_eng.pdf?sequence=1 (*citing* Alan Guttmacher Institute, *Into a New World: Young Women's Sexual and Reproductive Lives* (1998).

[9] World Health Organization, *Fact Sheet No. 364 on Adolescent Pregnancy* (Sept. 2014), *available at* www.who.int/mediacentre/factsheets/fs364/en/.

[10] Committee on the Rights of the Child, *General Comment No. 4: Adolescent Health and Development*, U.N. Doc. CRC/GC/2003/4, ¶ 27 (July 2003).

[11] *See* World Health Organization, *Report by the Secretariat, Early Marriages, Adolescent and Young Pregnancies*, A65/13, ¶ 11 (Mar. 16, 2012), *available at* http://apps.who.int/gb/ebwha/pdf_files/WHA65/A65_13-en.pdf?ua=1.

[12] Center for Reproductive Rights, *Violence against Women and Reproductive Rights in the Americas* (May 2015), *available at* www.reproductiverights.org/sites/crr.civicactions.net/files/documents/(EN)%20Advocacy%20Doc%20for%20OAS%20Conveni ng.pdf.

[13] CLADEM, *supra* note 3.

into motherhood by their State.[14] Although responses by State officials and hospitals to adolescent girls seeking an abortion vary on a case-by-case basis, cases have been reported where girls have been detained in an institution until they give birth,[15] or are otherwise obligated to carry their pregnancy to term, regardless of the legality of abortion in the country. Such actions by hospitals or State officials force adolescent girls to become mothers, and deprive them of their right to liberty and other human rights violations detailed further below.

In 2017, UNFPA launched a Sub-regional Strategic Framework called *Prevention and reduction of unintentional pregnancy in the adolescent population of the Southern Cone*. This framework is designed to improve the implementation of local policies on early pregnancies, and was developed jointly by authorities and public officials of the Ministries of Health, Education and Social Development of Argentina, Brazil, Chile, Paraguay and Uruguay, as well as officials of UNFPA, PAHO, UNICEF and academic experts in the field. The study carried out to support the Strategic Framework recognizes that "**Pregnancy and maternity in adolescence is in the vast majority of cases a problem of inequality and social inequality.** The inequalities are territorial, ethnic, cultural, economic, gender and educational, among others." This document expressly recognizes that, "Motherhood in adolescents under 15 years of age implies a greater risk of maternal and perinatal morbidity and mortality, and low birth weight. Thus, according to vital statistics data from the respective countries, in Paraguay, Argentina, Chile and Uruguay, the proportion of low birth weights of pregnancies of girls under the age of 15 is higher than that of adolescents between 15 and 19, and that of adults."

Systematic lack of access to 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 human rights, including torture, or cruel, inhuman, or degrading treatment;[16] gender based discrimination; and the right to the highest attainable standard of health, including access to sexual and reproductive health services.[17] International human rights standards require States to consider physical, mental, and emotional health when making a determination as to whether a therapeutic abortion should be guaranteed, particularly in the context that a young child has been raped and becomes pregnant as a result. For example, in the case of *K.L. v. Peru*, the Human Rights Committee ruled that the denial of a therapeutic abortion, where continued pregnancy threatens the life and mental health of a pregnant woman or girl, violates the right to be free from cruel, inhuman, or degrading treatment, particularly in the case of minor girls.[18] The Committee specially considered the "special vulnerability" of minor girls and that severe psychological suffering is exacerbated in minors.[19] In *LMR v. Argentina,* the Human Rights Committee held that the denial of a legal abortion to a young girl who became pregnant after being raped by her uncle constituted violations

[14] *Id.* at iii.

[15] *Id.*

[16] *See* CAT/C/PER/CO/4, para 23; 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) (highlighting 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.")

