

They are girls, not mothers Mitãkuña ndaha'eiva'erã sy

STEPS TO ENDING SEXUAL VIOLENCE AGAINST CHILDREN AND ADOLESCENTS
AND FORCING GIRLS INTO MOTHERHOOD IN PARAGUAY



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GLOSSARY

Word	Description
Abortion	Abortion is an induced or spontaneous termination of a pregnancy. When used by Amnesty International, the term refers to the medically-induced termination of a pregnancy (using medication) or surgical techniques and spontaneous abortion refers to the non-induced interruption of a pregnancy.
Adolescents	In this report Amnesty International uses the term “adolescents” to refer to 14–19-year-olds.
Comprehensive Sexuality Education	Comprehensive sexuality education (CSE) – known in Paraguay educación Integral de la Sexualidad (EIS) -- is a curriculum-based process of teaching and learning about the cognitive, emotional, physical and social aspects of sexuality. It aims to equip children and young people with knowledge, skills, attitudes and values that will empower them to realize their health, well-being and dignity; develop respectful social and sexual relationships; consider how their choices affect their own well-being and that of others; and understand and ensure the protection of their rights throughout their lives. CSE is based on scientifically accurate and rights-based information about sexuality and reproductive health appropriate to children and young people’s age.
CODENI	Municipal Council for the Rights of Children and Adolescents (Consejerías Municipales por los Derechos de los Niños, Niñas y Adolescente, or CODENI)
Femicide	Femicide (Feminicidio in Spanish) refers to the killing of women because they are women. It is used instead of the gender-neutral term “homicide” to emphasise the misogynist motifs behind such crimes. In Paraguay, femicide is a crime under law number 5777
Girls forced to carry a pregnancy to term or forcing a girl to carry a pregnancy	In this report Amnesty International uses the term “girls forced to carry a pregnancy to term” to refer to girls and adolescents who due to legal, policy, or practical limitations on access to safe abortion are unable to terminate an unwanted pregnancy, including when it is the result of rape.

Gender	Socially constructed characteristics of people commonly based on their assigned sex. This varies from society to society and can change or be changed. When individuals or groups do not “fit” or act in accordance with established gender norms, they often face stigma, discriminatory practices or social exclusion.
Gender-based violence	Gender-based violence is violence directed against a person because of their gender, gender identity and/or gender expression, or because of their failure to conform to restrictive gender norms. Gender-based violence against women is violence directed against a woman because she is a woman or that affects women disproportionately. In other words, not all acts that harm a woman are gender-based. Men can also suffer gender-based violence, for example, gay men who are attacked because they do not conform to socially approved views of masculinity. However, most gender-based violence is committed by men and is directed against women and girls and linked to discrimination.
Gender ideology	“Gender ideology” is a pejorative term used by anti-rights groups to refer to “gender perspective”, looking to install a different idea of it as a key tool to combat discrimination and violence against women and against people with diverse sexual orientation and gender identities. Gender perspective also seeks to give visibility to the inequality and structural subordination women have because of their gender.
Girls	In this report Amnesty International uses the term “girls” to refer to those age between 0 and 14 years of age.
Gender justice	Gender justice refers to a world where people of all genders are valued equally, can enjoy their human rights without discrimination and on an equal basis, and are able to share equitably in the distribution of power, knowledge and resources.
Intersectional discrimination	Intersectional discrimination is when discrimination on different grounds operates together to produce a compounded or distinct disadvantage.
Maternal mortality	Maternal mortality refers to the death of a woman while pregnant or within 42 days of delivery or termination of the pregnancy. It covers maternal deaths from any cause related to the pregnancy or its management, but does not cover deaths caused by, for example, an accident unrelated to the pregnancy.
Rape	<p>Legal definitions of rape vary between different legal systems and evolve over time. International human rights law and standards define rape as a non-consensual sexual act. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) defines it as “non - consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object”. The Rome Statute of the International Criminal Court defines rape, gender-neutrally, as “penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body”. The rape of a person in the power or custody of a state agent – for example, a prison official, security or military official – always constitutes torture for which the state is directly responsible.</p> <p>Rape by private individuals who are not state agents constitutes torture for which the state is responsible if the state has not acted with due diligence to prevent, punish or redress the crime.</p>

	<p>In Paraguay, rape is a crime under Article 128, 135 of the Penal Code and are classified as “sexual coercion” and “sexual abuse.” In this report, the terms violence, sexual violence and rape are used to describe these abuses.</p>
Safe abortion	<p>There are two primary methods of safe abortion. One is medical abortion, where high-quality medication is used to end a pregnancy and the individual undergoing the abortion has access to the information and support they need. The other is surgical abortion, which involves a medical procedure performed by a trained professional under sanitary conditions. The World Health Organization recommends that women and pregnant people have a choice of abortion methods to respond to their specific needs.</p>
Secondary victimisation	<p>According to the Luxembourg Guidelines (Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse): “The term “secondary victimisation” relates to further victimisation following on from the original (sexual) victimisation. It has been defined as “[t]he victim-blaming attitudes, behaviour, and practices engaged in by community service providers, which results in additional trauma for sexual assault survivors” or as the negative social or societal reaction or consequence of the primary victimisation, which the victim experiences as a further violation.</p> <p>Thus, secondary victimisation of children can be the result of the (wrongful) responses of individuals or institutions to the victim, such as victim-blaming and inappropriate language or handling by medical/legal personnel or by other organisations with which the victim has contact after suffering exploitation/abuse. It can also be the result of a treatment that does not correspond to the principles of child-friendly justice, such as repeated police/court hearings, repeated health controls, etc., by multiple persons during the judicial process...”</p>
Sexual and reproductive health services	<p>Sexual and reproductive health services, commodities and information include provision of a range of modern contraceptive methods, safe and legal abortion, post-abortion care, maternal health and emergency obstetric care, voluntary testing for HIV and other sexually transmitted infections, counselling and treatment, diagnostics and treatment of reproductive tract infections and cancers and any other services related to sexual and reproductive health, and related information. Sexual and reproductive health services should be available, accessible, appropriate and high quality, and should be provided without discrimination or coercion and with informed consent and respect for a person’s privacy and confidentiality. Access to a comprehensive range of quality sexual and reproductive health services is a human right.</p>
Unsafe abortion	<p>An unsafe abortion is performed by untrained or under-trained providers and/or under unsanitary conditions, or in situations where people are unable to safely undergo a medical abortion due to lack of access to high-quality medication, information or support. It is possible to have an unsafe but legal abortion.</p>
USF	<p>Family Health Unit’s in Paraguay. These are the units tasked with putting the country’s Primary Healthcare strategy in practice.</p>

1. EXECUTIVE SUMMARY

“They were forced to have sex under duress, they were physically punished, constantly threatened, creating a paralyzing fear, and they suffered long-term abuse.”

Description from clinical psychologist No. 3. Interview August 2019, Paraguay.

Sexual violence against girls and adolescents and the trauma they can face when carrying a resulting unwanted pregnancy to term is preventable. This violence is the result of decisions and omissions in laws and public policies underpinned by the same harmful gender stereotypes and discriminatory attitudes, which are also embedded in the social structures maintaining and reinforcing power inequalities.

This report focuses on the issue of sexual violence against children and adolescents, particularly against girls who are 14 years of age or younger, and are pregnant as a result of such violence and are forced to carry those pregnancies to term. Under Paraguay’s laws, all pregnancies of girls who are 14 years of age or younger should be considered non-consensual. The Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention has advised that in the context of such laws, pregnancies in girls aged under 14 should be considered a result of sexual violence, except where sexual relations are between peers – or young people of a similar age.

In Paraguay, 2 girls between ages 10 and 14 give birth a day, on average, each year. In 2019 and 2020, an average of at least 525 girls aged 14 and under gave birth each year, suggesting that these girls have either faced sexual violence or lacked access to comprehensive sexuality education (CSE) or sexual and reproductive health services. In 2019 alone, the Public Prosecutor’s office received an average of 12 cases of sexual violence of children each day, the majority girls.

Disturbingly, according to the Ministry of Public Health and Social Welfare, in 2019 (the last year for which there is official information available) eighteen girls between the ages of 10 and 14 gave birth for a second time. This suggests that the state is failing to provide protection from violence and/or proper access to sexual reproductive health information and services even when it should be aware the girls are at risk.

More than eighty percent of cases of sexual violence take place in the family, and in the majority of cases, the perpetrator is the victim’s stepfather, father, grandfather, neighbour or uncle – this is, someone who is meant to be a person of trust or reference who has unrestrictive access to the child. Under international law, Paraguay has an obligation to protect the rights of these girls but is failing to do so.

Paraguay has an almost total ban on abortion. Abortion is not permitted following rape, and the only exception to the prohibition is when the life of the pregnant girl, adolescent, or woman is at risk. The

testimonies collected, both from professionals working with girl survivors of rape and from the families of the girls themselves, detail how devastating unwanted pregnancy and motherhood can be for girls and adolescents, physically, psychologically, and socially. Becoming pregnant as a child is a threat not only to girls' lives and physical health, but it often completely derails their life plans and opportunities.

Amnesty International believes forcing girls or adolescents who have been raped to carry a pregnancy to term and leaving them with no choice but to become mothers is a form of institutionalized violence, that can amount to torture and ill-treatment.

This report brings analysis of the problem and outlines recommendations to the respective authorities based on Paraguay's human rights obligations to prevent sexual violence, to protect survivors when they are identified or seek help, as well as to give girls and adolescents the transformational reparation they deserve and access to justice.

In recent years, Latin America and the Caribbean has seen an inspiring mobilization of movements to reclaim rights. However, it has also seen a concerted backlash by anti-rights groups that have attacked reforms that have benefited women and LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex) people and instrumentalized the phrase "gender ideology" to describe what they see as an imposition of beliefs that allegedly threaten certain religious and family values. Such groups have not only sought to oppose laws, policies and programmes that promote gender justice and equality or that seek to end gender-based violence but have also spearheaded efforts to remove comprehensive sexuality education in schools, which evidence demonstrates is an important tool to help prevent sexual violence.

This report is based principally on some 46 interviews gathered during multiple visits to Paraguay in 2019 and virtual interviews carried out in 2021. The bulk of interviews were with Paraguay state officials professionals working to respond to sexual violence against children and adolescents, including psychologists, doctors, lawyers, and forensic experts.

The report reveals that Paraguay does not have a proper system to prevent sexual violence and protect survivors. Law No. 6202, adopted in 2018, for the prevention of sexual abuse and comprehensive care for child and adolescent survivors of sexual abuse promised to rectify some of these deep-seated challenges by introducing a single pathway to provide coordinated and non-re-victimizing comprehensive care to survivors within 180 days of coming into force.

In June 2021, representatives at the Ministry of Children and Adolescents told Amnesty International that they expected the pathway to be finalized in late 2021. However, as this report went to print, three years after pathway should have been implemented, Paraguayan authorities had failed to finalize it, even though multiple Ministries are tasked with its development.

Along the same lines, the state's push against comprehensive sexuality education has been evident for some time. In 2011, the Ministry of Education and Science had issued Resolution 35635 which effectively banned guidelines for teachers on CSE.

The Paraguayan state then banned comprehensive sexuality education in 2017. As far as Amnesty International could establish, these bans are still in effect, despite evidence from around the world that CSE is a key tool for the prevention of sexual violence and promotion of gender equality. Experts involved in the protection of children and adolescents in Paraguay, both at state and non-governmental organizations levels, told Amnesty International that a lack of CSE was a major barrier to building children's knowledge and skills to claim their rights and be protected from violence.

The testimonies gathered by Amnesty International also reveal significant structural challenges in access to justice and transformational reparation for girls who experience sexual violence, and impunity for perpetrators. This often includes secondary victimisation – additional trauma for the victim caused by the wrongful responses of individuals or institutions to the victim. In Paraguay this can include victim-blaming, institutions' failure to believe the survivor, and/or inappropriate handling by institutions or personnel that the victim is in touch with after suffering the initial abuse.

The report also finds that the current system prioritizes prosecution over transformational reparation for girl survivors of sexual violence. To date, the country has no unified program at the national or local level to support girl survivors of sexual violence, and those who become pregnant as a result. As a result of

this, long-term psychological and medical support is often lacking, as are systems for proper re-integration into the education system.

Paraguay has made some progress towards creating a legal framework and environment of human rights protection that responds to violence against women, children and adolescents. However, professionals interviewed for this report overwhelmingly indicated that widespread normalization of sexual violence, combined with Paraguay's failure to deliver CSE in practice and incorporate a focus on gender, radically hinders prevention efforts.

As this report was being finalized, representatives of the Ministry of Education and Science told Amnesty International that they were in the process of transforming the educational curriculum, towards one focused on "values", and based on science, not ideology. However, information Amnesty International gathered suggests most civil society groups have not received enough information nor have been invited to take part in this process. Indeed, until now, the state's failure to equip girls and adolescents with clear science-based knowledge and the skills, attitudes and values that can empower them to realize their health, well-being and dignity and to develop respectful social and intimate relationships, has left too many children and adolescents without the knowledge and tools needed to raise the alert when they are at risk or suffering in silence.

The Covid-19 pandemic has not only resulted in schools moving fully or partially online in Paraguay, but like other countries in the world, as part of its response to Covid-19, Paraguay implemented lockdowns during most of 2020. While the impact of Covid-19 restrictions is still emerging, this reality presents new challenges for early detection of violence and sexual abuse including rape, especially in a context in which most cases take place in the home or in a family context and where schools and health services are key to early detection of cases of abuse against children and adolescents and to activating detection and prevention mechanisms.

In ratifying a series of international human rights treaties, Paraguay committed to protect the rights of children and adolescents as rightsholders so that, on the basis of their evolving capacities, they can choose their life project without discrimination, without violence and without being forced to be mothers when they are still children.

Every person has the right to live a life free from violence. Girls who have survived sexual violence have the right to autonomy over their bodies and life plans. When those plans are interrupted by sexual violence, it is the responsibility of the state to generate conditions for reparation.

Yet this research finds that the failure of Paraguay's most senior authorities to listen to its own professionals who respond to sexual violence against children and adolescents, to promote early detection, to provide CSE with a gender lens and focus on girl's empowerment, and to coordinate and streamline its response to avoid secondary victimisation, leaves too many children and adolescents unable to enjoy their human rights. Paraguay's authorities are also failing to assign sufficient funding for programs that can support survivors and their families. Additionally, by forcing girls to carry unwanted pregnancies to term, the state is further harming them with major implications for their life project, and in ways that could amount to torture and other ill-treatment.

With real political will to ensure that Paraguay fulfils its national and international human rights obligations, it is possible to guarantee all girls their right to be girls rather than forcing them to go through experiences for which they are not prepared physically, psychologically or socially. The state should radically reduce the number of girls living in ongoing situations of sexual violence, and provide comprehensive reparation to those who have lived through it so that they can be the protagonists of their own life projects.

Amnesty International makes a series of detailed recommendation to Paraguay, and urgently calls on authorities to prioritize these three:

Prevention: Consult widely with civil society, including human rights organizations and gender specialists, to strengthen comprehensive sexuality education in the national educational system, as required by international human rights law and standards, and to provide children and adolescents with the skills needed to recognise abuse and raise the alert if they are threatened by or subjected to sexual violence.

Care: Finalize, implement and evaluate the long-overdue single pathway to provide comprehensive care for child and adolescent survivors of sexual abuse, as stipulated by Law No. 6202, which was adopted in 2018, to rectify systemic revictimisation of girls and prioritize survivor- centred justice and reparation. The pathway should be human rights-based and needs to have civil society and other experts' participation.

Justice and Reparations: Develop and finance a country-wide program which addresses the specific needs of girl survivors of sexual violence, including girls that become pregnant and are forced to carry the pregnancy to term, and other girls in situations of extreme vulnerability with the aim of listening to them and helping them re-build their lives and overcome the severe long-term harm sexual violence can inflict.

2. METHODOLOGY

This research was carried out between 2019 and 2021.

Between May and September 2019, Amnesty International teams travelled to Paraguay three times to conduct some 36 interviews. The interviews took place in the capital, Asunción, in other municipalities in the Central Department (Mariano Alonso, Luque, Fernando de la Mora, San Lorenzo, Capiatá, Julián Augusto Saldívar, Villeta and Itauguá) and in the city of Caaguazú, Department of Caaguazú. The research was limited to the central zone of Paraguay where state bodies are most active and, because of proximity to the key institutions, better equipped and with more capacity to prevent, respond to and provide reparation for sexual violence against children and adolescents, including when it results in pregnancies which they are forced to carry to term.

Due to the COVID-19 pandemic, in 2020 the research was put on hold and reinitiated and finalized following 10 additional virtual interviews carried out between April and June 2021.

The bulk of information and recommendations gathered for this report came from Paraguay's state officials – doctors, teachers, psychologists, lawyers, and program staff – who work in the fields of health, justice, and child protection.

In total, Amnesty International teams conducted 46 interviews with different representatives of state institutions at the national and local level including: Municipal Councils for the Rights of Children and Adolescents (Consejerías Municipales por los Derechos de los Niños, Niñas y el Adolescente, CODENI); Family Health Units (Unidades de Salud de la Familia, USF); schools; representatives of the Ministries of Childhood and Adolescence, of Public Health and Social Welfare, of Women, and of Education and Science. The teams also interviewed professionals directly involved in addressing the consequences of sexual violence against children and adolescents, including representatives of: the special unit on sexual abuse against children in the Public Prosecutor's Office, and its forensic team; the Public Defender's Office; the health care system; special police units focusing on women and children survivors of violence; and a children's homes where pregnant children and their babies are sometimes sent to live.

In order to understand the practices in terms of reparation, Amnesty International's researcher teams also met with representatives of a Children's Court. Amnesty International also collected valuable information from interviews with experts¹ in psychology, medicine, social work and national law, as well as from NGOs specializing in children's issues, and UN agencies, who provided important insights into the local context.

During this research, Amnesty International chose not to directly interview any girls or adolescents who had become pregnant, to respect their long and difficult process of recovery and healing and respect their right to forget the violence. The decision not to use their stories directly was taken on the advice of psychologists to protect girls and their families from groups in society (who often describe themselves as “pro-life” or “pro-family”) who in multiple situations have repeatedly harassed girls and their families when cases have become known publicly and to safeguard them from any form of reprisal from state or non-state actors.

¹ To preserve the security of our information sources, we will keep their names anonymous except when they have given their express consent.

Amnesty International did, however, work in partnership with a Paraguayan organization,² that provides children and adolescents who have experienced sexual violence and their families with medium-term psychosocial support from a multidisciplinary team. The team visited nine families that had supported girl survivors and conducted further research and interviews exclusively with adults regarding four of their cases to understand the reality faced by survivors and their families. Every precaution was taken to avoid secondary victimisation, to ensure informed consent, and to create a supportive environment that could contribute to the process of healing and reparation.

In order to illustrate the lived experiences of the girls and adolescents focused on in this research, the report does piece together a composite case. The case is based on events that happened in the lives of real girls, as well as trends identified by multiple psychologists and professionals working in the field of child protection who spoke to Amnesty International in general terms about the challenges girls who become pregnant face when they are forced to carry the pregnancy to term.

The report also includes an Annex, which sets out the range of human rights protection girls are entitled to under international human rights law. It is included for future use and reference by Paraguayan authorities and service providers.

During this research, Amnesty International made multiple access to information requests to gather data and information otherwise not easily publicly accessible. While the authorities responded to these requests, Amnesty International researchers repeatedly noted that key actors in civil society, and in some cases in the state, lacked information about government-led consultations or processes. This included information about plans to include CSE in the curriculum and plans to finalize the single pathway of attention for child survivors of sexual violence. This lack of transparency not only made research difficult but appears to limit civil society participation in processes that are critical for protecting the human rights of children and adolescents.

Despite these barriers, Amnesty International would like to thank all the government teams and professionals, including psychologists, and medics who spoke to the organization as part of this research. Amnesty International found in each state institution people who are committed to preventing sexual violence against children and adolescents, including the further human rights violations they often face by being forced to carry a pregnancy to term, but who are also discouraged by their leaders' lack of political will and coordination. Many do courageous committed work that is largely unrecognised to support girls in a very adverse context. Many of the testimonies of state officials at the national and local level are cited anonymously in this report, at their request, due to their fear of reprisals.

² The name of the organization is withheld to protect employees and safeguard the confidentiality of the girls and their families who receive support from the organization.