[17] Convention on the Elimination of All Forms of Discrimination against Women, arts. 1, 2, 3, 5, 12, 16.; CEDAW, *General Recommendation No. 19,* U.N. Doc. A/47/38 (1993); CEDAW, *General Recommendation No. 24,* par. 14, U.N. Doc. A/54/38/Rev.1, chap. I (1999)

[18] *K.L. v. Peru*, Human Rights Committee, Communication No. 1153/2003, U.N. Doc. CCPR/C/85/d/1153/2003 (2005).

[19] *Id. at* ¶ 6.2.

of her rights to freedom from cruel, inhuman, or degrading treatment and from arbitrary or unlawful interference with privacy, family, home or correspondence.[20] In *LC v. Peru*, the Committee on the Elimination of Discrimination against Women (CEDAW) held that the denial of an abortion to a thirteen year old girl who had been sexually abused by a neighbor constituted gender-based discrimination.[21] In the Inter-American human rights system, the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI) has repeatedly encouraged States to enact provisions that permit interruption of pregnancy on therapeutic grounds or in the case of rape.[22]

Paraguay

When she was just 10 years old "Mainumby"[23] (not her real name) was informed by doctors that she was pregnant following years of sexual abuse by her stepfather. Her mother had reported the abuse to the police a year earlier, but they had failed to investigate the claims and dismissed the case the previous fall. Upon learning of Mainumby's diagnosis, her mother, with the support of her doctors who determined that her life was at risk if she carried the pregnancy to term, requested that the pregnancy be terminated. However, although Paraguayan law permits abortions when a woman or girl's life is at risk, the Hospital de la Cruz Roja Reina Sofía and the Minister of Public Health and Social Welfare (Ministero de Salud Pública y Bienestar Social) intervened, denying Mainumby's right to access an abortion. Instead they forcibly isolated and institutionalized her, while her mother was put in jail and charged with being complicit in Mainumby's abuse. Due to the high-risk nature of her pregnancy, Mainumby was hospitalized several weeks before she gave birth via C-section. Fortunately, Mainumby and her baby survived the pregnancy, but not without costs to her health, physical and psychological integrity, well-being, and other human rights. Although she was reunited with her family and allowed to return home shortly after the birth, Mainumby still feels traumatized by the ordeal and subsequent forced motherhood. Similarly, Mainumby's mother was released from prison and all charges against her were dropped, but in the interim she lost her job and still faces harassment from fundamentalist religious organizations.

Several UN experts, including the Special Rapporteur on violence against women, its causes and consequences issued a statement stating that Paraguay's decision "results in grave violations of the rights to life, to health, and to physical and mental integrity of the girl as well as her right to education, jeopardising her economic and social opportunities" and that they "deeply regret that the State has failed in its responsibility to act with due diligence and protect the child."[24] Following this, in June 2015, Precautionary Measures were issued by the Inter-American

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[20] *LMR v. Argentina*, U.N. Doc. CCPR/C/101/D/1608/2007 (Apr. 28, 2011).

[21] *LC v. Peru*, U.N. Doc. CEDAW/C/50/D/22/2009 (Nov. 4, 2011).

[22] Mechanism to Follow Up on the Implementation of the Convention on the Prevention, Punishment and Eradication of Violence against Women (MESECVI), *Second Hemispheric Report on the Implementation of the Belém do Pará Convention* (Apr. 2012), *available at* www.oas.org/en/mesecvi/docs/MESECVI-SegundoInformeHemisferico-EN.pdf; Declaration on Violence Against Women, Girls and Adolescents and Their Sexual and Reproductive Rights, OEA/Ser.L/11.710 MESECVI/CEVI/DEC.4/14 (19 Sept. 2014), *available at* www.oas.org/en/mesecvi/docs/DeclaracionDerechos-EN.pdf.

[23] Equality Now Action on Mainumby, *available at* https://www.equalitynow.org/paraguay_protect_the_rights_of_pre_teen_rape_victim_and_give_her_justice

[24] Human rights: Paraguay has failed to protect a 10-year old girl child who became pregnant after being raped, say UN experts (11 May 2015), *available at* *https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15944&LangID=E*

Commission on this case.[25] The Commission urged that Paraguay protect Mainumby's integrity and life in order to guarantee that she has access to appropriate medical treatment and services, that her rights are represented and guaranteed in all decisions affecting her health, and adopt all necessary measures so that Mainumby can depend on her rights being protected.

Unfortunately, Mainumby's story is not an isolated incident, but just one example of the high prevalence of sexual violence and forced pregnancy and the following obstetric violence against young and adolescent girls in health centers and establishments throughout Paraguay. It is estimated that 20% of women who experience sexual violence within the country are under 15.[26] In 2014, the Paraguayan Public Ministry Complaints Office received 688 complaints of sexual abuse involving minors under 14 years of age, but those numbers were not disaggregated by gender.[27] By the end of May 2015, the Department of Criminal Complaints of the Public Ministry had already received reports of 421 cases of sexual abuse of children and adolescents.[28] Actual rates are likely greater since these numbers represent only those abuses that are reported. Not surprisingly, the number of births by girls between the ages of 10 and 14 is also staggeringly high – official data from the United Nations Population Fund indicates that in 2009 there were 590 births by girls aged 10 to 14, 555 in 2010 and 611 in 2011[29]. This means that in Paraguay, at least two girls per day were victims of sexual violence and became pregnant, not to mention the likely thousands of rapes that do not result in pregnancy These girls may be forced to continue with the pregnancy, even against their wishes. An additional 20,009 children were born to girls between 15 and 19 years of age in 2015.[30] It is likely that the actual number of child mothers is also much higher, as victims often are hesitant to report their abuse and these reports represent only births at government institutions.[31] On the other hand, unwanted early pregnancies are associated with higher levels of abortion, which are usually carried out in unsafe conditions and which can cause serious risks to the health and life of girls.[32]

In order to ascertain the true extent of this problem, the Paraguayan government should develop a new National Survey of Demography and Sexual and Reproductive Health, which will allow it to capture valuable data, including: the demand for and use of contraceptives, access to information, first sexual experiences, sexual education, social conditions of pregnancies in adolescents, violence and sexual abuse against girls and adolescents, gender relations, conditions of childbirth and postpartum period.[33]

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[25] Precautionary Measure Number 178/15, The case of the Girl Mainumby with respect to Paraguay, *available at* http://www.oas.org/es/cidh/decisiones/pdf/2015/MC178-15-ES.pdf

[26] *10 datos sobre salud de las mujeres*, Paraguay.com (May 27, 2015), available at http://www.paraguay.com/nacionales/10-datos-sobresalud-de-las-mujeres-128589 [hereinafter *10 datos sobre*].

[27] CLADEM, *supra* note 3.

[28] *10 datos sobre*, *supra* note 12.

[29] United Nations Population Fund (UNFPA 2013) "*En Paraguay 1 de cada 4 mujeres embarazadas es adolescente"* in *Joparé* Number 53, Year 13.

[30] 10 datos sobre, supra note 12.

[31] Linda Pressly, Pregnant at 10 and abortion's not an option, BBC NEWS MAGAZINE (Sept. 10, 2015), available at http://www.bbc.com/news/magazine-34195973.

[32] Chiarotti, Susana 2016 Niñas madres. Embarazo y maternidad infantil forzada en América Latina y el Caribe (Asunción: Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres – CLADEM). See: https://cladem.org/wp-content/uploads/sites/96/2018/11/nin%CC%83as-madres-balance-regional.pdf

[33] See: CDE. (2018). Embarazo y maternidad de niñas en Paraguay. Disponible en: http://www.cde.org.py/wp-content/uploads/2018/12/Embarazo-nin%CC%83as-FINAL-web-1.pdf

Although States should never allow an adult to engage in sexual activities with a child, another factor that leads to the high prevalence of child pregnancy is associated with the lack of access to accurate and reliable information about sexual and reproductive health within the framework of the formal and informal education systems, accompanied by a deficit of reproductive health services and programs. At the same time, the lack of affordable and accessible contraceptive methods also leads to early pregnancy.