3. INTRODUCTION: THE CYCLE OF VIOLENCE

This report is focused on sexual violence against children and adolescents, especially girls under the age of 14, who become pregnant as a result and are forced to carry the pregnancy to term. According to national law in Paraguay all pregnancies among girls under 13 years old should be considered non-consensual.³ The Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention has advised that in the context of such laws, where pregnancies in girls aged under 14 should be considered to be a result of sexual violence, except where sexual relations are between peers – or young people of a similar age.⁴

Yet, in 2013, the United Nations Population Fund (UNFPA) estimated that 2% of women in Latin America and the Caribbean had their first child before 15 years old and cited the region as the only one in the world where the trend was on the increase.⁵ Girls from families with lower levels of wealth, lower educational levels and from Indigenous and Afro-descendant communities are disproportionately affected by adolescent pregnancy.⁶

In Paraguay, 2 girls between ages 10 and 14 give birth a day, on average, each year.⁷ In 2019 and 2020, an average of at least 525 girls aged 14 and under gave birth each year.⁸ In 2019, approximately 574 girls aged between 10 and 14 gave birth for the first time, according to data obtained by the Observatory of Public Policies and Rights of Children and Adolescents (Observatorio de Políticas Públicas y Derechos de la Niñez y la Adolescencia), which is part of the Paraguayan NGO CDIA (La Coordinadora por los Derechos de la Infancia y la Adolescencia). Worryingly, eighteen girls between ages 10 and 14 gave birth for a second time, suggesting that the state is failing to provide adequate protection from violence, full backing to survivors and/or access to sexual reproductive health information.⁹

³ Paraguay Penal Code, Article 128 and 135.

⁴ Follow-up Mechanism to the Belém do Pará Convention (MESECVI), Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention, OEA/Ser.L/II, 2016, para. 9; available at: oas.org/es/mesecvi/docs/MESECVI-EmbarazoInfantil-EN.pdf

⁵ United Nations Population Fund, *The state of world population 2013: motherhood in childhood*, New York, 2013. unfpa.org/publications/state-world-population-2013

⁶ Pan American Health Organization, United Nations Population Fund, and United Nations Children's Fund, *Accelerating progress toward the reduction of adolescent pregnancy in Latin America and the Caribbean*, 2016, Preface

⁷ <https://www.mspbs.gov.py/porta/18008/infancia-en-peligro-dos-nintildeas-por-dia-dan-a-luz-en-paraguay.html>

⁸ The Ministry of Health provided data to Amnesty International following an access to information request (on file) made in April 2021, detailing the number of live births per year disaggregated by age. This information indicates that in 2019 and between January and April 2020, an average of at least 525 girls gave birth in the age groups 0-14. It may be that some girls age 0-14 gave birth multiple times, and in 2017 and 2018 the average was even higher. "Excel spreadsheet, Numero de nacidos vivos discriminados por grupos de edad".

⁹ CDIA, CDIA lanza campaña #CreceConDerechos #VivirSinViolencias, 10 December 2020, cdia.org.py/2020/12/10/cdia-lanza-campana-crecerconderechos-vivirsinviolencias/

Additionally, in 2019, more than 12,000 teens between the ages of 15 and 19 gave birth, many of which may also have been the result of rape or sexual violence, or a result of adolescents having insufficient information about preventing early pregnancy or insufficient access to sexual and reproductive health services.¹⁰

Eighty percent of cases of sexual abuse of children and adolescents take place in the family, according to the Ministry of Childhood and Adolescence and UNICEF Paraguay.¹¹ In the majority of cases, according to the same report, the perpetrator is the victim's stepfather, father, neighbour or uncle; someone who the victim trusts and is meant to protect her.

Not all girls that suffer sexual violence become pregnant. Between January 2008 and June 2020, according to information obtained by CDIA's Observatory of Public Policy and Rights of Children and Adolescents, the Public Prosecutor's office received 42,271 complaints of criminal acts carried out against children and adolescents.¹² In 2019, the Public Prosecutor's office registered an average of 12 cases of sexual violence against children and adolescents per day.¹³ In 2020 alone, Fono Ayuda 147, a telephone line which receives reports of violence and abuse against children managed by the Ministry of Children and Adolescents, received 3,809 reports of physical and psychological mistreatment of children, 1,032 reports of sexual abuse, and hundreds of other reports of violence against children and adolescents.¹⁴

Despite these shocking figures, the Ministry of Health and other actors told Amnesty International in interviews that they suspect there is significant underreporting of sexual violence and estimate that for every two cases received there are another 10.¹⁵

Girls are disproportionately more likely to suffer sexual violence than boys. According to the Public Prosecutor's Office, in 2020, more than 84% of child survivors of sexual violence were girls.¹⁶

The fact that these crimes take place behind closed doors makes reporting more difficult and allows perpetrators to exploit their position of power to hide their crimes. Psychologists treating survivors of sexual violence told Amnesty International that perpetrators often silence women and girls using threats and manipulation, accusing survivors who file a complaint of destroying the fabric of the family. This helps explain in large part why most children do not report sexual abuse and why sexual violence against girls is often only discovered when they are already several months pregnant.

For girls and adolescents who do become pregnant, the options are frequently very limited. Paraguay continues to have some of the most restrictive laws in the Americas on access to safe, legal abortion. Abortion is only permitted when the life of the pregnant girl or woman is at risk.¹⁷ In all other cases, abortion is a crime punishable with prison time.¹⁸

¹⁰ CDIA, CDIA lanza campaña #CrecerConDerechos #VivirSinViolencias, 10 December 2020, cdia.org.py/2020/12/10/cdia-lanza-campana-crecerconderechos-vivirsinviolencias/

¹¹ UNICEF, "Todos somos responsables" ("We are all responsible"). unicef.org/paraguay/todos-somos-responsables (Spanish only).

¹² CDIA, 26 de septiembre: Día Mundial de Prevención del Embarazo Adolescente, 28 September 2020, cdia.org.py/2020/09/28/26-de-septiembre-dia-mundial-de-prevencion-del-embarazo-adolescente/

¹³ CDIA, 26 de septiembre: Día Mundial de Prevención del Embarazo Adolescente, 28 September 2020, cdia.org.py/2020/09/28/26-de-septiembre-dia-mundial-de-prevencion-del-embarazo-adolescente/

¹⁴ Fono Ayuda 147, "Informe sobre casos de violencia infantil en niños, niñas y adolescentes, reportados a línea 147 Fono Ayuda del Ministerio de la Niñez y la Adolescencia durante los años 2019 y 2020." Data on file, obtained following an access to information request by Amnesty International in April 2021.

¹⁵ Meeting by video call with representatives of the Ministry of Health, 11 May 2021.

¹⁶ According to an access to information request (on file) received by Amnesty International on 22 April 2021.

¹⁷ Criminal Code, amended July 2009 by Law 3440/2008: Artículo 109.- Aborto:

1º.- El que matare a un feto será castigado con pena privativa de libertad de hasta cinco años. Se castigará también la tentativa.

2º.- La pena podrá ser aumentada hasta ocho años, cuando el autor: 1. obrara sin consentimiento de la embarazada; o 2. con su intervención causara el peligro serio de que la embarazada muera o sufra una lesión grave.

3º.- Cuando el hecho se realizare por la embarazada, actuando ella sola o facilitando la intervención de un tercero, la pena privativa de libertad será de hasta dos años. En este caso no se castigará la tentativa. En la medición de la pena se considerará, especialmente, si el hecho haya sido motivado por la falta del apoyo garantizado al niño en la Constitución.

4º.- No obra antijurídicamente el que produjera indirectamente la muerte de un feto, si esto, según los conocimientos y las experiencias del arte médico, fuera necesario para proteger de un peligro serio la vida de la madre.

¹⁸ Paraguay, Criminal Code, Article 109.

There is significant evidence of the physical and mental health risks posed by pregnancy in children and adolescents. For example, adolescents have a greater probability of haemorrhaging and of suffering infections following birth, and girls under 15 years old are four times more likely to die from pregnancy-related complications, as well as having a higher risk of premature births.¹⁹ Additionally, according to a regional study by CLACAI – a regional network against unsafe abortion – girls experience higher than usual levels of depression and anxiety during the pregnancy, including because if the girl is under 14, according to multiple studies cited by CLACAI, it is in many instances a consequence of sexual violence.²⁰

Despite this, in its research Amnesty International found there was considerable resistance among some health professionals to considering early pregnancy as an inherent risk to the life, development, and physical and mental health of girls and adolescents. In contrast, many psychologists who had worked with children and adolescents who had given birth told the organization that pregnancy can take a huge emotional and physical toll on them, as they are still developing emotionally and physically.

For some girls and adolescents who become pregnant, remaining in their family or being placed with members of the extended family is not an option, either because the girl was sexually abused by someone in her family or because the economic burden of looking after the girl and her newborn may be more than the family can sustain. In addition, prevailing discriminatory and patriarchal attitudes mean that girls are often blamed for the sexual violence they experience.

As a result of this, some girls and adolescents who become pregnant as a result of rape are left with little option but to turn to children's homes, which according to information gathered by Amnesty International also often have serious shortcomings in the kind of services and care they can provide. According to Amnesty International's research with government officials, almost all of them are non-state institutions, owned and run by the Catholic church and sustained by volunteers.

The state's focus on the pregnancy and on the emotional containment²¹ of the victim rather than on her best interests is mirrored in the justice system in which girls are often treated as the object of evidence for criminal proceedings. During the research, Amnesty International found that the state response often prioritizes criminal prosecution, which can often result in secondary victimisation of girl survivors of sexual violence, rather than ensuring a holistic restorative process which includes long-term psychological support, as well as access to justice and reparation.

Paraguay does have social programs designed to protect vulnerable families. However, these are not specifically aimed at girls who have lived through sexual violence. In fact, no comprehensive government program exists to provide on-going psychological care and other forms of support for girls who have experienced rape or other sexual violence.²² As a result of this, many girl survivors of rape who end up in care homes, face further violations of their rights while in care. In interviews with Amnesty International, staff from NGOs and state institutions that place girls in care highlighted the lack of financial and human resources available to support girls in this situation and provide them with a safe place where their best interests are paramount.²³

In recent years, the Paraguayan government has convened multi-ministerial round table discussions, involving UN entities and NGOs, to design intervention pathways for cases of sexual violence: one route for women and one for children (boys and girls) and adolescents. However, according to information gathered by Amnesty International this twin approach does not adequately address the needs of girls. So,

19 CLACAI and FLASGO, "Lineamientos para diseño de protocolo de atención de niñas y adolescentes menores de 15 años con embarazo no intencional," July 2020, pages 16-18

20 CLACAI and FLASGO, "Lineamientos para diseño de protocolo de atención de niñas y adolescentes menores de 15 años con embarazo no intencional," July 2020, pages 16-18

21 Helping the victim to control her emotions like distress, sadness, anxiety, etc, in the moment of the intervention of institutions, instead of focusing on long term psychological support.

22 Paraguay does have social programs designed to protect vulnerable families. However, these are not specifically aimed at girls who have lived through sexual violence. For example, Tekopora is a social program implemented by the Ministry of Social Development which aims to protect families in a situation of poverty and vulnerability. The primary aim of the program is to improve the quality of life of the participating population, helping them to exercise their rights to food, health and education through increased use of basic services and stronger social networks, with the goal of preventing the inter-generational transmission of poverty. It also aims to provide family and community assistance through systematic support that promotes joint responsibility, creates the capacity for family and community work and the conditions that ensure citizen participation and increased financial resources among participating households. See: mds.gov.py/index.php/programas/tekopora (Spanish only)..

23 Interview in person with a social worker and psychologists, with Larisa from DIPROE and with Aníbal Cabrera, Director of the Coordinating Body for Child Rights (CDIA).

for example, while Law No. 5777 incorporates the international definition of violence against women²⁴ into Paraguay's national legal system by recognizing girls and adolescents as rightsholders, in practice girls are not a priority for the Ministry of Women's Affairs and left to the Ministry of Children and Adolescents. Meanwhile, Law No. 6202 passed in 2018 which adopts standards for sexual abuse and integrated attention for children and adolescent victims of sexual abuse does not include a gender perspective or differentiation by age group.

Amnesty International chose not to directly interview child survivors of sexual violence, to avoid secondary victimisation which is all too common in Paraguay. This is why the below testimony is a reconstruction based on a number of emblematic cases to highlight the typical range of human rights violations that girl survivors of sexual violence face in Paraguay. It is based on interviews with families of victims, psychologists and other professionals with a combined experience of decades.

²⁴ Paraguay, Law No. 5777 Article 5 a). It is conduct that causes death, harm or physical, sexual, psychological, property or economic harm to women, based on their status as women, in any field, that is exercised within the framework of unequal and discriminatory power relations.



CAROLINA²⁵

Carolina, like many girls her age, liked to imagine how she would be when she grew up. One of the things she most liked to do was watch insects, particularly beautiful butterflies. She always participated in school and used to enjoy it. But that's not the case any longer. How has her world changed so much? A few months after she turned 11, she started to suffer from pains in her abdomen. Her grandmother took her to several doctors, but they only gave her medicines for the pain. Carolina could not understand what was happening to her. Her grades quickly fell and she looked sad and depressed. Her teachers assumed those were normal changes, due to puberty. "Do not worry," they told her. ... but the pain was increasingly overwhelming. Desperate, her grandmother took her to another hospital, where they told her Carolina was four months pregnant. She had to repeat the same story for months in front of doctors, the children's advocate ... prosecutors and the judge she had to tell them how she suffered abuse in silence... for several years. Carolina was sent to a home with other pregnant girls. Where she was forced to continue with her pregnancy. After giving birth, she did not want to raise the baby. Because every time she looks at it. She sees the face of her abuser. In the home, she asks not to breastfeed the baby, Because it hurts her a lot. But she is told to continue to do it. No one hears her screams for help any longer. Several months have gone by. And now Carolina is back home. She is still in pain and distress, And she cannot go back to school. She dreams with going back to her like before all this happened ...but she does not see a way to go back.

²⁵ This story is representative of composite real stories, but to protect the girl survivors, this narrative was re-constructed.

4. THE STATE FAILS TO COMPREHENSIVELY COMBAT VIOLENCE AGAINST WOMEN AND GIRLS

4.1 FAILING TO PROTECT WOMEN AND GIRLS FROM VIOLENCE

The sexual violence girls experience, some of whom become pregnant as a result, is part of a wider problem of gender-based violence.

Paraguay has ratified the main international instruments to combat discrimination and violence against women, such as the Convention on the Elimination of All Forms of Discrimination against Women,²⁶ its Optional Protocol²⁷ and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará).²⁸ In addition, Article 60 of the Constitution of Paraguay also recognizes the need to implement policies against violence in the family environment.²⁹

Over the past 20 years, Paraguay has amended its Criminal Code several times to advance the protection of women from domestic violence.³⁰ In 2000 it adopted a law on domestic violence³¹ and in 2016, through Law No. 5777, the state made a commitment to combat violence against women in all its forms,³² including

26 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified by Law No. 1215/86.

27 The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women was ratified by Law No. 1683/01.

28 The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará) ratified by Law No. 605/95.

29 Paraguay, Constitution, article 60: "El Estado promoverá políticas que tengan por objeto evitar la violencia en el ámbito familiar y otras causas destructoras de su solidaridad."

30 Article 229 of the Paraguayan Criminal Code has been amended several times, increasing the penalties and reducing the evidence required: repeated or severe levels of violence are no longer needed, psychological as well as physical violence is included and simple cohabitation is sufficient, there is no need to show a close family relationship. See amendments: Law No. 1160/1997, Law No. 3440/2008, Law No. 4628/2012 and Law No. 5378/2014.

31 Paraguay, Law No. 1600, Ley contra la Violencia Doméstica, 21 September 2000.

32 The following forms of violence are subject to public criminal prosecution (that is, investigated ex officio by the Public Prosecutor's Office): femicide; physical, psychological and sexual violence; violence against the following rights: reproductive, property and economic, labour, political, intra-family, obstetric, media, telematic, symbolic, institutional and relating to dignity. Law No. 5777 On the comprehensive protection of women against all forms of violence, promulgated on 27 December 2016, 6 and 49; bacn.gov.py/leyes-paraguayas/8356/ley-n-5777-de-proteccion-integral-a-las-mujeres-contra-toda-forma-de-violencia (Spanish only).

femicide.³³ The years since the passage of Law No. 5777 have seen some reduction in femicides. The Paraguayan Women's Observatory recorded 59 femicides in 2018, 37 in 2019, and 36 in 2020.³⁴

Nevertheless, violence against women remains a troubling reality in the country. The telephone helpline run by the Ministry of Women's Affairs – SOS Mujer-137 – has registered an increase in calls reporting violence: from 4,208 calls reporting violence in 2019 to 5,840 calls between January and October 2020.³⁵ One explanation for this increase in reports may be the campaigns carried out highlighting the issue and urging people to report violence against women and the allocation of funding for response services. Another reason for the increase in 2020 may be related to the higher levels of violence faced by women during lockdown measures implemented in response to COVID-19. In addition, the introduction of protocols³⁶ and specialized services³⁷ in each state institution to support efforts to promote women's rights has raised the issue of women's rights in the public consciousness.³⁸

Both Law No. 5777 and the Ministry of Women's Affairs' IV National Equality Plan 2018-2024³⁹ are valuable and progressive tools against gender discrimination and violence against women and girls. However, in practice, their protection does not extend to girls who are survivors of sexual violence and become pregnant as a result of rape, even though the scope of both includes girls, because of the rigid distinction Ministry's make between their work focused on girls and adolescents, and work focused on women.

³³ Femicide is punishable by the longest prison terms in the country (30 years). Law No. 5777 On the comprehensive protection of women against all forms of violence, promulgated on 27 December 2016, article 6 a) inclusion of femicide and article 50 incorporation as a crime punishable with jail from 10 to 30 years; bacn.gov.py/leyes-paraguayas/8356/ley-n-5777-de-proteccion-integral-a-las-mujeres-contra-toda-forma-de-violencia (Spanish only).

³⁴ Data on femicides from 2019 and 2020 were provided by Amnesty International by the Public Prosecutor's Office following an access to information request made by the organization in April 2021.

³⁵ These figures were provided to Amnesty International by the Ministry of Women following an access to information request made by the organization in April 2021.

³⁶ For example, the Ministry of Women's Affairs' Manual on addressing intra-family and gender-based violence; the Cross-cutting approach to gender in the National Police National Strategy for Citizen Security (Estrategia Nacional de Seguridad Ciudadana, ENSC); the National Programme for Prevention and Comprehensive Care for women, children and adolescents in situations of gender-based, domestic and intra-family violence; the Manual: "Domestic and Gender Violence: Manual on comprehensive care for victims in the health system"; the Protocol on medical care in cases of sexual violence; the registration and assistance form for victims of intra-family and gender-based violence of the Ministry of Public Health and Social Welfare; the Public Prosecutor's Office regional protocol for the investigation with a gender-based perspective of crimes of violence against women committed in the intra-family sphere; Agreement 642 "Regulating the procedure of the permanent office regarding the presentation of complaints about domestic violence" of the Supreme Court of Justice; and Ministry of Labour, Employment and Social Security Resolution No. 472 by means of which the procedure for the inspection of occupational safety and health is regulated and the sanctions for labour violence, bullying or harassment and sexual harassment in the workplace.

³⁷ For example, "Cuidad Mujer" of the Ministry of Women's Affairs; the National Police commissioner or divisions specialized in violence against women, children and adolescent; the Ministry of Public Health and Social Welfare specialized centre for the care of victims of violence, called Take Pyahu; the Attorney General's Office specializing in gender-based violence; and the Centre for Victim Support of the Public Prosecutor's Office.

³⁸ Law No. 5777 On the comprehensive protection of women against all forms of violence, promulgated on 27 December 2016, articles 13 to 26 and 36 to 40; implementation of the law by each national or municipal state institution, article 27; the creation of an inter-institutional forum for the prevention of violence against women, article 28; the implementation of shelter homes, article 29; the construction of a unified and standardized registration system, article 31; and the development of an observatory of women's right to a life free of violence; bacn.gov.py/leyes-paraguayas/8356/ley-n-5777-de-proteccion-integral-a-las-mujeres-contra-toda-forma-de-violencia (Spanish only).

³⁹ Ministry of Women's Affairs, IV National Equality Plan 2018 – 2024, Approved by Presidential Decree No. 936/2018, 20 December, 2018, oig.cepal.org/sites/default/files/paraguay_2018-2024_plan_de_igualdad.pdf.

4.2 FAILING TO PROTECT CHILDREN AND ADOLESCENTS FROM VIOLENCE



Over the past decades Paraguay has progressively implemented changes in its national legislation recognizing the rights of children and adolescents.

The Code on Childhood and Adolescence,⁴⁰ adopted in 2001, incorporates the 1989 Convention on the Rights of the Child into national law. This reflects a transition from an approach based on the legal incapacity of children and adolescents, to a framework of comprehensive protection for children and adolescents as full rightsholders who are progressively capable of making autonomous decisions about their lives.

Since then, Paraguay has also created specialized decentralized institutions to protect and promote children's rights, in particular the Municipal Councils on the Rights of Children and Adolescents (Consejerías Municipales por los Derechos del Niño, Niña y Adolescente - CODENI).