In Paraguay, girls are banned from receiving comprehensive sexuality education due to resolutions of the Ministry of Education, despite the fact that 95% of adolescents agree that sexuality education should be part of what they learn in their schools and colleges.[34] There are also no effective policies to reintegrate girls who either dropped out of school due to pregnancy or are at risk of dropping out of school, or to facilitate the continuity of school attendance of pregnant young and adolescent girls and mothers.

Paraguay's budget for comprehensive sexuality education is insufficient to allow for strengthening programs and initiatives surrounding sexual violence against adolescent girls and for access sexual and reproductive health care. It also lacks systematic evaluation systems for its ongoing programs. Monitoring and evaluation of indicators linked to adolescent sexual and reproductive health, and in particular the occurrence of forced pregnancy in girls aged 10 to 14 years is important as it could ultimately be evidence of the effectiveness of state actions, including reducing and eliminating the sexual violence that causes these pregnancies.

In order to achieve progress in terms of its comprehensive sexuality education, Paraguay needs to regulate the basic content of its education system, with a focus on eliminating discretion of the educational and teaching centers in the implementation of these programs. Schools and colleges must act to prevent discrimination based on sexuality or pregnancy. It is urgent that measures be taken to avoid the expulsion or exit of pregnant girls from the education system.[35] It is necessary to deepen the effective prevention of early and forced pregnancies, offering alternatives to girls and installing modes of social and State action that respect the rights of girls; it is a matter of rights and social justice in Paraguay.[36] Greater efforts are also required in terms of teacher training and coordinating actions between the education and health sector.

Although there are some services for adolescents in Paraguay's health system, they do not address the specific cases of girls aged 10 to 14 years, and the few services that do exist do not allow for sufficient coverage, accessibility, or provide guarantees of confidentiality. Although Paraguay allows for abortion when the mother's life is in danger, such requests are often not fulfilled within the health services system, due to the fundamentalist influences of the bioethics committees within the public health care centers.

Similar to the lack of data regarding the rates of pregnancy of girls under 15, there is also no knowledge about the quality of care received by girls within the healthcare system, since most

[34] CDE. (2015). Conocer para prevenir y actuar. Diez datos clave sobre adolescentes ante la salud y los derechos sexuales y reproductivos en Paraguay. Disponible en: http://www.cde.org.py/wp-content/uploads/2015/12/folleto-resumen-jaikuaa-web.pdf

[35] *Id.*

[36] *Id. at page 68*

maternal and child services lack quality control and patient safety systems.[37] The absence of longitudinal studies and institutional follow-up of the girls who went through delivery leads to a lack of knowledge on any negative effects caused by their early pregnancy and forced motherhood on girls in the Paraguayan context.

Argentina

In February 2019, an 11-year-old girl--often referred to by the pseudonym "Lucia"--was admitted to a hospital when it was discovered that she was pregnant following sexual abuse by her grandmother's boyfriend.[38] Upon being admitted, the girl and her mother requested that the doctors perform an abortion.[39] Argentina's laws allow for abortion in cases of rape, or when a woman or girl's life is at risk.[40] However, instead of performing the procedure, the doctors and hospital delayed performing the procedure for weeks, "effectively forcing the girl to carry the pregnancy to term against her and her mother's wishes."[41] Additionally, the medical staff continually lied to both the girl and her mother about the treatments and medication given to the girl and kept her in isolation. Lucia was forced to continue the pregnancy. Two private-sector doctors eventually performed a C-section on Lucia after finding that her life would be at risk if they performed an abortion after 23 weeks.[42]

Similar to other countries in the region, rates of child pregnancy in Argentina are high. A 2017 UNICEF report found that every three hours, a 10-14 year old girl gives birth[43] and 15% of all births in Argentina are from adolescent mothers, with some provinces reporting numbers as high as 25%.[44]

Argentina's Ministry of Health issues regulations on the administration of hospitals and medical care, including the protocol for the legal termination of pregnancy, but there is resistance to implementing the policy within individual provinces by health professionals. Regarding consent, according to Patient Law Number 26529, a patient must give their informed consent after receiving clear, truthful information by health personnel, before undergoing any medical procedure. However in reality, in the cases of child pregnancies, this law is often not applied or it is difficult to implement. Within health facilities, there are no no referral or accountability mechanisms for victims of abuse and violence. Victims must initiate legal action and sue in cases of obstetric violence, institutional violence or violence against their reproductive freedom.