In recent years, the state has made additional efforts to combat violence against children and adolescents. In 2016 it adopted a law promoting positive parenting⁴¹ and in 2017 it amended article 135 of the Criminal Code to increase sentences for crimes of sexual abuse against children and adolescents.⁴²

In August 2018, one of the first official acts by President Mario Abdo Benitez was to ratify the 20 commitments for children and adolescents, an initiative by several national civil society organizations, supported by UNICEF and CDIA.⁴³ In September 20018, the Executive enacted law number 6174 which elevates the National Secretary of Childhood and Adolescence (Secretaría Nacional de la Niñez y la Adolescencia – SNNA) which operates under the remit of the Presidency and was created by the Code of Childhood, to the category of Ministry, with more responsibilities but the same budget of the former SNNA. Although this is a move forward that positions the country as the only in the region to have such a high-ranking institution to look after this sector of the population, the financial resources it has are insufficient to fulfil its mandate.

40 Paraguay Law No. 1680/01, Code on Childhood and Adolescents, promulgated on 30 May 2011; ilo.org/dyn/natlex/docs/ELECTRONIC/59808/101441/F1424950508/PRY59808.pdf (Spanish only).

41 Paraguay Law No. 5659, On the promotion of good treatment, positive parenting and the protection of children and adolescents from physical punishment or any type of violence as a method of correction or discipline, promulgated on 1 September 2016, bacn.gov.py/leyes-paraguayas/5176/ley-n-5659-promocion-del-buen-trato-crianza-positiva-y-de-proteccion-a-ninos-ninas-y-adolescentes-contra-el-castigo-fisico-o-cualquier-tipo-de-violencia-como-metodo-de-correccion-o-disciplina (Spanish only).

42 Paraguay Law No. 6002, which amends article 135 of Law No. 1160/97; Criminal Code, amended by article 1 of Law No. 3440/08, which amends several provisions of Law No. 1160/97; Criminal Code, 18 December 2017, ilo.org/dyn/natlex/natlex4.detail?p_lang=es&p_isn=106287&p_count=14&p_classification=01 (Spanish only).

43 ABC Color, News, "Presidente ratifica compromiso con la niñez y adolescencia", 16 August 2018, abc.com.py/nacionales/presidente-ratifico-compromiso-con-la-ninez-y-adolescencia-1731714.html (Spanish only).

At the end of 2018, the Law No. 6202 was also adopted. It sets out guidance for state actors on the prevention of sexual abuse and for the comprehensive care for child and adolescent survivors of sexual abuse.⁴⁴ Furthermore, in November 2019, the government issued a plan to strengthen the National System for the Comprehensive Protection and Promotion of Children and Adolescents.⁴⁵

While some of these political commitments have been partially fulfilled, others – such as expanding access to sexual and reproductive health services and protecting girls from all forms of violence – have faced resistance from some Ministries, some of whom have succumbed to pressure from conservative groups who opposed CSE and increasing access to sexual reproductive health services for children and adolescents.

4.3 LAW ADDRESSING SEXUAL ABUSE AGAINST CHILDREN AND ADOLESCENTS

Law No. 6202 for the prevention of sexual abuse and comprehensive care for child and adolescent victims of sexual abuse, adopted in 2018,⁴⁶ was an important first step towards providing comprehensive care for survivors. The law aims to prevent secondary victimisation and discrimination, provide prevention and reparation measures, protect the right to privacy of survivors, and take into account the views and concerns of children and adolescents.⁴⁷ In interviews with Amnesty International, some public officials said implementation of these measures could address many of the key challenges faced by the current system.

Law No. 6202 identifies schools as key spaces of early detection of abuse against children and adolescents.⁴⁸ It also reinforces the special obligations of teachers, CODENI officials and caregivers to report sexual abuse of children and adolescents that they are made aware of⁴⁹ and introduces measures to support education and health personnel to report and testify in court.⁵⁰

The law also mandates the elaboration of a "single official Pathway of Inter-institutional Intervention to Address Sexual Abuse of Children and Adolescents Comprehensively."⁵¹ This pathway –which, once developed and implemented, should ensure all survivors get equal attention without secondary victimisation– was due to be approved by the Ministry of Children and Adolescents and the Nacional Council of Children and Adolescents within 180 days of the law's entry into force. However, this lapsed in May 2019 and, at the time of the publication of this report, almost three years later, the pathway had not been developed nor implemented.

In June 2021, representatives from the Ministry of Children and Adolescents told Amnesty International that they were in the process of finalizing the pathway and aimed to finish its development it by late 2021.⁵² Representatives also indicated that, in parallel, a pilot program was being developed to test the pathway in the city of Caaguazú, Department of Caaguazú, with the idea of bringing it to scale once tested. While these are positive steps in the development of the pathway, its implementation is long

⁴⁴ Paraguay Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent victims of sexual abuse, promulgated on 1 November 2018, ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=108547&p_country=PRY&p_count=2.

⁴⁵ Gobierno Paraguay, Gobierno ratifica compromiso con una niñez y adolescencia libre de violencia, 20 November 2019, ip.gov.py/ip/gobierno-ratifica-compromiso-con-una-ninez-y-adolescencia-libre-de-violencia/ (Spanish only).

⁴⁶ Paraguay Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent victims of sexual abuse, promulgated on 1 November 2018 (Hereinafter Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent victims of sexual abuse, promulgated on 1 November 2018); ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=108547&p_count=1&p_classification=04

⁴⁷ Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent victims of sexual abuse, promulgated on 1 November 2018, article 4

⁴⁸ Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent victims of sexual abuse, promulgated on 1 November 2018, article 6

⁴⁹ Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent of sexual abuse, promulgated on 1 November 2018, article 7

⁵⁰ Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent of sexual abuse, promulgated on 1 November 2018, article 10

⁵¹ Paraguay Law No. 6202/2018 for the prevention of sexual abuse and comprehensive care for child and adolescent victims of sexual abuse, promulgated on 1 November 2018, article 9

⁵² Virtual meeting with Ministry of Children and Adolescents, 2 June 2021, Paraguay.

overdue, and the consequence of this is continued secondary victimisation of girl survivors of sexual violence (addressed in detail below).

4.4 NORMALIZATION OF SEXUAL VIOLENCE

“Identifying violence in the family is difficult, the aggressor convinces her that she will not be believed and misleads her about what he is doing to her. In societies like Paraguay, where culturally the family is considered to be the most important thing, sexual abuse is kept secret.”

Clinical Psychologist No. 253

The Inter-American Commission of Human Rights (IACHR) and OXFAM have highlighted the widespread silence surrounding gender-based violence in Latin America and how this can lead to “impunity for perpetrators of violence against women and girls.”⁵⁴ In 2017, in its concluding comments on its seventh periodic report to Paraguay the Committee on the Elimination of Discrimination against Women (CEDAW) also raised concerns of “High rates of sexual violence against adolescent girls, and the reported rise in forced early pregnancy, including through incest” and “underreporting of violence against women, partially owing to the limited availability of and access to victim protection services.”⁵⁵



One of the recurring concerns raised with Amnesty International by professionals interviewed for this research was that measures to tackle the widespread normalization in society of sexual relations between girls under 14 and adult men had so far met with little success. In several interviews, they explained that

⁵³ “Es difícil la detección en la familia, el agresor la convence que no la van a creer y la confunde sobre lo que le está haciendo. En las sociedades, como en Paraguay, en donde culturalmente consideran que la familia es lo más importante, se guarda el secreto del abuso sexual.” Interview, August 2019.

⁵⁴ Oxfam International, *BREAKING THE MOULD: Changing belief systems and gender norms to eliminate violence against women in Latin America and the Caribbean*, July 2018, page 16, oxfamilibrary.openrepository.com/bitstream/handle/10546/620524/rr-breaking-the%20mould-250718-en.pdf; Inter-American Commission on Human Rights, *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 133. (Spanish only).

⁵⁵ UN Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding observations on the seventh periodic report of Paraguay**, 22 November 2017, CEDAW/C/PRY/CO/7, Paras: 42 (b) and 20 (b)

there was a generalized acceptance of sexual relationships between young or adolescent girls and an adult, especially when a man could support the whole family financially. The state's efforts to tackle entrenched cultural beliefs that facilitate the crime of child sexual abuse have so far proved inadequate.

Tackling the normalization of sexual violence against girls and women and breaking through the veil of secrecy are an important step in ensuring the early and immediate detection of sexual abuse and ending impunity and, in the longer term, preventing gender-based violence against women and girls.

In addition to frequent gender-based discrimination, women and girls also face discrimination on the grounds of age and social status and identity (indigenous, rural, etc.). Indeed, in the CEDAW Committee has expressed concern that rural women, including indigenous women, face intersecting forms of discrimination, are disproportionately affected by poverty, and face barriers in access to healthcare and education, among other things.⁵⁶

In May 2021, at Paraguay's human rights review before the UN, several submissions raised concern about both the alarming number of adolescent pregnancies and the special vulnerability of Indigenous girls.⁵⁷ During its research, Amnesty International heard from sources that Indigenous girls are often subjected to *criadazgo* (the practice of economically disadvantaged girls coming from mostly rural areas to do housework in the homes of higher-income city families in exchange for food and lodging with a promise of education that is often not met). In this context, away from their family and community girls can be more exposed to abuse, including sexual violence.

GOOD PRACTICES THAT NEED TO BE PROMOTED FURTHER:

POSITIVE PARENTING

International law requires states to take measures to protect children and adolescents from violence, including sexual abuse. Paraguay's adoption in 2016 of a law on positive parenting to overcome a "traditional widespread acceptance of corporal punishment"⁵⁸ was a considerable step forward in the protection and promotion of the rights of children and adolescents.⁵⁹

Positive parenting prohibits the use of physical or psychological punishment in educational institutions or the home – even if considered in moderation or not excessive – as cruel and degrading⁶⁰ and encourages the full development of the potential of children and adolescents through mutual respect and trust.⁶¹ However, despite such efforts, UNICEF Paraguay has highlighted that six out of ten children experience violence in the home from a parent or caregiver as a form of discipline.⁶²

According to information gathered by Amnesty International, state institutions that could promote positive parenting – especially schools, CODENI and Family Health Units (Unidades de Salud Familiares, USFs) –

⁵⁶ UN Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the seventh periodic report of Paraguay*, 22 November 2017, CEDAW/C/PRY/CO/7, Para: 40 (a)

⁵⁷ Human Rights Council, Summary of Stakeholders' submissions on Paraguay* Report of the Office of the United Nations High Commissioner for Human Rights, 3-14 May 2021, A/HRC/WG.6/38/PRY/3

⁵⁸ Committee on the Rights of the Child, General comment No. 8, (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia), CRC/C/GC/8, 2 March 2007, para. 45.

⁵⁹ Paraguay Law No. 5659, On the promotion of good treatment, positive upbringing and protection of children and adolescents against physical punishment or any type of violence as a method of correction or discipline, promulgated on 1 September 2016; available at: bacn.gov.py/leyes-paraguayas/5176/ley-n-5659-promocion-del-buen-trato-crianza-positiva-y-de-proteccion-a-ninos-ninas-y-adolescentes-contra-el-castigo-fisico-o-cualquier-tipo-de-violencia-como-metodo-de-correccion-o-disciplina (Spanish only).

⁶⁰ Committee on the Rights of the Child General comment No. 8, (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia), CRC/C/GC/8, 2 March 2007, para. 11.

⁶¹ Paraguay Law No. 5659 On the promotion of good treatment, positive upbringing and protection of children and adolescents against physical punishment or any type of violence as a method of correction or discipline, promulgated on 1 September 2016, article 2 (a); bacn.gov.py/leyes-paraguayas/5176/ley-n-5659-promocion-del-buen-trato-crianza-positiva-y-de-proteccion-a-ninos-ninas-y-adolescentes-contra-el-castigo-fisico-o-cualquier-tipo-de-violencia-como-metodo-de-correccion-o-disciplina (Spanish only).

⁶² UNICEF, Campaign "Sin violencia se educa mejor" [You educate better without violence], [unicef.org/paraguay/sin-violencia-se-educa-mejor](https://www.unicef.org/paraguay/sin-violencia-se-educa-mejor) (Spanish only).

are not engaged in activities that include the prevention of any kind of violence (including sexual violence) against children and adolescents in the family and promote the development of the capacities and the progressive autonomy of children. In fact, the policy of good treatment, although it was approved in 2018 through a resolution of the National Council of Children and Adolescents, it is yet to be put in practice, because of lack of financial resources.

CAMPAIGNS AND SERVICES FOR PREVENTION OF SEXUAL VIOLENCE

In addition to progressively passing laws to address violence against children, adolescents and women, Paraguay has implemented several high-profile campaigns and introduced services, that seek to encourage reporting to sexual violence.



CAMPAIGN AGAINST SEXUAL ABUSE – #TODOSSOMOSRESPONSABLES

In 2017, the then Secretariat of Childhood and Adolescence launched an on-going campaign #TodosSomosResponsables (“We are all responsible”) to raise awareness about sexual violence against children and adolescents.

The Secretariat reported that calls about sexual violence against children and adolescents to the emergency helpline FONO AYUDA-147 significantly increased over the years. Calls rose from 1,295 in 2017 to 2,330 in 2018.⁶³

In 2019, the Ministry of Childhood and Adolescence launched the second phase of the campaign to raise public awareness of sexual abuse against children and adolescents and encourage reporting.⁶⁴ In 2019, the hotline received 1,140 reports of sexual abuse of girls under 17; and in 2020, 1,059 such reports.⁶⁵

“CIUDAD MUJER” – WOMEN’S CITY

“Ciudad Mujer” (Women’s City) is an initiative offering comprehensive services for women survivors of all types of gender-based violence.⁶⁶ Women’s City centres bring together professionals from different fields to provide a range of services including sexual and reproductive health services and legal advice, support, assistance and counselling, as well as support to find employment and or develop their own businesses.

Women’s City centres do not, however, provide care for young girls who are themselves survivors of sexual violence, including those who are pregnant. The children’s homes where survivors of sexual violence are

⁶³ Reports of child sexual abuse reported to the Fono Ayuda-147 during 2017, 2018 and 2019.

⁶⁴ La Nación, News, “Inicia la segunda etapa de la campaña de todos somos responsables”, 6 June 2019; lanacion.com.py/pais/2019/06/06/inicia-segunda-etapa-de-la-campana-todos-somos-responsables/

⁶⁵ Fono Ayuda 147, Informe sobre casos de violencia infantil en niños, niñas y adolescentes, reportados a línea 147 Fono Ayuda del Ministerio de la Niñez y la Adolescencia durante los años 2019 y 2020. Data on file, obtained followed an access to information request by Amnesty International in April 2021.

⁶⁶ National Government, Women’s City Center, ciudadmujer.gov.py/

placed generally do not provide similar comprehensive services that focus on empowering survivors and addressing their long-term psychological recovery.



5. STATE FAILS TO TAKE SUFFICIENT MEASURES TO PREVENT SEXUAL VIOLENCE AGAINST GIRLS AND GIVE PROPER CARE

“You have to educate people from childhood in positive masculinities and teach children what parts of their bodies should not be touched. The MEC needs to develop Comprehensive Sexuality Education with a gender perspective to stress that sexual abuse and impregnation of girls are not acceptable. With education we can save on care.”

Alicia Laconich Romero, former Deputy Minister for Women’s Affairs⁶⁷ on the lack of comprehensive sexuality education

Evidence has shown that providing young people with comprehensive sexuality education (CSE), including scientifically accurate and rights-based information about sexuality, relationships and sexual and reproductive health in a manner appropriate to their age, is effective in improving their health and wellbeing.⁶⁸

When this education includes information about gender and power evidence demonstrates it is much more likely to be effective at reducing HIV and sexually transmitted diseases (STD) and unintended pregnancy.⁶⁹

⁶⁷ “Hay que educar desde pequeños en masculinidades positivas y enseñar qué partes del cuerpo no les pueden tocar a las niñas y niños. El MEC tiene que trabajar ESI con contenido de género para desnaturalizar el abuso sexual y el embarazo de niñas. Solo con la educación ahorramos en la atención.” Interview with Alicia Laconich Romero, Deputy Minister for Women’s Affairs, September 2019, Paraguay.

⁶⁸ UNESCO, ‘International technical guidance on sexuality education: An evidence-informed approach for schools, teachers and health educators’, Paris, UNESCO, 2009; see also UNFPA, ‘Comprehensive sexuality education: Advancing human rights, gender equality and improved sexual and reproductive health’, UNFPA, 2010.

⁶⁹ N. Haberland, The Case for Addressing Gender and Power in Sexuality and HIV Education: A Comprehensive Review of Evaluation Studies. *International Perspectives on Sexual and Reproductive Health*, 2015, 41(1):31–42, www.guttmacher.org/journals/ipsrh/2015/03/case-addressing-gender-and-power-sexuality-and-hiv-education-comprehensive; UNFPA, *Operational Guidance for Comprehensive Sexuality Education*, 2014, <https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA%20Operational%20Guidance%20for%20CSE%20-Final%20WEB%20Version.pdf>

Raising understanding and awareness of sexual violence is a key intervention to preventing abuse, early detection of abuse if it occurs, and avoiding escalation over time. Precisely for this reason, according to international standards, states should “refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information.”⁷⁰

UNICEF indicates that, in Paraguay, 80% of cases of sexual abuse of children and adolescents take place in the family.⁷¹ Therefore, it is critical that sexuality education is not left solely to family settings but is also provided in educational settings to ensure that children receive comprehensive education about their rights and are empowered to exercise those rights and seek protection from sexual violence.

Despite this, in recent years, throughout Latin America, anti-rights groups have attacked reforms that have benefited women and LGBTI people and abused the phrase “gender ideology” to describe what they see as an imposition of beliefs that allegedly threaten certain religious and family values. Such groups have not only sought to oppose laws, policies and programmes that promote gender diversity and equality or seek to end gender-based violence but have also spearheaded efforts to prevent the integration of CSE in schools.⁷² According to the UN Special Rapporteur the right to health, following a visit in 2016, “Comprehensive sexual education is not properly integrated in school curricula in Paraguay. Confessional groups and ideas have a strong influence on the school system, in which students are being provided with unscientific and inaccurate information about their health. Related education programmes are often not based on evidence and place strong emphasis on abstinence, rather than providing evidence-based information and education to allow students to make free and informed decisions about their sexuality.”⁷³ The Rapporteur goes on to indicate that this contributes to high prevalence of unwanted pregnancies among girls and unsafe abortions, as well as risks for HIV and other STIs.⁷⁴

Paraguay’s Constitution recognizes the right to human rights education without discrimination,⁷⁵ and its Code on Childhood and Adolescence the importance of CSE.⁷⁶ However, in 2011, the Ministry of Education and Science issued Resolution 35635 which will deem the implementation of the framework around comprehensive sexual education programs void, negatively affecting a process with high rates of social participation.⁷⁷

In 2017, the Ministry for Education and Science issued a general ban on “the dissemination and use of materials...referring to the theory or ideology of gender in educational institutions.”⁷⁸ While the CEDAW Committee⁷⁹ raised concerns about this retrogressive step regarding gender equality in Paraguay this ban

⁷⁰ Committee on the Rights of the Child, General comment No. 3 (2003), HIV/AIDS and the rights of the child, CRC/GC/2003/3, 17 March 2003, para. 16, refworld.org/docid/4538834e15.html.

⁷¹ UNICEF, “Todos somos responsables” (“We are all responsible”), hunicef.org/paraguay/todos-somos-responsables (Spanish only).

⁷² La Diaria, “Paraguay prohibió la utilización en centros de enseñanza de materiales educativos con una “ideología de género””, 19 October 2017, ladiaria.com.uy/articulo/2017/10/paraguay-prohibio-la-utilizacion-en-centros-de-ensenanza-de-materiales-educativos-con-una-ideologia-de-genero/ (Spanish only).

⁷³ Human Rights Security Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Paraguay*, 24 May 2016, A/HRC/32/32/Add.1, Para: 60-61

⁷⁴ Human Rights Security Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Paraguay*, 24 May 2016, A/HRC/32/32/Add.1, Para: 60-61

⁷⁵ Paraguay, Constitution, article 73.

⁷⁶ Paraguay, Law No. 1680/01, Code on Childhood and Adolescents, promulgated on 30 May 2011, article 14, ilo.org/dyn/natlex/docs/ELECTRONIC/59808/101441/F1424950508/PRY59808.pdf (Spanish only).