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[37] See: Centro de Documentación y Estudio: http://www.cde.org.py/wp-content/uploads/2018/12/Embarazo-nin%CC%83as-FINAL-web-1.pdf

[38] Danie Politi, *An 11-Year-Old in Argentina Was Raped. A Hospital Denied Her an Abortion*, NEW YORK TIMES, Mar. 1, 2019, *available at* https://www.nytimes.com/2019/03/01/world/americas/11-year-old-argentina-rape-abortion.html.

[39] *Id.*

[40] *Argentine 11-year-old's C-section sparks abortion debate*, BBC NEWS, Feb. 28, 2019, *available at* https://www.bbc.com/news/world-latin-america-47400819.

[41] *Argentina: Authorities Deny 11-Year-Old's Right to Terminate Forced Pregnancy,* AMNESTY INTERNATIONAL, Mar. 6, 2019, *available at* https://www.amnistia.org/en/news/2019/03/9485/authorities-deny-11-year-old-s-right-to-terminate-forced-pregnancy

[42] Danie Politi, *An 11-Year-Old in Argentina Was Raped. A Hospital Denied Her an Abortion*, NEW YORK TIMES, Mar. 1, 2019, *available at* https://www.nytimes.com/2019/03/01/world/americas/11-year-old-argentina-rape-abortion.html..

[43] *Argentina*, #NinasNoMadres, *available at* https://www.ninasnomadres.org/argentina/

[44] Florence Bauer, UNICEF Representative to Argentina. *Informe de Unicef con datos oficiales* (October 2017)available at https://www.clarin.com/sociedad/embarazo-infantil_0_Hyyy2LZSb.html

Colombia

In Colombia, incidents of gyno-obstetric violence are not classified as crimes, nor are there norms, resolutions or guidelines that frame medical procedures in childbirth from a humanized perspective that prevent this form of violence. Since gynecological violence is not recognized as a form of violence against women, there is no precise data regarding the victim population. However, this does not mean that incidents do not occur. For example, in one case resulting in the death of girl under the age of 16, it is believed that the medical care service failed in their postpartum care and procedures. The girl, "Edith", died after a cesarean section was performed at the Manuel Elkin Patarroyo ESE hospital. The procedure caused a severe neurocerebral lesion and she was kept in a coma. There were three irregularities in the care given to the girl: (i) a procedure (cesarean section) was of a complexity that the hospital was not equipped to perform; also, taking into account that due to the young age of the girl, she was more prone to suffer complications during childbirth; (ii) the fact that the person acting as a gynecologist lacked the qualification of a specialist physician; and (iii) the lack of postpartum care, along with the absence of an anesthesiologist during the intervention.

From the above case and other similar cases, we can determine the following:

Behaviors related to gynecological violence in Colombia include: the non-timely care of obstetric emergencies, the verbal and physical abuse during labor (indicating that the woman's pain is a punishment for having sexual relations, infantilizing her physical and emotional reactions, forcing her to give birth in a supine position and with her legs raised), carrying out sterilizations, episiotomies and other processes without consent, lack of confidentiality, violating the right to privacy through non-consenting interference with women's privacy (exhibition and / or massive revision of the body and genital organs, repeated vaginal exams performed by different health personnel) negligent actions during childbirth that can put at risk the life of the woman and her child, among others. The most radical form this violence can take is represented in the maternal or neonatal mortality derived from the previous actions.

Additionally, gyneco-obstetric violence is a special type of violence that operates in situations of unequal power relationships which give rise to the use and abuse of a set of institutionalized and violent biomedical practices. Faced with these situations, women do not have immediate coping mechanisms, taking into account that their physical and emotional forces are centered in the act of childbirth, therefore, gathering a body of evidence that subsequently demonstrates acts of violence are sometimes, more than difficult, impossible. In cases in which the health of the pregnant woman and her child is severely affected, medical authorities tend to pathologize pregnancy and delivery, thus obtaining justifications about the medical results. We emphasize that it is imperative to have a definition of gyneco-obstetric violence in Colombia. It is also necessary to ensure that medical practices in this specialty are framed with respect of women's and girls' human rights, especially with respect to sexual and reproductive rights.

According to the Ministry of Health and Social Protection's "Technical Guide: Good

Practices for Patient Safety in Health Care"[45], informed consent is understood as a right, as the means through which a "therapeutic plan" between the health professional -or medical team- and the patient before a specific health event is arranged. Therefore, spaces and means of communication between the parties must be guaranteed in order to achieve a complete understanding of the treatment suggested by the professional, as well as the possible benefits, risks, and / or effects of the proposed intervention - or lack of treatment- both in the patient's life, and in their immediate context. The informed consent then, has as its ultimate goal that the patient, according to his / her discernment, decides freely and autonomously if he / she wishes to undergo the suggested procedure.

Under Law 23 of 1981 the doctor does not have the authority to intervene surgically "to minors, to persons in a state of unconsciousness or mentally incapable, without the prior authorization of their parents, guardians or relatives, unless the urgency of the case requires immediate intervention." Secondly, article 15 mentions considerations regarding informed consent by stating that" the doctor will not expose his patient to unnecessary risks and will ask for her consent for the application of medical and surgical treatments that are considered essential and that can affect her physically or psychologically, except in cases where this is not possible, and will be explained to the patient or those responsible for such consequences in advance. Finally, in article 18, it is established that if the situation of the patient is serious, the doctor has the obligation to inform the relatives of the patient if this contributes in a spiritual or material way to the solution of their problems.

In Colombia informed consent in reproductive care is only required in relation to family planning and termination of pregnancy, which indicates that the procedures of care in delivery do not require informed consent according to the law. Nevertheless, the Ministry of Health, produced a report on "Technical guidelines for the implementation of informed consent for persons with disabilities in the framework of sexual rights and reproductive rights"[46], which aims to provide technical and conceptual bases for the system of health in the proper implementation of informed consent for people with some type of disability in regards to their sexual and reproductive rights.

The Presidential Council for Human Rights and International Affairs is the national institution that is responsible for guaranteeing the effective enjoyment of human rights and the application of international human rights law, as well as the promotion and strengthening of international cooperation links. Among its main activities is reparation, which refers to the duty of the state to redress civil society for human rights violations in relation to business activities. The intention is to then guarantee through judicial, legislative and administrative means that those affected can access mechanisms for reparation, which may well correspond to the state but also to the companies involved. However, on its website it is not specified if health institutions are located within the category of "company", much less if a violation of human

[45] Ministerio de Salud y Protección Social. *"Guía Técnica: Buenas Prácticas para la Seguridad del Paciente en la Atención en Salud*" Disponible en:https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/CA/Garantizar-funcionalidad-procedimientos.pdf

[46] Orientaciones técnicas para la Implementación del consentimiento informado para personas con discapacidad en el marco de los derechos sexuales y derechos reproductivos. Recuperado de :
https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/PS/orientaciones-tecnicas- consentimiento-pcd3.pdf

rights is considered to have occurred in the context of childbirth care.