⁷⁷ <https://mec.gov.py/documentos/resoluciones/384>

⁷⁸ Ministry of Education and Science, Resolution No. 29664, which prohibits the dissemination and use of printed as well as digital materials, referring to gender theory and/or ideology in educational institutions funded by the Ministry of Education and Science, 5 October 2017. [“Por lo cual se prohíbe la difusión y utilización de materiales impresos como digitales, referentes a la teoría y/o ideología de género, en instituciones educativas dependientes del ministerio de educación y ciencias”]; mec.gov.py/cms_v4/documentos/ver_documento/?titulo=29664-2017-RIERA1 (Spanish only). Amnesty International, ‘Paraguay: Ministry of Education and Science resolution threatens human rights’, [amnesty.org/en/latest/news/2017/10/paraguay-derechos-humanos-en-peligro-por-resolucion-de-ministerio-de-educacion-y-ciencias/](https://www.amnesty.org/en/latest/news/2017/10/paraguay-derechos-humanos-en-peligro-por-resolucion-de-ministerio-de-educacion-y-ciencias/); IACHR, “IACHR Regrets Ban on Gender Education in Paraguay,” 15 December 2017, [oas.org/en/iachr/media_center/PReleases/2017/208.asp](https://www.oas.org/en/iachr/media_center/PReleases/2017/208.asp)

⁷⁹ Committee for the Elimination of Discrimination against Women (CEDAW), Concluding observations on the seventh periodic report of Paraguay, 22 November 2017, Para: D8 and 9, undocs.org/CEDAW/C/PRY/CO/7.

continues to hinder the work of other state institutions, such as the Ministry of Women's Affairs, trying to combat gender-based violence against girls and adolescents.⁸⁰

Also, the right of women and girls to a life free of violence was further eroded in 2019 when the use of comprehensive sexuality education materials in schools was banned by the Minister of Education. In response, experts from the Ministry of Education and Science and civil society organizations developed a Guide for Teachers on Comprehensive Sexuality Education. However, to date, this has not been made part of the school curriculum. As far as Amnesty International could establish and based on an access to information request made in May 2021, these bans on CSE and the use of the term "gender" were still in effect in 2021.⁸¹

These restrictions have real, practical implications. Elements of sexuality education are in theory included in Paraguay's educational curriculum, which was provided to Amnesty International during an "access to information" request.⁸² However, during this research, various interviewees⁸³ told Amnesty International that in practice, sexuality education is limited to explanations from the Ministry of Health on how to prevent adolescent pregnancy.⁸⁴ Interviewees also said that in certain religious schools or colleges, which are licensed by the state, misleading information is given about sexual and reproductive health.⁸⁵

Several school personnel and officials interviewed by Amnesty International also referred to the confusion sown among parents by some interest groups spreading misinformation and misleading the public about what sex education is, such as claiming that in sex education classes, children as young as seven would be told about how to have sexual intercourse or girls would be coerced into having abortions.

Repeatedly during this research, experts involved in the protection of children and adolescents in Paraguay told Amnesty International researchers that lack of CSE was a major barrier to preventing sexual violence among children and adolescents. Some of their views are reflected below:

"[The Ministry of Education and Science] has to open up to this reality, you can't deny the problem of 12-year-old girls becoming pregnant. Something is going wrong. More information needs to be provided and rather than banning [comprehensive sexuality education] materials, their use should be increased, and work should be done with parents and teachers including on gender diversity."

Central community school, CAMSAT, Bañado Sur⁸⁶

⁸⁰ Regarding the Noviazgo sin Violencia [Dating without Violence] Campaign created by Ministry of Education and Science, Resolution No. 29664, October 2017, there were difficulties in carrying out the planned actions with the technical and teaching levels needed for the incorporation of the issue set out in the institution's curriculum. Awareness-raising activities continued, but not as planned, with the participation of teachers from schools responsible for conducting prevention and awareness workshops. Ministry of Women's Affairs, Annual Public Management Report 2018, p. 34. mujer.gov.py/application/files/3715/5293/1232/Balance_Anual_de_Gestion_Publica_2018.PDF (Spanish only).

⁸¹ Response to access to information request (on file), Ministry of Education and Science, Memorandum DGDE No 336/2021, 24 May 2021

⁸² Access to information request on file, Memorandum DGDE No. 2014/2021 received 12 April 2021.

⁸³ Interviews with SERPAJ, Buenos Vecinos, Somos Pytyvohará, director of a public school.

⁸⁴ Ministry of Public Health and Social Welfare, National Sexual and Reproductive Health Plan 2014-2018, December 2013, unfpa.org.py/download/formato%20PNSSR%202014.pdf and the Adolescent Health Plan 2016-2021, which makes no distinction between 10-year-olds and 19-year-olds, October 2016, p. 36, paraguay.unfpa.org/sites/default/files/pub-pdf/Plan%20de%20Salud%20Adolescente.pdf (Spanish only).

⁸⁵ Interviews with the director of school in central Asunción (Itauguá) and Somos Pytyvohará, Paraguay.

⁸⁶ "El MEC tiene que abrirse a esta realidad, no se puede negar a los problemas de niñas embarazadas de 12 años. Algo está fallando. Hay que dar más información y no prohibir el uso de materiales de ESI, sino al contrario intensificarlo y trabajar la diversidad de género con padres y docentes también." Interview with representative of Central community school, CAMSAT, Bañado Sur, September 2019, Paraguay.

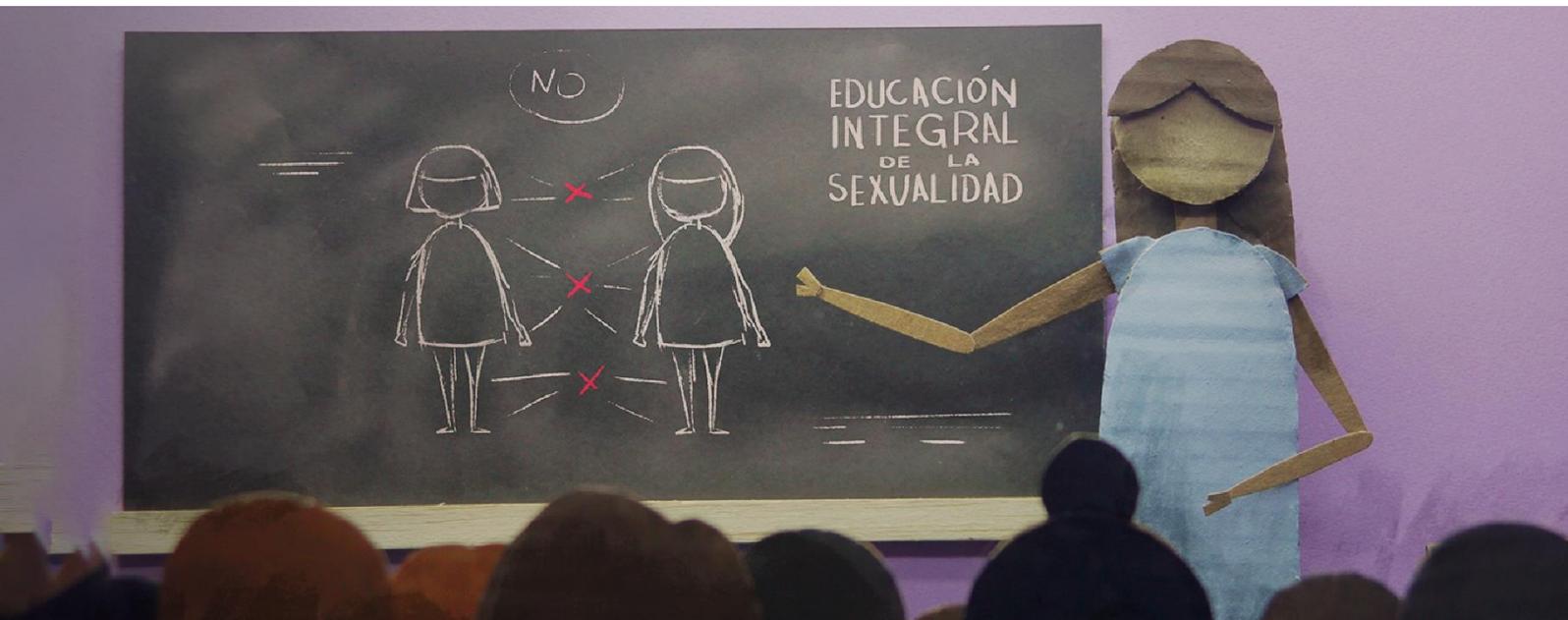
“We need more workshops so that girls know about their bodies and can identify abuse through the information we give them, so that they understand that their body is theirs and know how to look for people who can support them.”

Central Community School, CAMSAT, Bañado Sur⁸⁷

“Outside the education system, girls are reached only when they are already several months pregnant. As a health system we get involved later, so schools must be where sexual and reproductive health is raised in a constructive and ongoing process.”

Jorge Sosa, Sexual and Reproductive Health Department⁸⁸

In May 2021, as the research was being finalized for this report, Amnesty International met with representatives from the Ministry of Education and Science, who indicated that they were committed to increasing public spending on education, and to improving training of teachers. The Vice Minister of Religious Affairs, Fernando Griffith, told Amnesty International that they were carrying out widespread consultations with the aim of reforming the education curriculum, which would focus on “values” and include CSE.⁸⁹ However, some professionals working in the field told Amnesty International that they were either not aware of the consultations being carried out or expressed scepticism that any new curriculum would in practice include a focus on CSE, gender or diversity.⁹⁰



⁸⁷ “Necesitamos más talleres para que las niñas conozcan su cuerpo, identifiquen abusos a través de la información que les damos, que su cuerpo es suyo, y que sepan como buscar gente de apoyo.” Interview with representative of Central Community School, CAMSAT, Bañado Sur September 2019, Paraguay.

⁸⁸ “Outside the education system, girls are reached only when they are already several months pregnant. As a health system we get involved later, so schools must be where sexual and reproductive health is raised in a constructive and ongoing process.” Interview with Jorge Sosa, Director of the Sexual and Reproductive Health Department, August 2019, Paraguay.

⁸⁹ Interview by video call with Fernando Griffith, Vice Minister of Religious Affairs, 20 May 2021.

⁹⁰ Interview by video call with professional working in the field, May 2021

5.1 LIMITED CAPACITY FOR CHILD PROTECTION

“The CODENI are the gateway to the system of comprehensive protection for children because they operate at the municipal level.”

Florentina Torres, formerly at the Ministry of Childhood and Adolescence⁹¹

In most municipalities in Paraguay,⁹² the CODENI is, in theory, responsible for ensuring the protection, promotion and defence of the rights of children and adolescents.⁹³ In practice, they are an entry-point to a system of protection.

According to interviews with NGOs and CODENI personnel, the multidisciplinary teams of lawyers, psychologists, social and community workers envisaged in the Code on Childhood and Adolescence⁹⁴ are rare owing to lack of resources. In fact, some CODENI are in reality a single representative, who also has other municipal duties and requests for support from other institutions, even when that is not part of their responsibilities.

Amnesty International gathered information from four CODENI offices in the Central Department and from various civil society organizations working on children’s issues. All those interviewed stressed that the Attorney General’s Office and the Children’s Public Defender frequently delegate tasks that fall within their mandates to already overstretched CODENI staff. For example, CODENI staff have been asked to provide protection measures (which is the responsibility of the Public Defender), interview and accompany girls to forensic proceedings (even though it is not their role) and compile reports on girls’ backgrounds and family circumstances (which is the role of social workers attached to juvenile courts).⁹⁵ As indicated by the former Rapporteur on the Rights of the Child of the Inter-American Commission on Human Rights, this results in CODENI staff carrying out tasks for which they are not trained such as providing technical reports on protection measures,⁹⁶ diverting their time and resources away from their role of preventing violence against children.

91 “Las CODENI son la puerta de acceso al sistema de protección integral a la niñez porque se encuentra al nivel municipal: 241 municipios tienen CODENI y 14 no.” Interview with Florentina Torres, Ministry of Childhood and Adolescence, June 2019, Paraguay.

92 According to information collected in interviews with the Ministry of Childhood and Adolescence, 241 municipalities have CODENI and 14 do not.

93 Their work is governed by the Code on Childhood and Adolescence, Law No. 1680, Chapter V, promulgated on 30 May 2011, bacn.gov.py/leyes-paraguayas/5261/ley-n-1680-codigo-de-la-ninez-y-la-adolescencia (Spanish only).

94 Law No. 1680/01, Code on Childhood and Adolescents, promulgated on 30 May 2011, article 49, oas.org/dil/esp/Ley_de_Adopcion_Paraguay.pdf.

95 “Judges use the CODENI counsellors as assistants in the judicial process. Sometimes they can make socio-environmental reports about a family when nowhere in the Code does it say this is their function. But the court orders them to do this, so if they don’t, they can be held in contempt and go to jail. This has blurred the role of the CODENI counsellors.” Anibal Cabrera, Director, Coordinating Body for Child Rights (CDIA) [“Los jueces usan a las concejeras de CODENI como auxiliares de justicia. A veces pueden hacer informes socioambientales de una familia cuando no es función de ellos, en ninguna parte del código. Pero el juzgado les ordena eso, entonces si no lo hacen, pueden estar en desacato e ir presas. Así se ha desdibujado el rol de las concejeras de la CODENI.”].

“We try to resolve cases with the support of the CODENI. The Convention on the Rights of the Child must be applied, the CODENI are the first step towards the de-judicialization of cases because they know the community and can sound the alarm.” Judge Pili Rodríguez, Court of Children and Adolescents, interview, August 2019. [“Tratamos de resolver los casos con el apoyo de las CODENI. Hace falta que se aplique la Convención sobre los Derechos del Niño, la CODENI es la primera puerta para ayudar a la des-judicialización de los casos porque conocen la comunidad y pueden dar la alerta.”].

““Hay una confusión del papel de las CODENI por los juzgados que les dan funciones que no les corresponden”, Meeting with Florentina Torres, Ministry of Childhood and Adolescence.

96 “The problem with the CODENI is that they think protecting the girls is taking the case to justice when they should actually intervene much earlier in the prevention processes. This is why, the Prosecutors office or the Children’s Ombudsperson takes this role, they even request technical reports in processes regarding protective measures, but the people from CODENI are not prepared.” [“El problema de las CODENI es que piensan que proteger a las niñas es judicializar los casos cuando tendrían que intervenir mucho antes en el proceso de prevención. Por eso a veces suple la Fiscalía o la Defensoría de la Niñez, hasta les piden informes técnicos en procesos sobre medidas de protección, pero las personas de las CODENI no están preparadas.”] Interview with Rosa María Ortiz, former member of the United Nations Committee on the Rights of the Child and former Rapporteur on the Rights of the Child of the Inter-American Commission on Human Rights, June 2019.

“We’re involved in everything and nothing at the same time because we can’t cope with taking on these situations.”

CODENI official⁹⁷

Although the Code on Childhood and Adolescence expressly prohibits the involvement of CODENI staff in the judicial process,⁹⁸ in practice it is common for them to be involved. CODENI staff interviewed by Amnesty International⁹⁹ said that they rarely refuse to carry out these functions because they want to support girls and try to ensure that prosecutors and public defenders act in the girls’ best interests.

The lack of a single pathway supporting girl survivors of violence who become pregnant as a result creates a situation where staff respond according to individual commitment, conscience or workload, rather than fulfilling clearly established responsibilities. While staff are generally well-intentioned, multiple interviewees told Amnesty International that this lack of coordination between institutions can create additional problems like secondary victimisation.

Paraguay’s Code on Childhood and Adolescence provides for special health care through public health programmes for children and adolescents “with few economic resources”.¹⁰⁰ Better coordination between USFs - Family Health Units - and other bodies, such as the CODENI, which work under municipalities, and the Ministry of Social Development, would improve these services and enable them to address health in a more comprehensive, multisectoral and community-based manner in order to overcome social inequality and poverty.¹⁰¹

5.2 INSUFFICIENT RESOURCING OF COMMUNITY HEALTH SERVICES

“USFs need more community involvement, they need a care network linked to the CODENI, care in cases of domestic violence, etc. General measures are not enough, you have to train these people and give them community intervention protocols.”

Esperanza Martínez, Senator and former Minister of Public Health and Social Welfare¹⁰²

97 “We’re involved in everything and nothing at the same time because we can’t cope with taking on these situations.” [“Estamos en todo y a la vez en nada porque no damos abasto para abarcar las situaciones.”] Interview with CODENI official, August 2019, Paraguay.

98 Paraguay Law No. 1680/01, Code on Childhood and Adolescents, promulgated on 30 May 2011, article 48; available at: oas.org/dil/esp/Ley_de_Adopcion_Paraguay.pdf

99 “The CODENI don’t have a protocol for intervention, they only base their work on the code for childhood. We do a little bit of everything: accompany (the victim) to file the report to the police of the prosecutor’s office and for the forensic examination. We only go beyond our responsibilities to help the girls because the people from the prosecutor’s office does not do it. Once the prosecutor’s office and the children protection office are informed, we are not supposed to continue (in the process) but they send the cases back to us, they ask us to verify things again.” [“Las CODENI no tienen un protocolo de intervención, solo se basan en el código de niñez. Hacemos un poco de todo: acompañamos a hacer la denuncia a la comisaría o fiscalía, acompañamos a la niña para un examen forense. Solo salimos de nuestras atribuciones para ayudar a las niñas porque la gente de la fiscalía no cumple. Una vez informada la fiscalía y la defensoría de la niñez, no nos corresponde continuar, pero ellas nos derivan otra vez, nos piden verificar cosas cuando eso es el papel de la defensoría de la niñez.”] Interview with the CODENI representatives in Villeta, August 2019, Paraguay.

100 Paraguay Law No. 1680/2001 Code on Childhood and Adolescence, Article 15.

101 Interview with Claudia Sanabria, Gender Department of the Ministry of Public Health and Social Welfare.

102 “USFs need more community involvement, they need a care network linked to the CODENI, care in cases of domestic violence, etc. General measures are not enough, you have to train these people and give them community intervention protocols.” [“Las USF tienen que tener más participación comunitaria, tendría que tener una red de atención vinculada con la CODENI, atención a la violencia intrafamiliar, etc. La casaca no es suficiente, hay que formar a esta gente y darles protocolos de intervención comunitaria.”] Interview Esperanza Martínez, Senator and former Minister of Public Health and Social Welfare. June 2019.

Paraguay's unique system of more than 800 USF's is designed to provide universal free health care,¹⁰³ with a focus on social inclusion,¹⁰⁴ and could provide a range of interventions to help prevent and address violence against children and adolescents. Unlike traditional health centres, USFs conduct home visits to families in their area. Generally, each USF covers between 3,500 and 5,000 people and is comprised of a multidisciplinary team of general practitioners, nurses, dentists and community workers.¹⁰⁵ Importantly, USFs are present in economically disadvantaged areas.

In reality, however, in interviews with Amnesty International's research teams, various USF staff members stated that they are not always able to carry out the activities under their mandate because they are overstretched and have to prioritize essential programmes, such as sanitation and the prevention of chronic illness. According to multiple actors, these challenges and lack of training have hampered USFs from achieving their full potential and purpose:

"In the USF, we focus on vaccination and hygiene issues. There are a lot of programmes to implement, and we are swamped by them. We have no time to do community promotion on any issue."

Bañado Sur USF¹⁰⁶

"In addition to ensuring the USF are fully staffed, they need training in community empowerment, child development and positive parenting in order to work more comprehensively at the family level. The major challenge now is to reach out systematically with a mass campaign not of chastisement but focused on child rights."

Claudia Sanabria, Gender Department of the Ministry of Public Health and Social Welfare¹⁰⁷

"We need to strengthen the USF to prevent abuse. The USF need to know how many families there are in their area, the risk factors, those who are drinking alcohol, school enrolment rates, illnesses, indicators of violence and referral to institutions. They must not wait for people to come to the clinic but reach out to them and only in serious cases refer them to the hospital."

Paediatrician, Itauguá Hospital emergencies coordinator¹⁰⁸

103 Ministry of Health and Social Welfare, Resolution No. 1074, 2009, ratified by Law No. 5099 "on the free provision of health benefits in facilities of the Ministry of Health and Social Welfare", 2013.

104 Interview, with Senator Esperanza Martínez, former Minister of Public Health and Social Welfare. International Labour Organization, Paraguay - Protección social en salud: reflexiones para una cobertura amplia y equitativa ("Paraguay - Social Protection in Health: reflections to ensure a wide and equitable coverage"), 2017, p.16; ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-santiago/documents/publication/wcms_566978.pdf

105 Resolution S.G. No. 175 of the Ministry of Public Health and Social Welfare, approving the Operations Manual for Family Health Units (USF), in the context of the public policies implemented by the Ministry of Public Health and Social Welfare, 7 April 2016, mspbs.gov.py/dependencias/portal/adjunto/7aa3c3-ManualdefuncionesdelasUSF1.pdf

106 "En las USF, nos enfocamos en los temas de vacunación e higiene. Tenemos objetivos específicos para alcanzar en estos temas y nos toma todo nuestro tiempo. Hay muchos programas para cumplir y nos ahogan por eso no nos deja tiempo para hacer promoción comunitaria en ningún tema." Interview, September 2019.

107 "Además de completar los equipos de USF hay que darle un empoderamiento comunitario, formarles en desarrollo infantil y crianza positiva, trabajar de manera más integral a nivel de la familia. Hoy el mayor desafío es llegar de manera sistemática y con un discurso masivo no tanto de castigo sino enfocado a los derechos de los niños." Interview, August 2019.