In Colombia, the Ministry of Health and Social Protection has implemented resolutions corresponding to the comprehensive care route for victims of gender-based violence. This last one is understood as the set of articulated actions that respond to the normative mandates to guarantee the protection of victims, their recovery and the restitution of rights. It includes the internal actions of each institution to address the victim according to their competencies and the coordination of intersectoral interventions. Under this framework, the Ministry of Health and Social Protection issued resolution number 000459 of March 6, 2012, which adopts the Protocol and Model of Comprehensive Health Care for Victims of Sexual Violence. In this protocol it is possible to find similarities with the WHO guidelines regarding: the taking of medical history; general clinical examination of the victim of sexual violence, the genital and anal clinical examination of the victim; the provision of treatment of physical injuries, the provision of emergency contraception and access to voluntary termination of pregnancy, and the realization of syndromic prophylaxis for STIs during the initial consultation for health as well as prophylaxis for HIV / AIDS. However, the resolution does not include measures such as the elaboration of a plan for self-care of health, the completion of informed consent and the follow-up in cases of sexual assault. Likewise, with regard to complementary mental health care, the guidelines are not extensive, only the non-specialized actions in mental health are mentioned for the victim of sexual violence during their initial consultation.

Bolivia

Data from a study on adolescent pregnancy in 14 municipalities of Bolivia (UNFPA, 2016)[47] reveal that pregnancies often occur at a very early age - less than 14 years. It is estimated that 27% of these adolescent pregnancies end in abortion[48]. The Vice Ministry of Equal Opportunities (Ministry of Justice) has identified that in Bolivia, 246 unplanned pregnancies are registered daily in adolescents under 18 years of age. Of all these pregnancies, 17% are the result of rape, and each day 12 girls under the age of 15 become pregnant as a result of rape resulting in a total of at least 4,380 pregnancies of girls under the age of 15 per year.[49]

Girls and adolescents who become pregnant as a result of sexual violence may be forced to carry out a pregnancy due to the lack of application of and obstacles in the implementation of Art. 266 of the Penal Code on impunity for abortion and the application of the Constitutional Judgment 0206/2014. In 4 years, only 332 legal abortions have been carried out.[50]

Obstetric violence in Bolivia is not addressed by a specific law or public policy. Reference is first made to this issue in 2013 through the enactment of Integral Law 348 to Guarantee Women a Life Free of Violence (Law 348). Law 348 establishes broadly in Art. 7 (Types of Violence) Violence against Reproductive Rights and Violence in Health Services, that:

[47] Estudio sobre el embarazo en la adolescencia en 14 municipios de Bolivia. UNFPA, La Paz, Bolivia. 2016.
[48] *Id.*
[49] Brañez C., Patricia. Aplicación de la Sentencia Constitucional 206/2014 en los Centros de Salud Pública. Campaña 28 de Septiembre Bolivia, 2015.
[50] La sentencia constitucional 0206/2014 señala que para acceder a una ILE en un centro de salud, solo se necesita la copia de la denuncia, sin embargo la desinformación y la falta de aplicación al Protocolo Administrativo de esta normativa en el sector salud obstaculiza el ejercicio de este derecho a las víctimas del delito de violación.

> **Section 8.** Violence Against Reproductive Rights is the action or omission that prevents, limits or violates the right of women to information, guidance, comprehensive care and treatment during pregnancy or loss, delivery, puerperium and breastfeeding; to decide freely and responsibly the number and spacing of daughters and sons; to exercise safe motherhood, and to choose safe contraceptive methods.
> **Section 9.** Violence in Health Services is any discriminatory, humiliating and dehumanizing action that omits, denies or restricts access to effective and immediate care and timely information by health personnel, putting at risk the life and health of women.

Chapter II of Law 348 on Institutionality, Article 20 (MEASURES IN THE FIELD OF HEALTH) indicates that: The Ministry of Health and Sports has the responsibility to adopt the following measures aimed at guaranteeing women in situations of risk or violence access to health services, their treatment and protection, as a public health problem:

> Section 7. Respect the decisions that women in situations of violence take in the exercise of their sexual and reproductive rights, within the framework of current regulations.
> Section 8. Generate and disseminate permanent and updated information on sexual and reproductive rights, the prevention and treatment of sexually transmitted infections, HIV / AIDS, hemorrhages during the first trimester of pregnancy, unplanned pregnancies and all forms of sexual violence.
> **Section 10. Adopt norms, policies and programs aimed at preventing and punishing violence in health services and any other form of violence against women in health services, exercised by any public health services official, short-term social security and private services.**

That is, specific mandates on violence against women in health centers are incorporated into this specific law. However, there are no known specific regulations on obstetric violence, sanctioning mechanisms, either administrative or criminal, for providers that are violent against users. That is to say, that the measures defined in Law 348 in the health system have not been converted to public policy protocols of attention and / or sanctions on violence against the sexual and reproductive rights of women.