108 "Hay que fortalecer las USF para prevenir el abuso. Las USF tienen que saber cuántas familias hay en su zona, los factores de riesgo, los consumidores de alcohol, la escolarización, las enfermedades, los indicadores de violencia y derivar a las instituciones. No esperar que la gente venga al consultorio, pero llegar hacia la gente y solo en casos graves derivar a los hospitales." Interview, June 2019.

6. STATE FAILS TO GRANT SURVIVORS ACCESS TO JUSTICE AND TRANSFORMATIVE REPARATION

6.1 PROSECUTION PRIORITIZED OVER REPARATION

“The whole system for addressing sexual abuse revolves around punishing the perpetrator instead of focusing on the victim, on the young girl or boy. This means that all of the state institutions’ protocols for action are aimed simply at mounting a legal case when they should be providing care and reparation for the harm done to the girl or boy.”

Aníbal Cabrera Echeverría, Executive Director, Coordinating Body on Child and Adolescent Rights (CDIA)¹⁰⁹

109 “Todo el sistema alrededor del abuso sexual torna alrededor del castigo al perpetrador en vez de estar centralizado en la víctima, en la niña. Eso hace que todos los protocolos de actuación de las instituciones estatales sirven únicamente a montar un caso legal cuando tendría que ser utilizados para la atención y reparación del daño causado a la niña.” Interview, June 2019.

“The Public Prosecutor’s Office does not focus on the girl’s needs, the victim is an object of evidence, not a subject of care. Because what [prosecutors] are seeking is evidence of a crime.”

Teresa Martínez, Minister in the Ministry of Childhood and Adolescence¹¹⁰

According to international human rights standards, states must strengthen the guarantees of protection during the investigation and criminal proceedings when the case relates to the sexual violence of a child or adolescent, particularly if it took place within the family, that is, in the very environment in which the victim should have been protected. Moreover, the investigation and criminal proceedings must be led by the state from a gender and child rights perspective, based on her or his status as victim and taking into account the aggravated nature of the rape, along with the effects it could have on a child. If the state does not act with due diligence in the judicial proceedings, this could result in institutional violence, increasing the impact and the traumatic experience suffered by the survivor.¹¹¹



But beyond the carrying out criminal investigations into alleged sexual violence of children and adolescents, international law also requires states to provide a whole range of services for the reparation of survivors. According to the Inter-American Court on Human Rights, health facilities must provide comprehensive, immediate and long-term¹¹² psychological care that specifically addresses the “severe damage and psychological, even social, effects”¹¹³ of sexual violence and pregnancy, particularly when the victim had a relationship of trust with the perpetrator.¹¹⁴

¹¹⁰ “El Ministerio Público no atiende a las niñas, la víctima es un objeto de prueba, no un sujeto de atención. Porque lo que buscan es probar el hecho punible.” Interview, September 2019.

¹¹¹ UNICEF, Handbook for Professionals and Policymakers on Justice in matters involving child victims and witnesses of crime, 2009. www.un.org/ruleoflaw/files/Handbook%20for%20Professionals%20and%20Policymakers%20on%20Justice%20in%20Matters%20involving%20Child%20Victims%20and%20Witnesses%20of%20Crime.pdf

¹¹² Inter-American Court, *Case of V.R.P., V.P.C. et al v. Nicaragua* (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, Series C No. 350, para. 290. See also: *Case of González et al (“Campo Algodonero”) v. Mexico* (Preliminary Objection, Merits, Reparations and Costs) Judgment of 16 November 2009, paras 388 and 400; and *Case of Gutiérrez Hernández and others v. Guatemala* (Preliminary Objections, Merits, Reparations and Costs) Judgment of 24 August 2017, Series C No. 339, para. 176. Inter-American Court, *Case of Selvas et al v. Mexico* para. 272. *Case of Rosendo Cantú v. Mexico* (2010), para. 178.

¹¹³ *Case of Fernández Ortega et al v. Mexico* (Preliminary Objection, Merits, Reparations and Costs) Judgment of 30 August 2010, para. 124; and the *Case of Río Negro massacres v. Guatemala* (Preliminary Objection, Merits, Reparations and Costs) Judgment of 4 September 2012, para. 132.

¹¹⁴ Inter-American Court, *Case of V.R.P., V.P.C. et al v. Nicaragua* (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, Series C No. 350, para. 163: “This Court has already noted that rape is a highly traumatic experience that can have severe consequences and cause great physical and psychological damage, and one which leaves the victim ‘physically and emotionally humiliated’, a situation that can only - with difficulty - be overcome by time, unlike other traumatic experiences. In the case of child and adolescent survivors of sexual violence, this impact can be seriously exacerbated, and so they may suffer different emotional trauma to that of adults, and a deep and lasting impact, in particular when they had a relationship of trust and authority with their aggressor, such as a parent. According to psychiatrist Enrique Stola, in cases where the father is the aggressor, this has a most serious effect on the psyche of the victim, ‘because the person who should be caring for them has perpetrated serious destruction, not only of the girl but of the whole group, since the aggression is experienced by the whole group as a family aggression’.” [Esta Corte ya ha destacado que la violación sexual es una experiencia

Various protocols have been designed and implemented in Paraguay to address the needs of survivors of sexual violence in terms of health care and access to justice.¹¹⁵ However, according to the IACHR, Paraguay "has maintained a focus on the reporting process and criminal prosecution, even at the expense of the well-being or revictimisation of the survivors."¹¹⁶ Repeatedly during this research, Amnesty International's teams heard from professionals that the priority for the authorities in providing care for a girl who reports sexual violence or who is pregnant is collecting evidence to prosecute the alleged perpetrator. At the same time, underpinning this process is the erroneous belief mentioned in the following section that the girl's testimony lacks value as evidence, even when her body is used as an object of evidence in the penal process.

Paraguay lacks a program dedicated to coordinating the reparation for survivors of child sexual violence. This means, in practice, that girls and their carers have to approach multiple state institutions, which have little coordination between them, to re-build their lives after sexual abuse and being forced to carry a pregnancy to term, both of which leaves them needing long-term psychological and healthcare support, as well as alternative educational arrangements.

6.2 SECONDARY VICTIMISATION

According to international standards, authorities have a duty not only to refrain from inflicting more trauma, but also an obligation to ensure girl survivors of sexual violence are able to effectively participate in legal proceedings.¹¹⁷

In Paraguay, secondary victimisation is all too common in the current system. According to Amnesty International's research, one of the reasons for this is that each party involved in the care pathway (teachers, doctors, CODENI officials, psychologists, public defenders, prosecutors, forensic examiners, psychologists from the forensic examiner's office and judges, among others) have direct access to the girls and interview girls to varying degrees when sexual violence is suspected.

The lack of coordination between the bodies involved in the process of addressing sexual violence against children and adolescents means that survivors may be forced to recount traumatic events many times over, sometimes over multiple years, negating their right to forget. Some institutions involved in interviewing girls do not have any institutional care protocols and interview girls but carry them out out of a desire to help them before taking cases to the Public Prosecutor's Office, without necessarily understanding that they might be re-victimizing them. Doctors told Amnesty International that they feel that they have to listen to the girls because prosecutors' have little training in how to work with children and their excessive workloads mean they have little time to speak to survivors. Better institutional cooperation, training and responsiveness to survivors is crucial to survivors' access to justice and to prevent revictimisation.

sumamente traumática que puede tener severas consecuencias y causa gran daño físico y psicológico, que deja a la víctima "humillada física y emocionalmente", situación difícilmente superable por el paso del tiempo, a diferencia de lo que acontece con otras experiencias traumáticas (...) En el caso de las niñas, niños y adolescentes víctimas de violencia sexual, este impacto podría verse severamente agravado, por lo que podrían sufrir un trauma emocional diferenciado de los adultos, y un impacto sumamente profundo, en particular cuando el agresor mantiene un vínculo de confianza y autoridad con la víctima, como un progenitor. En palabras del perito Stola, en casos en donde el padre es el que concreta la agresión sexual, se produce una afectación terriblemente grave en la psiquis de la víctima, "porque aquella persona que debería cuidar ha producido una profunda destrucción, no solo a la niña, sino además a todo el grupo, porque es una agresión que todo el grupo la vive como una agresión familiar".

¹¹⁵ See, for example, Department for Victim Care Centres, Instruction No. 9/2015 and Public Prosecutor's Office, General Instruction No. 9/2011 on Procedures to follow when investigating punishable acts of family and gender-based violence and Ministry of Public Health and Social Welfare, "Formulario de registro y atención a víctimas de violencia intrafamiliar y basada en el género, 2012.

¹¹⁶ Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.LV/II. Doc.233/19, para. 258. (Spanish only).

¹¹⁷ According to Paraguay's Supreme Court of Justice, "The aim of a Gesell Chamber is to avoid revictimizing vulnerable individuals, thus meeting the requirements of Agreement No. 633 ratifying the 100 Brasilia Rules in order to effectively produce advance evidence for the court and/or take statements in proceedings, thus avoiding repeated testimonials having to be made by these people with the above consequences." ["La Cámara Gesell tiene por finalidad evitar la re-victimización de las personas en estado de vulnerabilidad, dando así cumplimiento a lo preceptuado en el marco de la Acordada N° 633 que ratifica las Cien Reglas de Brasilia, para producir eficazmente los anticipos jurisdiccionales de pruebas y/o toma de declaración en juicios orales, evitando así las reiteradas declaraciones de dichas personas con las consecuencias que se mencionan antecedentemente."], pj.gov.py/contenido/146-oficina-tecnico-forense/1297 (Spanish only).



To avoid secondary victimisation during legal proceedings, Gesell Chambers¹¹⁸ are recommended as a form of obtaining evidence prior to court hearings in cases involving child survivors. The Inter-American Court on Human Rights recommends that girls have an opportunity to provide evidence in advance to the court,¹¹⁹ such as a video recording of their statements, so they do not have to call the child to give the statement multiple times.¹²⁰

In a recent resolution,¹²¹ the Public Defender's Office empowered the Children's Public Defender to accompany girls when they make their statement in the Gesell Chamber¹²² when those who exercise parental authority are unable to do so because they are implicated in the sexual abuse.¹²³ This is a first step towards better protection, albeit limited to special circumstances. However, it still falls short of ensuring that children and adolescents can actively participate in criminal proceedings against their attackers and that proceeding are an empowering process for survivors as part of their long-term recovery.

Another way children and adolescents who have experience sexual violence can be re-victimized is when organizations supposed to be involved in their care, breach their confidentiality. According to several testimonies collected from government officials and NGO staff, significant information about pregnant girls and survivors of sexual violence has at times been leaked to the media. Several sources expressed concern to Amnesty International regarding the way in which some doctors pass information to the press

118 Public Prosecutor's Office, General Instruction F.G.E. No. 2, Procedure to follow when investigating punishable acts against children and adolescents, 16 April 2019, point 3.1.

119 Fourteenth Ibero-American Judicial Summit, Brasilia Regulations Regarding Access to Justice for Vulnerable People, 2008, point 32, p. 11, osce.org/odihr/68082?download=true

120 Eurosocial, Protocol for the investigation of violence against women in the family, from a gender perspective, by the Public Prosecutor's Office in coordination with the Ministry of the Interior, the National Police and the Ministry of Women's Affairs, pp. 19 and 20, sia.eurosocial-ii.eu/files/docs/1443601779-DP31.pdf and Inter-American Court, Case of V.R.P., V.P.C. et al v. Nicaragua, para. 168; UN Commission on Crime Prevention and Criminal Justice, Guidelines on justice in matters involving child victims and witnesses of crime, 25 May 2005, E/CN.15/2005/L.2/Rev.1

121 Ministry of Public Defence, Resolution D.G. No. 1561/2019 amending Resolution No. 1227/14 establishing guidelines for the action of the Public Defender for Children and Adolescents in proceedings of the Gesell Chamber agreed by criminal courts or criminal prosecutors in the context of advance evidence to courts and/or criminal proceedings. Interview, with Lorena Segovia, Director of the Office of the Public Defender.

122 According to Paraguay's Supreme Court of Justice, "The aim of a Gesell Chamber is to avoid revictimizing vulnerable individuals, thus meeting the requirements of Agreement No. 633 ratifying the 100 Brasilia Rules in order to effectively produce advance evidence for the court and/or take statements in proceedings, thus avoiding repeated testimonials having to be made by these people with the above consequences." ["La Cámara Gesell tiene por finalidad evitar la re-victimización de las personas en estado de vulnerabilidad, dando así cumplimiento a lo preceptuado en el marco de la Acordada N° 633 que ratifica las Cien Reglas de Brasilia, para producir eficazmente los anticipos jurisdiccionales de pruebas y/o toma de declaración en juicios orales, evitando así las reiteradas declaraciones de dichas personas con las consecuencias que se mencionan anteriormente."], pj.gov.py/contenido/146-oficina-tecnico-forense/1297 (Spanish only).

123 Ministry of Public Defence, Resolution D.G. No. 1561/2019 amending Resolution No. 1227/14 establishing guidelines for the action of the Public Defender for Children and Adolescents in proceedings of the Gesell Chamber agreed by criminal courts or prosecutors in the context of advance evidence to courts and/or criminal proceedings, article 2.

in relation to the health of the girl and foetus, as well as the ethnic origin and age of the girl.¹²⁴ This violation of the victim's confidentiality¹²⁵ can cause serious psychological harm to girls and is especially problematic in a country with a relatively small population like Paraguay, with a conservative society that tends to blame survivors for the abuse they suffer. When this is done by health care personnel in the public health service, this violation of patient confidentiality can be tantamount to institutional violence,¹²⁶ and violates national laws.¹²⁷

6.3 FAILURE TO BELIEVE THE SURVIVOR

“In most cases, there are no physical signs of sexual abuse, particularly if the abuse is not reported within 72 hours of it happening. If we don't find physical signs, that doesn't mean it didn't happen, but this is sometimes how the prosecutors interpret it, and the girl does not see a forensic psychologist who could determine whether the sexual abuse happened or not.”

Forensic Gynaecologist working in the public sector¹²⁸

According to the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI), all pregnancies in girls under 14 years old should be considered non-consensual, and a result of sexual violence, except where sexual relations are between peers – or young people of a similar age.¹²⁹ Additionally, in cases of sexual violence against women, the testimony of the victim is fundamental evidence. As stated by the Inter-American Court on Human Rights in *Rosendo Cantu et al v. Mexico (2010)*¹³⁰

Despite this, according to testimonies gathered by Amnesty International for this research, one of the biggest obstacles girls in Paraguay face in accessing justice is the lack of weight given to their voices: their testimonies as survivors of sexual violence are not treated as credible or given probative value, and their views are not taken into account in the criminal justice process.

¹²⁴ Telefuturoinfo, 6 October 2017, [youtube.com/watch?v=T5tHYqGUcmE](https://www.youtube.com/watch?v=T5tHYqGUcmE); SNT Paraguay, 15 September 2017, [youtube.com/watch?v=zOICZxycg4](https://www.youtube.com/watch?v=zOICZxycg4); ABC TV Paraguay, [youtube.com/watch?v=XN8NcwfCTtc](https://www.youtube.com/watch?v=XN8NcwfCTtc).

¹²⁵ World Health Organization, Responding to children and adolescents who have been sexually abused, WHO Clinical Guidelines, 13 October 2017, pp. 15 and 22. At the national level, in the context of Resolution S.G. No. 146 of the Ministry of Public Health and Social Welfare on rules of post-partum care with a human face, 8 March 2012: “Establishing an obligation to provide access to quality health care without discrimination, effectively ensuring a duty of confidentiality and guaranteeing full validity of professional secrecy in the care”. [“Por la cual se establece la obligatoriedad de brindar acceso a los servicios de salud de calidad y atención sin discriminaciones, con efectivo cumplimiento del deber de confidencialidad y garantía de plena vigencia del secreto profesional en la atención”].

¹²⁶ Follow-up Mechanism to the Belém do Pará Convention (MESECVI), Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention, OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.234/16 Rev.1, 13 October 2016, Point 129, oas.org/es/mesecvi/docs/MESECVI-EmbarazoInfantil-EN.pdf.

¹²⁷ Paraguay, Law Nº 17.823, Código de la Niñez y Adolescencia, Article 27.

¹²⁸ “En la mayoría de las veces no hay rasgos físicos del abuso sexual, sobre todo si la niña no fue llevada en las 72 horas después de la agresión. Que nosotras no encontremos signos físicos no significa que no hubo abuso sexual, pero a veces así lo interpretan los fiscales, sin hacer pasar a la niña por la psicóloga forense que podrá determinar si hubo o no abuso sexual.” Interview, August 2019.

¹²⁹ Follow-up Mechanism to the Belém do Pará Convention (MESECVI), Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention, OEA/Ser.L/II, 2016, para. 9, oas.org/es/mesecvi/docs/MESECVI-EmbarazoInfantil-EN.pdf.

¹³⁰ Inter-American Court of Human Rights, *Rosendo Cantu et al v. Mexico*, Judgement of August 31, 2010, Para: 89,

corteidh.or.cr/docs/casos/articulos/seriec_216_ing.pdf and *Atenco v. Mexico*, Sentence of 28 November 2018, (Preliminary objections, merits, reparations, and costs), Inter-American

Court on Human Rights, Para: 315, corteidh.or.cr/docs/casos/articulos/seriec_371_esp.pdf

Multiple interviewees told Amnesty International that prosecutors in Paraguay often require girls who have experienced sexual violence to undergo gynaecological and physical checks when they report the crime. As there is little chance of collecting forensic evidence if there has been a lapse of time between the violence and reporting, unless the rape resulted in a pregnancy, the process often only serves to revictimise the girl.

“[The prosecutors] say [that the aggressor] only touched the girl, nothing more; this is already abuse but it’s not considered as such. They only take coitus into account when convicting the aggressor. They need to be punished earlier, when the groping begins.”

Forensic psychologist¹³¹

According to the Paraguayan Criminal Code, sexual abuse includes a range of actions, including groping, which do not always leave physical signs.¹³² Nevertheless, CODENI staff, teachers, psychologists and doctors¹³³ interviewed by Amnesty International all agreed that too often prosecutors do not give sufficient credit to the girls’ testimony if no physical traces of the sexual abuse are found. In these situations, public defenders often not only fail to take protection measures but sometimes send girls back home, potentially to their aggressor. While courts may be requiring prosecutors to show specific evidence to secure a conviction for child abuse or rape, courts should, according to the standards of the Inter-American Court, give weight to the testimony of the victim including when forensic evidence is not available.



To compound the challenge of tendency not to believe the survivor, there is a severe shortage of forensic psychologists in Paraguay. In many cases, because of this the first appointment with a forensic psychologist does not occur until several months after the sexual abuse is detected. Even then, it may take two or three

132 See the definition in article 135 of the Paraguayan Criminal Code with regard to the Follow-up Mechanism to the Convention of Belém do Pará (MESECVI), Declaration on Violence against Women, Girls and Adolescents and their Sexual and Reproductive Rights, OEA/Ser.L/V/II.7.10 MESECVI/CEVI/DEC.4/14, 19 September 2014, p. 5, [oas.org/es/mesecvi/docs/cevi11-declaration-en.pdf](https://www.oas.org/es/mesecvi/docs/cevi11-declaration-en.pdf) (Spanish only) and the jurisprudence of the Inter-American Court of Human Rights, Case of Fernández Ortega et al v. Mexico (Preliminary Objection, Merits, Reparations and Costs) Judgment of 30 August 2010, para. 119; the Case of Rosendo Cantú et al v. Mexico (Preliminary Objection, Merits, Reparations and Costs) Judgment of 31 August 2010, para. 109; and the Case of Miguel Castro-Castro Prison v. Peru (Merits, Reparations and Costs) Judgment of 25 November 2006, Series C No. 160, para. 306.

133 Interviews with paediatrician at Itauguá Hospital; paediatrician, head of emergencies at Itauguá National Hospital; forensic psychologist; CODENI in Villeta, Fe y Alegría School in the Bañado Sur; gynaecologist in the forensic clinic.

visits to verify and clarify the victim's account. The professional opinion of the forensic psychologist often comes too late in cases where girls may remain in situation where they are at risk of further violence and may be under pressure by the perpetrator or family to keep secret what has happened to them. Children and adolescents with disabilities, from indigenous communities or rural areas, have even greater difficulty in accessing services, and can face additional barriers to activating mechanisms of protection and attention.

“If it is not an emergency, or there is no suspicion of rape, it may take six months from the time the prosecutor sends me the case until I am able to submit my final report. My diary is now full until February [2020] and we’re only in August [2019].”

Forensic psychologist¹³⁴

“If the forensic doctor finds physical injuries, they have to refer the girl to a health centre to check for STIs, HIV and for ECP to prevent a pregnancy but, if they find no physical injury, they send the girls home with a possible STI.”