It is important to note that obstetric violence is the most invisible violence. It is not reported, and therefore, there are no sanctions against public servants for acts of violence. However, "The Prevalence and Characteristics of Violence against Women 2016 Survey," by the National Institute of Statistics (INE), indicates that in the case of obstetric violence in Bolivia, of 830,178 women surveyed, 64.1% said that they suffered psychological aggression in centers of public health; while in private clinics, 35.4% affirm that they were victims of this type of abuse during delivery. According to the same study, 68% of women state that during the birth or delivery process they were not allowed to be accompanied by someone they trust, while 55% indicate that their doubts were not assuaged, since the medical staff did not answer their questions. In addition, 50.4% said that due to the mistreatment they received, they did not feel they could express their fears and 45.7% of women reported that they were criticized for crying and screaming in pain during labor, while 39; 6% of pregnant women point out that the medical staff mocked their behavior with ironic comments or jokes.

According to UNFPA, there is a sub-registry on obstetric violence in the National Statistics Institute.[51] On the other hand, several organizations that work on women's human rights point out that there is no data on the number of reports filed at police agencies, and that in general women do not know that this type of violence can be denounced, especially in rural areas. The president of the Committee of Victims of Medical Malpractice in La Paz, affirms that "these types of complaints are not very common in her organization, but in the cases that they are aware of, women, especially from rural areas, do not report this type of abuse suffered during childbirth a sit seen as just another experience in her life. Moms will not report mistreatment, many put up with it either because of shame or because they think it is normal since they see that doctors treat everyone badly and they also have no place to complain." She adds that, "The doctors tell you how to behave during birth, or what position to be in for giving birth. They do not let women express themselves in a natural way. If you do not listen they shout at you or tease you. Many friends have had this happen to them, but they are not going to report out of fear and because there is the belief that it is normal. But this abuse is also gender violence and we have to report it. The authorities have to work on this issue," she states.

Recommendations

Based on the foregoing, we respectfully urge the UN Special Rapporteur on Violence against Women to highlight the seriousness of sexual violence and forced pregnancy and forced motherhood, particularly for young and adolescent girls, as well as obstetric violence, as human rights violations in the upcoming thematic report on mistreatment and violence against women during reproductive health care with a focus on childbirth, as well as to make the following recommendations to all States:

1. Enforce and implement laws, in compliance with international law, for the prevention, prosecution and punishment of sexual abuse of girls, including through the development of protocols guiding law enforcement to effectively and promptly respond to, investigate, and prosecute cases of rape and statutory rape.
2. Legalize and ensure safe access to abortion.
3. Institute and implement comprehensive laws and policies guaranteeing women and girls access to comprehensive reproductive health services.
4. Design and implement an internal public policy in health sectors to sanction and eradicate obstetric violence. This should include budget, training and dissemination of said policies, as well as developing the internal monitoring for the application of administrative and penal sanctions to the public servants in the health system when they commit obstetric violence.

[51] *Padecer violencia es parte del "combo de ser madre"* Maria Luisa Mercado, Opinion (August 30 2018) *available at* http://catolicasbolivia.org/wp-content/uploads/2018/10/REPORTAJE.pdf

Thank you for your attention and please let us know if we can provide further information.

Sincerely,

Shelby Quast
Director, Americas Office
Equality Now

Fernanda Marchese
Directora Ejecutiva
ANDHES

Julia Escalante
Coordinadora Regional
CLADEM