Doctor at Itauguá Hospital¹³⁵

The forensic psychologist is not the only psychologist that is in contact with the survivors. Each institution they comes into contact with (the hospital, the Public Defender's Office, the Public Prosecutor Office, the Ministry of Children's Affairs) has their own team of psychologists. This process, instead of ensuring the protection of the child or adolescent, forces them to repeatedly describe what happened, perpetuating a system of secondary victimisation. For this very reason, Inter-American Court has highlighted the need for the same professional, trained in dealing with survivors of sexual violence from a gender and children's rights perspective, to care for the survivor throughout the legal process.¹³⁶ Many professionals who spoke to Amnesty International stressed the need for a more streamlined and coordinated approach.

“It is not good that there are so many psychologists involved, with so many different and sometimes contradictory objectives. Some want information for the criminal case, others want to provide clinical care, others want to force the girl to bond with her new-born baby”

Clinical psychologist No. 2¹³⁷

134 “Si no es una emergencia, o sea que no se tiene sospecha de violación sexual, desde el momento en el que el fiscal me envía el caso hasta que yo le entregue un informe final, puede durar seis meses. Por eso ahora mi agenda está llena hasta febrero y apenas estamos en agosto.” Interview, August 2019.

135 “Si el médico forense encuentra lesiones físicas tiene que remitir a la niña a un centro de salud para chequear por infecciones de transmisión sexual, VIH, el PAE y para prevenir un embarazo, pero si no encuentran lesiones físicas mandan a las niñas a sus casas con posibles infecciones de transmisión sexual (ITS).” Interview, June 2019.

136 Inter-American Court, Case of V.R.P. V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, para. 165, corteidh.or.cr/docs/casos/articulos/seriec_350_esp.pdf (Spanish only).

137 “No es bueno que haya tantas psicólogas que intervengan y con tantos objetivos diferentes y a veces contradictorios. Unas quieren información para el juicio penal, otras quieren hacer una atención clínica, otras le quieren obligar a vincularse con el recién nacido.” Interview, August 2019.

“Having so many doctors and psychologists involved in the process contributes to a secondary victimisation, there is a need to focus on the girl’s recovery and not only on producing evidence. People need to be trained both to handle emotional situations and to gather evidence. We need to overcome the fragmentation and bring two objectives together in just one space.”

Claudia Sanabria, Gender Department of the Ministry of Health and Social Welfare¹³⁸

138 “Aporta a la revictimización tener tantos médicos y psicólogos que intervienen en el proceso, se tiene que enfocar en la rehabilitación de la niña no solo en levantar evidencia. Hay que formar a la gente que pueda hacer contención y recolección de pruebas. Se tiene que superar la fragmentación y juntarse los dos objetivos en un solo espacio.” Interview, August 2019.

7. STATE FORCES GIRLS WHO BECOME PREGNANT TO CARRY IT TO TERM

7.1 FORCING GIRLS TO CARRY A PREGNANCY TO TERM IS INSTITUTIONALIZED VIOLENCE



“Motherhood is a decision, not a destiny.”

Clinical psychologist No. 3139

¹³⁹ “Las niñas no tienen de otras que asumir ser madres. No dan en adopción por el peso moralista. Pero están en total abandono después del parto. Una buena mujer es ser madre según el rol establecido por la sociedad. La maternidad es lo sublime. Hay que desmitificar lo religioso de la maternidad. La maternidad es una decisión no un destino.” Interview with clinical psychologist no. 3, August 2019, Paraguay.

“It is terrible, in particular, that doctors do not offer them (child survivors) the option of an abortion unless their life is in danger, that is, when they are on the point of dying from a biological point of view; they do not see how their life project may be truncated. They have to have high blood pressure, serious infection, threat of premature birth or miscarriage, otherwise they will say ‘the pregnant girl is fine.’”¹⁴⁰

Obstetrician from the Movement for the Right to Health¹⁴¹

Unsafe abortion is the third leading cause of maternal deaths globally. In countries with restrictive abortion laws, there are higher maternal mortality and morbidity rates.¹⁴² The CEDAW Committee has been clear that women should not be forced to seek unsafe abortions because of lack of appropriate sexual and reproductive health services.¹⁴³ Criminalization of abortion is an overt form of discrimination against women, girls and all people who can become pregnant.¹⁴⁴ In line with the recommendations of the CEDAW Committee and a range of other human rights treaty bodies, states must repeal discriminatory criminal laws, including laws that criminalize abortion.¹⁴⁵

Children and adolescents forced to carry a pregnancy to term can face serious psychological and physical challenges, and human rights violations. The Follow-up Mechanism to the Belém do Pará Convention (MESECVI) has cautioned that forcing a girl under the age of 14 to carry a pregnancy to term constitutes institutional violence, which can amount to torture and other ill-treatment.¹⁴⁶

The Committee on the Rights of the Child has urged states to decriminalise abortion and reform legislation to ensure access for pregnant girls and guarantee their best interest and that pregnant girls views are always heard and respected in abortion-related decisions.¹⁴⁷ The CEDAW Committee has also recognized that “denial or delay of safe abortion and/or post-abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment.”¹⁴⁸ The Committee against Torture (CAT) has also called on states to ensure free access to abortion in cases of rape.¹⁴⁹

While the Constitution of Paraguay¹⁵⁰ and the Law on comprehensive protection of women from all forms of violence grant women and girls the right to freely decide the number and spacing of their children,¹⁵¹

140 “Eso es terrible sobre todo que los doctores no les ofrecen la posibilidad de abortar, salvo cuando la vida está en peligro, es decir que están a punto de morir, desde un punto de vista biológico, no ven cómo su proyecto de vida puede ser truncado. Tienen que estar con hipertensión, infección grave, amenaza de parto prematuro o de aborto, sino dicen que ‘la niña embarazada está bien’”, Obstetrician from the Movement for the Right to Health and ALAMES, 30 May 2019.

141 Interview, May 2019.

142 Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/31/57, 5 January 2016, para. 43, refworld.org/docid/56c435714.html

143 Committee on the Elimination of Discrimination against Women (CEDAW Committee), General Recommendation No. 19 (1992) on Violence against women, A/47/38 at 1, Point 24. M).

144 CEDAW Committee, General Recommendation 24 (Article 12: Women and Health), 1999, A/54/38/Rev.1, para 11; UN Working Group on the issue of discrimination against women in law and in practice, Report of the Working Group, Human Rights Council (32nd Session), 2016, UN Doc. A/HRC/32/44, para. 14.

145 CEDAW Committee, General Recommendation 24 (Article 12: Women and Health), 1999, UN Doc. A/54/38/Rev.1, chap. 1, para 11; CESCR Committee, General Comment 22 (2016) on the right to sexual and reproductive health (Article 12 of the ICESCR), 2016, E/C.12/GC/22 (2016), paras 34, 40, 57; CRC Committee, General Comment 20 (2016) on the implementation of the rights of the child during adolescence, 2016, CRC/C/GC/20 (2016), para. 60.

146 Follow-up Mechanism to the Belém do Pará Convention (MESECVI), Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention, OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.234/16 Rev.1, 13 October 2016, para. 128, oas.org/es/mesecevi/docs/MESECVI-EmbarazoInfantil-EN.pdf; CEDAW Committee, General Recommendation 35, supra note 23, para. 18.

147 CRC Committee, General Comment 20 (2016) on the implementation of the rights of the child during adolescence, UN Doc. CRC/C/GC/20 (2016), para. 60.

148 CEDAW Committee, General Recommendation 35 on gender-based violence against women, updating General Recommendation 19, UN Doc. CEDAW/C/GC/35 (2017), para. 18.

149 CAT Committee, Concluding Observations: Peru, UN Doc. CAT/C/PER/CO/5-6 (2013), para. 15(a).

150 Paraguay Constitution, article 61, Family Planning and Maternal Health.

151 Paraguay Law No. 4313 on “budgetary provision for reproductive health programmes and for the provision of birthing packs by the Ministry of Public Health and Social Welfare”, enacted on 13 May 2011.

Paraguay continues to have some of the most restrictive abortion laws in the Americas. Abortion is only allowed when the life of the pregnant woman or girl is at risk.¹⁵²

In Paraguay, girls and adolescents aged between 10 and 19 account for one in 10 maternal deaths and for 13% of maternal deaths due to unsafe abortion. Three out of 10 women who die from pre-eclampsia/ (medical condition characterized by high blood pressure during pregnancy) are adolescents.¹⁵³

The Committee on Economic, Social and Cultural Rights¹⁵⁴ the Committee for the Elimination of Discrimination against Women¹⁵⁵ have called on Paraguay to decriminalise abortion and ensure access at least in certain cases, including when the pregnancy is result of rape and develop guidelines for healthcare professionals on the requirements and procedures for therapeutic abortions to guarantee women's rights. The Follow-up Mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará)¹⁵⁶ have also called on Paraguay to decriminalise abortion and ensure access to safe abortion for pregnant girls because for them pregnancy is high-risk and may endanger a whole range of their rights, including their rights to life, health, including sexual and reproductive health, personal integrity, privacy, non-discrimination, education, and to a life free from violence.¹⁵⁷ A number of international bodies have also warned Paraguay that unsafe abortion is one of the three leading causes of maternal death among adolescents and that it is linked to a lack of access to safe and legal abortion.¹⁵⁸

Medical staff in hospitals told Amnesty International that under no circumstances could they authorize an abortion and so the option is not offered to girls. Additionally, various doctors told Amnesty International that they do not believe that pregnancy poses an inherent risk to the lives of young girls and that, in their opinion, with appropriate health care girls can physically withstand pregnancy. However, this medical view does not take into account children's incremental development which requires the risks to the life for a child to be interpreted more broadly than for an adult. It also ignores the risk of maternal morbidities, including physical

152 Paraguay Criminal Code, amended July 2009 by Law 3440/2008: Artículo 109.- Aborto:

1°.- El que matare a un feto será castigado con pena privativa de libertad de hasta cinco años. Se castigará también la tentativa.

2°.- La pena podrá ser aumentada hasta ocho años, cuando el autor: 1. obrara sin consentimiento de la embarazada; o 2. con su intervención causara el peligro serio de que la embarazada muera o sufra una lesión grave.

3°.- Cuando el hecho se realizare por la embarazada, actuando ella sola o facilitando la intervención de un tercero, la pena privativa de libertad será de hasta dos años. En este caso no se castigará la tentativa. En la medición de la pena se considerará, especialmente, si el hecho haya sido motivado por la falta del apoyo garantizado al niño en la Constitución.

4°.- No obra antijurídicamente el que produjera indirectamente la muerte de un feto, si esto, según los conocimientos y las experiencias del arte médico, fuera necesario para proteger de un peligro serio la vida de la madre.

153 Ministry of Public Health and Social Welfare, National Plan for Adolescent Health 2016-2021, adopted in 2016, page 23, paraguay.unfpa.org/sites/default/files/pub-pdf/Plan%20de%20Salud%20Adolescente.pdf (Spanish only).

154 Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Paraguay, E/C.12/PRY/CO/4, 20 March 2015, para. 29. b), tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/PRY/CO/4&Lang=En.

155 Convention on the Elimination of all Forms of Discrimination against Women, Concluding observations on the seventh periodic report of Paraguay, CEDAW/C/PRY/CO/7, Health, point c); undocs.org/CEDAW/C/PRY/CO/7.

156 Follow-up Mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará) OEA/Ser.L/V/II.7.10 MESECVI/CEVI/Doc. 248/17, Paraguay, Country Report, Third Round, MESECVI/CEVI/doc.248/17, 21 November 2017, para. 13, oas.org/es/mesecvi/docs/FinalReport2017-Paraguay.pdf (Spanish only).

157 "El CEVI reitera la necesidad de eliminar el aborto inseguro, garantizando normativamente que todos los embarazos de niñas sean considerados de alto riesgo y se permita la interrupción legal del embarazo, acompañando el proceso con las medidas necesarias para garantizar la salud integral de las niñas, así como su salud sexual y reproductiva, su derecho a la vida, a la integridad personal, a la intimidad a la no discriminación y a vivir libres de violencia. Por lo tanto, el CEVI reitera la necesidad de avanzar en un proyecto legislativo de despenalización del aborto por violencia sexual, el cual significaría un avance significativo de Paraguay en el cumplimiento con sus compromisos internacionales para garantizar una vida libre de violencia para todas las mujeres."

Follow-up Mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará) OEA/Ser.L/V/II.7.10 MESECVI/CEVI/Doc. 248/17, Paraguay, Country Report, Third Round, MESECVI/CEVI/doc.248/17, 21 November 2017, para. 13, oas.org/es/mesecvi/docs/FinalReport2017-Paraguay.pdf (Spanish only).

158 Follow-up Mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará) OEA/Ser.L/V/II.7.10 MESECVI/CEVI/Doc. 248/17, Paraguay, Country Report, Third Round, MESECVI/CEVI/doc.248/17, 21 November 2017, para. 66, oas.org/es/mesecvi/docs/FinalReport2017-Paraguay.pdf (Spanish only); Human Rights Committee, consideration of reports submitted by states parties under Article 40 of the Covenant, Concluding observations of the Human Rights Committee, Paraguay, CCPR/C/PRY/CO/2, 24 April 2006, point 10, tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F%2FPRY%2F%2F2F2F2F&Lang=en; and Committee on Economic, Social and Cultural Rights, Periodic Review, Concluding observations, Paraguay, E/C.12/PRY/CO/3, 28 November 2007, points 21 and 32, undocs.org/en/E/C.12/PRY/CO/3.

consequences of traumatic fistula (traumatic tearing of vaginal tissues) or other long-term health consequences¹⁵⁹ and the profound mental health risks to girls, who are also survivors of sexual violence.¹⁶⁰

This view is also formed in the absence of any specific guidelines for health service providers on offering the option of abortion to girls aged 14 or under on the ground that the pregnancy poses a risk to their life, development, and physical and mental health, as set out in the current law.

Some specialists believe that pending reform of law in Paraguay, one immediate intervention is for authorities to develop a protocol which sets out clearly the circumstances in which medical providers can perform abortions for girls and adolescents because of the higher physical and psychological risks to their lives.

In order to be applied in early stages of pregnancy, such a protocol should be publicized effectively in order to ensure that girls have the confidence to approach the health system early in the knowledge that they will be treated in a supportive and age-appropriate manner.

“Having a medical protocol for legal abortion gives medical staff security and avoids discretion in the interpretation of the Criminal Code. The margin for discretion is too wide when interpreting ‘risk to life’ because there are no clear guidelines from the state. The protocol could have a specific paragraph that interprets the risk to life for a young girl in a distinct way. Because the risk to life for a girl is due to the fact that she is a young and not to the circumstances of the pregnancy, as in the case of adult women for whom the risk to life may or may not exist.”

Mirta Moragas, Paraguayan lawyer specializing in women’s rights¹⁶¹

Such a protocol could also take into consideration the wishes of the girl, and her physical and psychological preparedness for carrying a pregnancy to term. Something which is a human rights obligation,¹⁶² but which various actors said is not always a priority in the current context.

According to the CEDAW Committee and the Inter-American Court, protection of the foetus can only be achieved by protecting the pregnant woman;¹⁶³ anything else would result in prejudice and discrimination in the medical care provided to the pregnant woman or girl.¹⁶⁴ Paraguay has invested in campaigns and measures to prevent maternal deaths, but these lack a more specific analysis of pregnancy-related deaths among girls and are not designed with their specific needs in mind.

“There is under-recording of maternal deaths among girls aged 10 to 14 years. This is because they do not meet the criteria to be counted as

159 WHO, Understanding and addressing violence against women, WHO/RHR/12.37, 2012, page 7, apps.who.int/iris/bitstream/handle/10665/77434/WHO_RHR_12.37_eng.pdf?sequence=1 and Plan International, Teenage pregnancy, plan-international.org/sexual-health/teenage-pregnancy.

160 The World Health Organization give examples of health consequences of sexual violence for women as Gynaecological trauma, Sexual dysfunction, Depression, Post-traumatic stress disorder, Anxiety, Sleep difficulties, Somatic complaints or Suicidal behaviour. WHO, Understanding and addressing violence against women, WHO/RHR/12.37, 2012, page 7.

161 “Tener un protocolo médico de aborto no punible, le da seguridad al personal médico y evita la discrecionalidad en la interpretación del código penal. Tienes un margen de discrecionalidad demasiado grande en la interpretación del “riesgo para la vida” porque no tienes unas directrices claras del Estado. El protocolo podría tener un apartado específico que interprete el riesgo para la vida de la niña de una manera diferenciada. Porque el riesgo para la vida de la niña está dado por el hecho que sea niña, no por las circunstancias del embarazo como es el caso en las mujeres adultas para las cuales el riesgo para la vida puede o no existir.” Interview, August 2019.

162 Committee on the rights of the child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, 6 December 2016, CRC/C/GC/20*

163 Inter-American Court, Case of Artavia Murillo et al (in vitro fertilization) v. Costa Rica (Preliminary Objections, Merits, Reparations and Costs) Judgment of 28 November 2012, para. 222.

164 In violation of Articles 5 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women and Committee on the Elimination of Discrimination against Women (CEDAW Committee), Case of L.C. v. Peru, Comm. No. 22/2009, CEDAW/C/50/D/22/2009, 4 November 2011, para. 8.15, 2.ohchr.org/english/law/docs/CEDAW-C-50-D-22-2009_en.pdf.

such, which is a Latin American standard. For example, when someone commits suicide or dies after the period of 42 days after giving birth, this is not considered maternal mortality and yet these deaths may be linked to the pregnancy or motherhood. There needs to be careful consideration of these factors and a more reliable register.”

Claudia Sanabria, Gender Department of the Ministry of Public Health and Social Welfare¹⁶⁵

The World Health Organization (WHO) has traditionally defined maternal death as “the death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management but not from unintentional or incidental causes.”¹⁶⁶ However, since 2019, the WHO has adopted a broader definition of maternal deaths that includes the “comprehensive maternal deaths” and “late maternal deaths”, which are deaths “from direct or indirect obstetric causes, more than 42 days but less than one year after termination of pregnancy.”¹⁶⁷

Adopting a similar, more inclusive definition, would enable Paraguay to arrive at a clearer understanding of the risks to young girls of pregnancy and so be better placed to support and protect young and adolescent girls who become pregnant.

7.2 GIRLS FORCED TO BE MOTHERS IN CHILDREN’S HOMES

“Girls need to recover as survivors of abuse and not as objects that have to give birth to a baby in the children’s homes where they are being held. They don’t think about the best interests of the young girl.”

Rosa María Ortiz, former member of the UN Committee on the Rights of the Child and former Rapporteur on the Rights of the Child at the Inter-American Commission on Human Rights¹⁶⁸

According to international law and standards, and Paraguay’s own laws, girls should ideally be supported to live safely in a family and community, rather than in an institution.¹⁶⁹ Where this is not possible, authorities have a responsibility to carry out regular reviews of young people in institutions to ensure that they are being

165 “Existe un subregistro de las muertes de niñas entre 10 y 14 años que mueren de muerte materna. Porque no entran en los criterios para esta denominación lo cual es un estándar latinoamericano. Por ejemplo, cuando se suicidan o se mueren más de 42 días después del parto no se considera muerte materna, sin embargo, pueden que estas muertes sean vinculadas al embarazo o la maternidad. Hay que hacer una búsqueda intencionada para estos elementos y tener un registro más fiable.” Interview, August 2019.

166 World Health Organization, Trends in maternal mortality 2000 to 2017: estimates by WHO, UNICEF, nat, World Bank Group and the United Nations Population Division, 2019, page 8, who.int/reproductivehealth/publications/maternal-mortality-2000-2017/en/.

167 In 2019, the WHO has improved his ICD-10 coding to a new ICD-11 coding much more inclusive and updated to advances in medicine and integrating cultural knowledge (recognizing traditional medicine for example). The ICD-11 comes into effect on 1 January 2022, reference guide of ICD-11, icd.who.int.

168 “Las niñas tendrían que ser recuperadas como víctimas de abuso y no cómo objetos que tienen que dar luz a un feto en los hogares donde las tienen secuestradas. No piensan en el interés superior de la niña.” Interview, June 2019.

169 See Law 6486 on the Promotion and Protection of the right of boys, girls, and adolescents to live in the family, and that regulates alternative care and adoption, promulgated on 30 January 2020, (Spanish only), www.bacn.gov.py/leyes-paraguayas/9165/ley-n-6486-de-promocion-y-proteccion-del-derecho-de-ninos-ninas-y-adolescentes-a-vivir-en-familia-que-regula-las-medidas-de-cuidados-alternativos-y-la-adopcion; Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 53.

provided with appropriate educational opportunities, psychological support to be reintegrated into their family setting.¹⁷⁰



A small number of girls who become pregnant as a result of rape each year, and girls who are found to be in abusive situations, end up in children's homes in Paraguay.¹⁷¹ The rest are placed in extended families.

While carrying out this research, public officials told Amnesty International that placing pregnant girls or girls and their babies who cannot stay within their extended family in foster care is largely impossible, because few families are willing or able to take on the responsibility of caring for a pregnant girl and her new-born, especially without a state program that is able to provide additional economic and therapeutic support.

In Paraguay, children's homes are often run by private religious institutions.¹⁷² According to information gathered by Amnesty International, state institutions have insufficient capacity and resources to effectively monitor the living conditions, or the care girls receive in either of these settings, leaving them at serious risk of further human rights violations.

In interviews with Amnesty International, members of children's rights NGOs, and representatives from the National Mechanism for the Prevention of Torture shared their concerns regarding children's homes.¹⁷³ These included issues related to poor living conditions and lack of monitoring of the mental and physical health of the girls; lack of appropriate educational support for girls who are unable to continue their normal schooling; extreme control over girls' bodies and autonomy, such as severe restrictions on their ability to speak privately with their families by phone or to receive family visits; and restrictions on their freedom of movement, for example not allowing them to leave the home except for medical appointments and under supervision of a staff member who often infuse care with religious education.

“The Children’s Public Defender should visit the girls each month, but this doesn’t happen. They think it is a repository for girls.”

170 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, paras. 52 and 54.

171 According to information received from the Ministry of Children and Adolescents, following an access to information request by Amnesty International in April 2021, 7 girls and their babies were housed in children's homes in 2019, and in 2020 and 2021, there were 4.

172 “There are 56 homes for children and adolescents and only four are public, the rest are private and generally run by religious organizations, but only 4” [“Hay 56 hogares para niñas y adolescentes y solo 4 son públicos, lo demás son privados y por lo general de administración religiosa.”] Commissioner Lourdes Barboza, National Mechanism for the Prevention of Torture, Interview, June 2019.

173 According to an interview with the National Mechanism for the Prevention of Torture's staff, there are 56 homes for children and adolescents in the country but only three homes for girls who are pregnant or who have recently given birth (Red Cross Home, Rosa María Home and Chiquitounga I Home) and one other specializing in sexual trafficking and exploitation (Buen Pastor Home). Most of these are private and run by religious organizations. Interview with Commissioner Lourdes Barboza, National Mechanism for the Prevention of Torture, June 2019, Paraguay.

“There is no comprehensive care in the homes: there is no reintegration after their time in the home, into their community or in another part of the country. They simply focus on motherhood. Health care is restricted to matters of the birth and the baby’s health. Only a few of them receive out-of-school tutoring, which is insufficient.”

Commissioner Lourdes Barboza, National Mechanism for the Prevention of Torture¹⁷⁵

“In a home or with their relatives, they are prevented from going out and from making contact with other young people out of a concern to protect them because they fear that something will happen to them and they’ll fall pregnant again. But this means it’s like they are in a prison, being blamed for what happened to them.”

Social worker¹⁷⁶

Returning power and bodily autonomy to survivors of rape and other sexual violence is a crucial part of the recovery process. Yet, according to the testimonies collected from NGOs and institutions that work with children and adolescents who have just given birth, limited to no information is provided to girl survivors to enable them to make an informed decision about their future or about the different pregnancy options they have, including the option of having the baby fostered or adopted. On the contrary, Amnesty International heard that girls are strongly encouraged to take on the role of motherhood.

Staff from state and NGOs that monitor girls in alternative care facilities described how girls are forced to breastfeed their baby and provide care, even though they expressed a desire not to have it, and afterwards have expressed interest in giving the baby up for adoption. This restrictive interpretation is based on gender stereotyping and discriminatory views that pregnant girls should embrace motherhood and assume the role of mothers. The effect is to potentially to expose them to further harm, denying them a voice or a say in what happens to their bodies and lives.

174 “La defensoría de la niñez tendría que visitar cada mes a las niñas, sin embargo, no lo hacen. Piensan que es un depósito de niñas.” Interview, June 2019.

175 “En los hogares no hay un de abordaje integral: no hay reintegración después del tiempo en el hogar, en su comunidad o en otra parte del país. Solo se enfocan en la maternidad. La atención en salud está restringida al tema del parto y la recepción pediátrica. Unos solo tienen reforzamiento escolar que es insuficiente.” Interview with Commissioner Lourdes Barboza, National Mechanism for the Prevention of Torture, June 2019, Paraguay.

176 “En el hogar o en casa de sus familiares impiden a las niñas salir, relacionarse con otros jóvenes, por protección porque tienen miedo de que le pase otra vez lo mismo, que se embarace. Pero es tenerlas como en una cárcel, echándoles la culpa de lo que les pasó.” Interview with social worker (name withheld to protect identity), August 2019, Paraguay.

7.3 RIGHT TO EDUCATION FOR GIRL SURVIVORS



“The future is very uncertain, but they are clear that they want to go on studying. They do not lose sight of the future they want, but their current situation forces them to work. They have no other option but to take up the role of being a mother. There is significant moral pressure on them not to give the baby up for adoption. They are totally abandoned by the state.”

Clinical psychologist No. 3¹⁷⁷

The right to education¹⁷⁸ is recognized as an “indispensable means of realizing other human rights”¹⁷⁹ as a way of reducing social and economic marginalization, promoting greater participation in society and greater autonomy of decision-making throughout one’s life.¹⁸⁰

As such, during a girl’s pregnancy and after giving birth, states are required to put in place alternative education modalities to ensure she can continue her education.¹⁸¹ It is particularly important that the quality and frequency of classes enable girls to regain self-confidence in a peer-friendly environment and minimize the risk that they drop out of school because they cannot keep up with their classmates. This not only implies changes to the curriculum that are adapted to the specific needs of the girls, but also that the teaching and management teams have the pedagogical and psychological tools to carry out such

177 “El futuro es muy incierto, pero tienen seguro que quieren seguir estudiando. No pierden de vista el futuro que desean, pero su situación actual les obliga a trabajar. No tienen de otras que asumir de ser madres. No dan en adopción por el peso moralista. Hay un total abandono del Estado.” Interview, August 2019.

178 Universal Declaration of Human Rights, Article 26. International Covenant on Civil and Political Rights, Articles 18 and 20. International Covenant on Economic, Social and Cultural Rights, Articles 13 and 14. Convention on the Rights of the Child, Article 29.

179 Committee on Economic, Social and Cultural Rights, General Comment No. 13, The right to education (Article 13 of the Covenant), E/C.12/1999/10, 8 December 1999, para. 1.

180 Committee on Economic, Social and Cultural Rights, General Comment No. 13, The right to education (Article 13 of the Covenant), E/C.12/1999/10, 8 December 1999, para. 1.; Convention on the Elimination of all Forms of Discrimination against Women, “Convention CEDAW”, 18 December 1979, ratified on 6 April 1987, Article 10, ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx.

181 Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, Article 10

accompaniment. It is also key that the educational community, families, students and teachers do not generate discriminatory actions that imply educational exclusion of girls who are victims of sexual violence and pregnant. Paraguayan law provides for specific protection for girls and adolescents who become pregnant, to ensure they can finish school and have flexible educational arrangements.¹⁸² However, it does not comprehensively address the challenges that they face in practice.

Interviewees told Amnesty International that girl survivors of sexual violence often face a range of challenges when they re-enter education after having a baby. These can include limited access to childcare for their babies during classes, and stigma and discrimination from teachers, families and the education community. Amnesty International was told by psychologists that girl survivors also often face bullying by their classmates, and that the other students' parents do not like their children to play with girls who are pregnant, or have been, because they perceive them as a "bad influence."

While Paraguay's law does allow for flexible study for girls who become pregnant, that alone is insufficient to address the discrimination in education faced by pregnant girls and girls with children. The state has obligations to ensure that concrete programmes¹⁸³ are implemented that promote access to education through comprehensive educational grants,¹⁸⁴ without discrimination, to ensure that girls do not face exclusion from school and so they can regain autonomy over their bodies and decisions.¹⁸⁵

182 Law No. 4084 On protecting students in pregnancy and motherhood, enacted 13 September 2010, bacn.gov.py/leyes-paraguayas/3566/ley-n-4084-de-proteccion-a-las-estudiantes-en-estado-de-gravidez-y-maternidad (Spanish only).

183 Convention on the Elimination of all Forms of Discrimination against Women, "Convention CEDAW", 18 December 1979, ratified on 6 April 1987, Article 10, .ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx.

184 Inter-American Court, Case of Mendoza et al v. Argentina (Preliminary Objections, Merits and Reparations) Judgment of 14 May 2013, para. 317.

185 Committee on Economic, Social and Cultural Rights, General Comment No. 13, The right to education (Article 13 of the Covenant), E/C.12/1999/10, 8 December 1999, para. 6 b).

8. CONCLUSION

Sexual violence against girls and adolescents and the trauma they can face when carrying a resulting unwanted pregnancy to term is preventable.

Yet this research, carried out between 2019 and 2021, finds that Paraguay's most senior authorities are failing to listen to its own professionals who respond to sexual violence against children, and in turn are failing to prevent sexual violence, care for survivors, or provide them with access to justice or reparation, leaving too many girls each year unable to enjoy their human rights.

This report finds that Paraguay is failing to meet its international and national human rights obligations. It is not coordinating and streamlining its response to prevent sexual violence, promoting early detection, or providing comprehensive sexuality education with a gender lens and focus on girl's empowerment over their lives and bodies. It is also failing to protect survivors from secondary victimisation and ensure access to justice and reparation, including by not assigning sufficient funding or developing programs designed to empower girls and adolescents and company girls and their families in their care. By forcing girls to carry unwanted pregnancies to term, the state is further harming girls with major implications for their life project, and in ways that could amount to torture and other ill-treatment.

But it does not have to be this way. Below, Amnesty International sets out a series of human-rights based, technical recommendations to authorities in Paraguay, based on three years of research and extensive consultation with teams of professionals responding to sexual violence against girls and adolescents in Paraguay.

It also invites authorities – at the national and local level – to imagine a different future. One in which it takes a more proactive role in preventing sexual violence. If Paraguay's government prioritized CSE as a form of prevention and transformational, long-term reparation, instead of approaches which over-prioritize criminal prosecution, and create secondary victimisation in the process, and simultaneously fail to listen to their voices.

9. RECOMMENDATIONS

Amnesty International has three broad priority recommendations for the Paraguayan authorities, and further detailed recommendations which it sets out below:

Prevention: Consult widely with civil society, including human rights organizations and gender and sexual reproductive health rights specialists, to introduce comprehensive sexuality education into the educational system, as required by international human rights standards, and to provide children and adolescents with the skills and means needed to raise the alert if they are threatened by or subjected to sexual violence.

Care: Finalize and implement the long-overdue single pathway to provide comprehensive care for child and adolescent survivors of sexual abuse, as stipulated by Law No. 6202, which was adopted in 2018, to rectify systemic revictimisation of girls and prioritize survivor centred justice and reparation. The pathway should be human rights based and needs to have civil society and other experts' participation.

Justice and Reparations: Develop, implement, and finance a country-wide program which addresses the specific needs of survivors of sexual violence, including girls that become pregnant and give birth, and other girls in situations of extreme vulnerability with the aim of helping them re-build their lives and overcome the severe long-term harm sexual violence can inflict.

1. SCALE-UP PREVENTION EFFORTS

IMPROVE ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH FOR GIRLS

- Train and resource USF staff to detect situations of sexual violence and enable them to play a preventive role, as their geographical and demographic scope mean that they could have a considerable impact in terms of improving girls' sexual and reproductive health and rights if the Ministry of Public Health and Social Welfare were to include this as one of their priorities.
- Expand the reach of child and adolescent friendly health clinics and strengthen human capacity and resourcing.
- Prioritize the prevention of gender-based violence and violence against children and adolescents, for example through age-appropriate sexual and reproductive health training in youth-friendly spaces, which also provide an environment for the early detection of sexual abuse.

STRENGTHEN WORK ON PREVENTION

- Invest financially in human resources and training for CODENI staff on their functions of violence prevention and empowerment of children and adolescents as rightsholders.
- Provide training for parents, guardians and school officials on the rights of children and adolescents and positive parenting

- Implement law 6202 and coordinate with all state institutions that carry out interventions in the pathway on prevention of sexual violence against children and adolescents, such as the Ministry of Women's Affairs and Ministry of Education, to raise awareness about gender-based violence against girls and equality between men and women.

2. PRIORITIZE SURVIVOR-CENTRED ACCESS TO JUSTICE

AVOID REVICTIMISING CHILD SURVIVORS OF SEXUAL VIOLENCE

- Take steps to create a welcoming environment for children and adolescents reporting sexual violence, including providing training for professionals that the survivors come into contact with, such as doctors, social workers, psychologists, public defenders and prosecutors, to ensure they understand the nature of sexual violence, avoid revictimisation, and improve coordination between the institutions involved.
- Ensure children and adolescents have access to long-term psychological support rooted in the rights of children and adolescents, that accompanies girls in re-building their lives following sexual violence, including when forced to carry a pregnancy to term.
- Ensure the need for medical or forensic examinations and interviews of girls and adolescents is assessed in each individual case and that these are only carried out with the informed consent of the survivor and as per the WHO clinical guidelines¹⁸⁶ on responding to children and adolescents who have been sexually abused. Under no circumstances should the absence of an examination be used as an excuse to discredit the survivor and/or to prevent an investigation.¹⁸⁷
- Ensure that victims' testimonies to one institution are valid for the others involved in the case so that survivors are not put in a position of reliving traumatic events multiple times over multiple years as their case proceeds through the judicial system.
- Guarantee the right to privacy and confidentiality and ensure the interview room offers a safe and non-intimidating environment, as required by international standards.¹⁸⁸
- Use Gessell Chambers for child survivors, and video recordings of their statements, so the survivors are not called to give the statement multiple times, consistent with guidance from the Inter-American Court on Human Rights.
- Ensure that prosecutors – as gateways to the justice system – prioritize the needs of the victim when making decisions about whether to prosecute a case based not on whether there is physical evidence, but on the testimony of girls who report sexual violence, as required by international standards.
- Ensure there is single, centralized psychologist assigned to each case as part of efforts to limit the number of interviews in which survivors are asked to recount the experiences.
- Implement an automatic referral system between the Public Prosecutor's Forensic Clinic and hospitals so that girls can access any urgent medical care they need immediately, whether or not any physical signs of sexual abuse are evident.

GIVE GIRLS A VOICE IN CRIMINAL PROCEEDINGS

- Create a unit of specialist defenders to represent child survivors of sexual violence, including girls who become pregnant, in civil and criminal proceedings.
- Ensure that the girl survivors have independent representation in judicial proceedings to help them make their voices heard and empower them to exercise their rights.

IMPLEMENT STRATEGIES TO KEEP GIRLS IN SCHOOL

- Collect data on the reasons why girls drop out of school, raise the awareness of pupils, as well as of education and health professionals, on the protection of pregnant pupils and enforce its

186 WHO, Responding to children and adolescents who have been sexually abused, <https://apps.who.int/iris/bitstream/handle/10665/259270/9789241550147-eng.pdf>

187 Inter-American Court (2018) V.R.P., V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, para. 169, corteidh.or.cr/docs/casos/articulos/seriec_350_esp.pdf (Spanish only).

188 Fourteenth Ibero-American Judicial Summit, Brasilia Regulations Regarding Access to Justice for Vulnerable People, 2008, point 32, p. 11; available at: <https://www.osce.org/odihr/68082?download=true>.

application, provide adequate childcare facilities in educational settings on all levels and address negative stereotypes and discriminatory attitudes with regard to the sexuality of adolescents, as recommended by the CEDAW.¹⁸⁹

- Ensure girls can continue to go to school and access health services – including sexual and reproductive health services, by taking measures including increasing funding to programmes, such as Tekopora or Abrazo Kyrey– and other financial support.
- In cases where staying with parents or extended family is not in the best interests of girls who are pregnant or have recently given birth, ensure they receive special protection from the state, including a safe place for them to stay where they can benefit from an empowering environment to rebuild their life project.

PROVIDE REPARATION TO OVERCOME THE EFFECTS OF GIRLS BEING FORCED TO CARRY A PREGNANCY TO TERM

- Provide access to specialized psychological care by ensuring that staff in the health system have the training and resources to provide long-term therapeutic and psychosocial support to girl and adolescent survivors of sexual violence, who choose to access this, making the girl's best interests and her recovery paramount.
- Ensure that health facilities provide comprehensive, immediate and long-term psychological care that specifically address the severely damaging consequences of pregnancy resulting from sexual violence, especially for girls and adolescents as required by the Inter-American Court on Human Rights.

PROVIDE CULTURALLY APPROPRIATE PROTECTION AND REPARATION FOR INDIGENOUS GIRLS

- Develop and implement prevention programs and CSE in discussion and consultation with Indigenous Peoples.
- Ensure collective and transformative reparation the girls and their community, for in line the Inter-American Court ruling that states have a responsibility to provide reparation “measures that encompass the community”¹⁹⁰ and that the Indigenous world vision of rape survivors should be considered in that reparation.¹⁹¹

3. RESPECT AND PROTECT GIRLS' AUTONOMY OVER THEIR BODIES AND LIVES

DECRIMINALIZE AND ENSURE ACCESS TO SAFE ABORTION TO ALL GIRLS WHO NEED IT

- Decriminalise abortion and ensure that girls can access safe, timely and quality abortion and post-abortion care in law and in practice ¹⁹²
- Pending the decriminalization of abortion, implement a medical protocol for legal abortion that gives guidelines for conducting abortions within the current legal framework, which allows for abortion if “necessary to protect the woman from serious danger to her life”¹⁹³ which includes

189 Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the seventh periodic report of Paraguay*, 22 November 2017, CEDAW/C/PRY/CO/7, Para: 43 (c)

190 Case of Fernández Ortega et al v. Mexico (Preliminary Objection, Merits, Reparations and Costs) Judgment of 30 August 2010, para. 223 and Case of Río Negro massacres v. Guatemala (Preliminary Objection, Merits, Reparations and Costs) Judgment of 4 September 2012, para. 272.

191 Case of Fernández Ortega et al v. Mexico (Preliminary Objection, Merits, Reparations and Costs) Judgment of 30 August 2010, para. 126: “according to her indigenous worldview, this suffering was experienced as a ‘loss of the spirit.’”

192 “El CEVI reitera la necesidad de eliminar el aborto inseguro, garantizando normativamente que todos los embarazos de niñas sean considerados de alto riesgo y se permita la interrupción legal del embarazo, acompañando el proceso con las medidas necesarias para garantizar la salud integral de las niñas, así como su salud sexual y reproductiva, su derecho a la vida, a la integridad personal, a la intimidad a la no discriminación y a vivir libres de violencia. Por lo tanto, el CEVI reitera la necesidad de avanzar en un proyecto legislativo de despenalización del aborto por violencia sexual, el cual significaría un avance significativo de Paraguay en el cumplimiento con sus compromisos internacionales para garantizar una vida libre de violencia para todas las mujeres.” Follow-up Mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará) OEA/Ser.L/V/II.10 MESECVI/CEVI/Doc. 248/17, Paraguay, Country Report, Third Round, MESECVI/CEVI/doc.248/17, 21 November 2017, para. 13, [oas.org/es/mesecvi/docs/FinalReport2017-Paraguay.pdf](https://www.oas.org/es/mesecvi/docs/FinalReport2017-Paraguay.pdf) (Spanish only). Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the seventh periodic report of Paraguay*, 22 November 2017, CEDAW/C/PRY/CO/7, Para: 37

193 Article 109 section 4 of Paraguay's Criminal Code.

explicit consideration of the inherent risks of the pregnancy to girls and adolescents. The application of this protocol should be expanded automatically to pregnant girls and adolescents and should be applied in such a manner as to “ensure that their views are always heard and respected in abortion-related decisions.”¹⁹⁴

4. IMPROVE DATA COLLECTION AND ANALYSIS TO BETTER DESIGN EVIDENCE-BASED PROGRAMS

- Develop, implement and fund data collection and analysis on sexual violence against children and adolescents, disaggregated, including by age, gender/sex, and other relevant characteristics (such as Indigenous status) so that comprehensive policies are based on accurate and robust data.
- Ensure the creation of a multidisciplinary and centralized database for the efficient monitoring of cases of sexual violence against children and adolescents and the comprehensive care provided to them envisaged in Law No. 6202.

5. ALLOCATE SUFFICIENT FINANCIAL RESOURCES

- Ensure increased and secure funding is devoted to improving the single pathway of prevention, care and reparation for children and adolescents who are survivors of sexual violence and to developing and implementing programs to support them.

¹⁹⁴ Committee on the Rights of the Child, General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 60.

ANNEX: A GUIDE TO INTERNATIONAL LAW ON ENDING SEXUAL VIOLENCE AND FORCED PREGNANCY

PART I: GIRLS' RIGHTS IN HUMAN RIGHTS LAW

The rights of girls to live free from violence and not forced into carrying an unwanted pregnancy to term are established in international human rights law and standards. International jurisprudence also sets out state obligations to ensure comprehensive and intersectional policies that guarantee the rights of girls in relation to their age and gender.

GIRLS' RIGHTS AND SPECIAL PROTECTION AS CHILDREN

The 1989 Convention on the Rights of the Child (CRC) established a new paradigm regarding the status of children in law. Importantly, the CRC recognized children “as rights holders entitled to non-negotiable rights to protection” and that they should not be “treated as ‘objects’ in need of assistance.”¹⁹⁵

The Inter-American Commission on Human Rights (IACHR) has recognised that under this new paradigm children benefit from specific protections and states have an obligation to create an enabling environment in which they can develop and grow and fully exercise their rights.¹⁹⁶ As children age, they progressively acquire more autonomy in the exercise of their rights as their capacity to exercise those rights evolves. The principle of “evolving capacities”¹⁹⁷ is central to understanding the rights of the children and must be interpreted as “a positive and enabling process, and not as an excuse for “authoritarian practices that restrict children’s autonomy and self-expression and which have traditionally been justified by pointing to children’s relative immaturity and their need for socialization.... Parents (and others) should be encouraged to offer “direction and guidance” in a child-centred way, through dialogue and example, in ways that

195 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 59.

196 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 211 (Spanish only) and Inter-American Commission on Human Rights, *Towards the Effective Fulfillment of Children’s Rights: National Protection Systems*, 30 November 2017, OEA/Ser.L/V/II. Doc.206/17, para. 44.

197 Committee on the Rights of the Child, General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 64, Article 5 (direction and guidance consistent with evolving capacities). Implementation of article 19 requires recognition of, and support for, the primary importance of parents, extended families, legal guardians and community members in the caregiving and protection of children and the prevention of violence. This approach is consistent with article 5, which promotes respect for the responsibilities, rights and duties of caregivers to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention (including in article 19).

enhance young children's capacities to exercise their rights, including their right to participation (art. 12) and their right to freedom of thought, conscience and religion (art. 14).¹⁹⁸

All the rights recognized in the CRC must be interpreted in the light of two key principles - the principle of the best interests of the child and the principle of the evolving capacity - and rights, whose interpretation was developed by the Committee on the Rights of the Child (CRC Committee).

THE BEST INTEREST OF THE CHILD

The principle of "the best interest of the child" is the overriding interpretive principle of the CRC. The CRC Committee has underscored the flexibility of the concept, which should be adapted to the specific situation of the child "taking into consideration their personal context, situation and needs",¹⁹⁹ such as the child's views, identity, care, protection, safety, right to education and health.²⁰⁰

The principle of the best interest of the child is a threefold concept applicable individually and collectively.²⁰¹

(a) **A substantive right:** The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. Article 3, paragraph 1, creates an intrinsic obligation for States, is directly applicable (self-executing) and can be invoked before a court.

(b) **A fundamental, interpretative legal principle:** If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.

(c) **A rule of procedure:** Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases.²⁰²

198 Committee on the Rights of the Child, General Comment No. 7 (2005), Implementing child rights in early childhood, CRC/C/GC/7/Rev.1, 20 September 2006, CRC/C/GC/7/Rev.1, para. 17.

199 Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, para. 3, 2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf.

200 Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, point V. A. 1. Elements to be taken into account when assessing the child's best interests.

201 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 22

202 Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, para. 6.



THE RIGHT TO LIFE AND DEVELOPMENT

Article 6 of the CRC sets out the right to life. The development of the child is a cross-cutting concept, and the CRC Committee has reiterated that respect for the holistic physical, psychological, social, emotional, cognitive and spiritual development of the child is linked with their best interest.²⁰³ Respect for the right to life must, therefore, be interpreted in light of this, focusing on the full development of the child and the transition towards adult life. In addition, the Human Rights Committee and the CRC Committee have stressed that the right to life must be interpreted broadly, encompassing the right to dignity.²⁰⁴

THE RIGHT TO FREEDOM FROM DISCRIMINATION

The CRC recognizes the right of children to protection against all forms of discrimination based on their “race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”²⁰⁵ The CRC Committee drew attention to need for an intersectional and holistic response by states²⁰⁶ especially regarding adolescence, a period in which “manifestations of discrimination, inequality and stereotyping against girls often intensify, leading to more serious violations of their rights, including child and forced marriage, early pregnancy, female genital mutilation, gender-based physical, mental and sexual violence, abuse, exploitation and trafficking.”²⁰⁷

THE RIGHT TO BE HEARD

The CRC calls on the states to give children information so they can form their own opinions and make decisions about issues that affect their lives.²⁰⁸ In recent guidance, the CRC Committee highlighted the importance of respecting the right of children to express their opinions and to have their opinions taken into account as a way of ascertaining their best interests regarding “their education, health, sexuality, family life and judicial and administrative proceedings.”²⁰⁹

203 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 15; General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 16; General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, para. 5; General Comment No. 13 (2011) The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 60.

204 Human Rights Committee, General comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights: right to life, CCPR/C/GC/36, 3 September 2019, para. 3, undocs.org/en/CCPR/C/GC/36 and Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, paras. 5 and 42.

205 Convention on the Rights of the Child, 20 November 1989, article 2, ohchr.org/en/professionalinterest/pages/crc.aspx.

206 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 21.

207 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 27.

208 Convention on the Rights of the Child, 20 November 1989, article 12, ohchr.org/en/professionalinterest/pages/crc.aspx.

209 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 23; Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, para. 32; Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 19.

THE RIGHT TO BE FREE FROM VIOLENCE

The CRC, as the CRC committee have repeatedly emphasized, provides that all forms of physical or mental violence against children must be eliminated through all appropriate measures.²¹⁰ Article 19 (1) of the CRC states:

“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

The CRC Committee has cautioned that any kind of violence can have severe negative effects on children’s physical, mental, spiritual, moral and social development in the long term and through their adult life.²¹¹ It has suggested that states should promote “positive education and training programmes” focused on “changing attitudes and practice.”²¹²

THE RIGHT TO PROTECTION FROM EXPLOITATION AND ABUSE

The CRC Committee have expressly highlighted the “need to balance protection and evolving capacity” of the child when determining the legal age for sexual consent in criminal law to protect them from exploitation and abuse, and “avoid criminalizing adolescents of similar ages for factually consensual and non-exploitative sexual activity”.²¹³ Therefore, it called on states to set a minimum age for sexual consent that is the same for boys and girls and in accordance with their evolving capacity, age and maturity.²¹⁴

In cases of sexual abuse, the CRC Committee have underlined that sometimes no level of “physical force or restraint” is used on children during sexual violence, but it is still sexual abuse and has traumatic psychological effects.²¹⁵

The IACHR has also noted that in cases of sexual violence against children and adolescents, the abuser often does not use physical force. The abuser is usually a person of trust or a figure of authority who uses their position to keep their victim silent and to continue the abuse, which intensifies over time. This creates challenges for states in the timely detection of cases of abuse. For this reason, the Commission recommends that states “extend the statute of limitations for crimes committed against children and adolescents and consider the non-applicability of the statute of limitations for the most serious crimes.”²¹⁶

MESECVI considers, in accordance with the practice in Latin American countries, that “all pregnancy in girls younger than 14 years old should be considered non-consensual and, accordingly, a product of sexual violence, except in cases where sexual relations take place between peers.”²¹⁷ The IACHR has “observe[d] that it is necessary for states to act, at a minimum, under the presumption that any pregnancy of a girl under the legal age of consent is the result of rape.”²¹⁸

210 Committee on the Rights of the Child General comment No. 8, (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia) CRC/C/GC/8, 2 March 2007, para. 18. Also see, Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 49.

211 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 15 a) (a) “The short- and long-term health consequences of violence against children and child maltreatment are widely recognized. They include: fatal injury; non-fatal injury (possibly leading to disability); physical health problems (including failure to thrive, later lung, heart and liver disease and sexually transmitted infections); cognitive impairment (including impaired school and work performance); psychological and emotional consequences (such as feelings of rejection and abandonment, impaired attachment, trauma, fear, anxiety, insecurity and shattered self-esteem); mental health problems (such as anxiety and depressive disorders, hallucinations, memory disturbances and suicide attempts); and health-risk behaviours (such as substance abuse and early initiation of sexual behaviour);”.

212 Committee on the Rights of the Child General comment No. 8, (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia) CRC/C/GC/8, 2 March 2007, para. 38 and 43.

213 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 40. And Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 25 a), footnote No. 9.

214 Committee on the Rights of the Child, General Comment No. 4 (2003), Adolescent Health and Development in the Context of the Convention on the Rights of the Child, CRC/GC/2003/4, 1 July 2003, para. 5, ohchr.org/Documents/Issues/Women/WRGS/Health/GC4.pdf

215 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 25 d).

216 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 248. (Spanish only).

217 Follow-up Mechanism to the Belém do Pará Convention (MESECVI), *Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention*, OEA/Ser.L/V/II, 2016, para. 9, oas.org/es/mesecvi/docs/MESECVI-EmbarazoInfantil-EN.pdf.

218 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 262.

THE RIGHTS TO AUTONOMY AND PHYSICAL AND MENTAL INTEGRITY

Under international law forcing a girl or adolescent to carry an unwanted pregnancy to term is a violation of the rights of women and girls to autonomy and physical and mental integrity.

The IACHR and the Follow-up Mechanism to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention), (MESECVI) have identified sexual violence against women and girls as a reflection of gender stereotypes and “social mandates and traditions of a patriarchal culture that encourages men to believe that they have the right to control the body and sexuality of women.”²¹⁹

In a recent study on the advancement of women’s rights, the Economic Commission for Latin America and the Caribbean (ECLAC) affirmed that two ways for women to recover freedom and autonomy over their bodies are the exercise of their sexual and reproductive rights and the enjoyment of a life free of violence.²²⁰

THE RIGHT TO EQUALITY AND NON-DISCRIMINATION

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) has stated that limiting by law access to health care services only needed by women such as reproductive healthcare services, is discriminatory.²²¹

The Inter-American Court has clearly stated that reproductive autonomy is a part of women’s sexual and reproductive health that “has been historically limited, restricted or reversed on the basis of negative and prejudicial gender stereotypes.”²²²

The CRC Committee, the Inter-American Court of Human Rights and ECLAC have repeatedly raised concerns about the pregnancy and maternity of young and adolescent girls because of the long-lasting and profound effects on their health, education and autonomy.²²³ They have called on states to provide girls with access to quality and evidence-based education and information on their sexual and reproductive health so that they can exercise autonomy over their body and sexuality without violence, coercion or discrimination.

The CRC Committee has urged states to decriminalise abortion and reform legislation to ensure access for pregnant girls and guarantee their best interest and that pregnant girls’ views are always heard and respected in abortion-related decisions.²²⁴

219 MESECVI, Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention, OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.234/16 Rev.1, 13 October 2016, para. 4. And Inter-American Court of Human Rights, Case of Gutiérrez Hernández et al. v. Guatemala, (Preliminary Objections, Merits, Reparations and Costs), Judgment of 24 August 2017, Series C No. 339, para. 169. “The Court reiterates that gender stereotypes refers to a preconception of attributes, behaviours or characteristics possessed or roles that are or should be performed by men and women respectively and that it is possible to associate the subordination of women to practices based on socially dominant and persistent gender stereotypes. The creation and use of stereotypes become one of the causes and consequences of gender-based violence against women, conditions that are aggravated when reflected, implicitly or explicitly, in policies and practices, particularly in the reasoning and language of state authorities.” [“Al respecto, la Corte reitera que el estereotipo de género se refiere a una preconcepción de atributos, conductas o características poseídas o papeles que son o deberían ser ejecutados por hombres y mujeres respectivamente, y que es posible asociar la subordinación de la mujer a prácticas basadas en estereotipos de género socialmente dominantes y persistentes. En este sentido, su creación y uso se convierte en una de las causas y consecuencias de la violencia de género en contra de la mujer, condiciones que se agravan cuando se reflejan, implícita o explícitamente, en políticas y prácticas, particularmente en el razonamiento y el lenguaje de las autoridades estatales.”] Spanish only. See also the Case of González et al. (“Cotton Field”) v. Mexico, (Preliminary Objection, Merits, Reparations, and Costs), Judgment of 16 November 2009, para. 401; and Case of Velásquez Paiz et al. v. Guatemala, (Preliminary Objections, Merits, Reparations and Costs), Judgment of 19 November 2015, para. 180.

220 Economic Commission for Latin America and the Caribbean (ECLAC), Equality and women’s autonomy in the sustainable development agenda, LC/G.2686/Rev.1, December 2016, page 82; available at: https://repositorio.cepal.org/bitstream/handle/11362/40675/4/S1601247_en.pdf and Economic Commission for Latin America and the Caribbean (ECLAC), Gender equality plans in Latin America and the Caribbean. Road maps for development. Gender Equality Observatory for Latin America and the Caribbean, LC/PUB.2017/1-P/Rev.1, January 2019, page 28, repositorio.cepal.org/bitstream/handle/11362/41015/7/S1801211_en.pdf.

221 CEDAW Committee, General Recommendation 24 (Article 12: Women and Health), UN Doc. A/54/38/Rev.1, chap. 1, 1999, paras. 11 and 14.

222 “La Corte reconoce que la libertad y autonomía de las mujeres en materia de salud sexual y reproductiva ha sido históricamente limitada, restringida o anulada319 con base en estereotipos de género negativos y perjudiciales”, Inter-American Court, Case of I.V. v. Bolivia (Preliminary Objections, Merits, Reparations and Costs) Judgment of 30 November 2016, Series C No. 329, para. 243, corteidh.or.cr/docs/casos/articulos/seriec_329_esp.pdf (Spanish only).

223 Economic Commission for Latin America and the Caribbean (ECLAC), Women’s autonomy in changing economic scenarios, LC/CRM.14/3, 2019, page 36, repositorio.cepal.org/bitstream/handle/11362/45037/4/S1900722_en.pdf; Inter-American Court, Case of I.V. v. Bolivia (Preliminary Objections, Merits, Reparations and Costs) Judgment of 30 November 2016, Series C No. 329, para. 157, corteidh.or.cr/docs/casos/articulos/seriec_329_esp.pdf (Spanish only); Economic Commission for Latin America and the Caribbean (ECLAC), Equality and women’s autonomy in the sustainable development agenda, LC/G.2686/Rev.1, December 2016, page 82, repositorio.cepal.org/bitstream/handle/11362/40675/4/S1601247_en.pdf and Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 59.

224 CRC Committee, General Comment 20 (2016) on the implementation of the rights of the child during adolescence, UN Doc. CRC/C/GC/20 (2016), para. 60.

In its guidance, the CRC Committee has called on states to give special attention to eliminating practices, customs and behaviours that limit girls' access to health services. The CRC Committee also urged states to provide differentiated services to girls and boys based on their specific needs.²²⁵

THE RIGHTS TO LIFE AND TO BE FREE FROM TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT

Forcing women and girls to continue a pregnancy to term by denying access to a safe abortion puts their life and health at risk in a manner that can amount to torture or other cruel, inhuman or degrading treatment.²²⁶

The Human Rights Committee has recently linked the protection of the right to life of women and girls to the provision of safe, legal and effective access to abortion "where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable."²²⁷

The CEDAW Committee has stated that "violations of women's [and girls] sexual and reproductive health and rights, such as forced pregnancy, criminalization of abortion... forced continuation of pregnancy... are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment."²²⁸

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has noted that "[s]hort- and long-term physical and psychological consequences also arise due to unsafe abortions and when women are forced to carry pregnancies to term against their will... Such restrictive policies disproportionately impact marginalized and disadvantaged women and girls. Highly restrictive abortion laws that prohibit abortions even in cases of incest, rape or fetal impairment or to safeguard the life or health of the woman violate women's right to be free from torture and ill-treatment... Nevertheless, some States continue to restrict women's right to safe and legal abortion services with absolute bans on abortions. Restrictive²²⁹

In evaluating the risk of torture or other ill-treatment, UN human rights bodies have taken the age²³⁰ of the pregnant person and the condition of rape survivor²³¹ into account as special criteria.

The Inter-American Court of Human Rights has also highlighted the relevance and particular implications of sexual and reproductive rights for young and adolescent girls "due to their biological capacity for pregnancy and birth."²³² The CRC Committee also took into consideration the age of the girls as an additional risks factor related to mortality during pregnancy and recommended that states provide sexual and reproductive health services adapted to the "needs of adolescents, including family planning and safe abortion services."²³³

225 Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 9.

226 MESECVI, Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention, OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.234/16 Rev.1, 13 October 2016, Point 126; available at <https://www.oas.org/es/mesecvi/docs/MESECVI-EmbarazoInfantil-EN.pdf>; Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/22/53, 1 February 2013, para 46, ohchr.org/documents/hrbodies/hrCouncil/regularsession/session22/a.hrc.22.53_english.pdf and Human Rights Committee, Case of K.L. v. Peru, HRC, Communication No. 1153/2003, CCPR/C/85/D/1153/2003, 22 November 2005; available at: <https://undocs.org/CCPR/C/85/D/1153/2003> Last accessed 16.10.2019 and Human Rights Committee, Case L.M.R. v. Argentina, HRC, Communication No. 1608/2007, CCPR/C/101/D/1608/2007, 28 April 2011, para. 9.2.

227 Human Rights Committee, General comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights: right to life, CCPR/C/GC/36, 3 September 2019, para. 8; available at: <https://undocs.org/en/CCPR/C/GC/36>

228 CEDAW Committee, General recommendation No. 35, 67th period of sessions on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 18, tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf.

229 Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/31/57, 5 January 2016, para 43, refworld.org/docid/56c435714.html.

230 Human Rights Committee, case of K.L. v. Peru, HRC, Communication No. 1153/2003, CCPR/C/85/D/1153/2003, 22 November 2005, para. 6.5; available at: <https://undocs.org/en/CCPR/C/85/D/1153/2003> Last accessed 16.10.2019 and Human Rights Committee, General Comment No. 20, Prohibition of torture and cruel, inhuman or degrading punishment or treatment (Art. 7), 10 March 1992, HRI/GEN/1/Rev 1, para. 5, [ohchr.org/EN/Issues/Education/Training/Compilation/Pages/aGeneralCommentNo20Prohibitionoftortureorothercruel,inhumanordegradingtreatmentorpunishment\(article7\)\(1992\).aspx](http://ohchr.org/EN/Issues/Education/Training/Compilation/Pages/aGeneralCommentNo20Prohibitionoftortureorothercruel,inhumanordegradingtreatmentorpunishment(article7)(1992).aspx) Last accessed 16.10.2019.

231 Human Rights Committee, Case L.M.R. v. Argentina, HRC, Communication No. 1608/2007, CCPR/C/101/D/1608/2007, 28 April 2011.

232 "La salud sexual y reproductiva constituye ciertamente una expresión de la salud que tiene particulares implicancias para las mujeres debido a su capacidad biológica de embarazo y parto. Se relaciona, por una parte, con la autonomía y la libertad reproductiva, en cuanto al derecho a tomar decisiones autónomas sobre su plan de vida, su cuerpo y su salud sexual y reproductiva, libre de toda violencia, coacción y discriminación. Por el otro lado, se refiere al acceso tanto a servicios de salud reproductiva como a la información, la educación y los medios que les permitan ejercer su derecho a decidir de forma libre y responsable el número de hijos que desean tener y el intervalo de nacimientos." Inter-American Court, Case of I.V. v. Bolivia (Preliminary Objections, Merits, Reparations and Costs) Judgment of 30 November 2016. Series C No. 329, para. 157, corteidh.or.cr/docs/casos/articulos/serie_c_329_esp.pdf (Spanish only).

233 Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 56.

STATES' DUE DILIGENCE OBLIGATIONS TOWARDS GIRLS

Under international law, the state has an obligation to prevent gender-based violence against girls and to provide access to justice and comprehensive reparations if such violence does take place. This chapter looks at the key elements that such a response for prevention, care and reparation should include.

The Inter-American human rights system has reaffirmed that the state has a due diligence obligation to prevent, punish and eradicate gender-based violence against girls²³⁴ because due to their age and/or circumstances they are “particularly vulnerable to violence.”²³⁵ Sharing this view, the CEDAW Committee has affirmed that states “will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women.”²³⁶ The CEDAW Committee has also equated the state’s failure to carry out this duty to “tacit permission or encouragement to perpetrate acts of gender-based violence against women.”²³⁷

The IACHR has affirmed the obligation of States to address the causes of gender-based violence against young and adolescent girls in all its manifestations. Similarly, it has reaffirmed intersectionality as a vital concept for understanding the ways in which different levels of discrimination overlap and impact on the enjoyment and exercise of human rights. It has also set out states' obligations to address the different impacts of discrimination.²³⁸

The IACHR has stated that it considers it essential that states create comprehensive national protection systems that incorporate locally tailored measures and include young and adolescent girls in the design, implementation, monitoring and evaluation of policies and programmes aimed at addressing sexual violence that affects them.²³⁹

STEPS TO A COMPREHENSIVE AND INTEGRATED PATHWAY TO CARE FOR CHILD SURVIVORS OF SEXUAL VIOLENCE

The CRC Committee has given precise guidelines to states on how to create a comprehensive and integrated pathway to care for child and adolescents who survive sexual violence.²⁴⁰ Other international or regional human rights entities have also made statements on specific factors required to prevent and provide care and reparation for violence against girls because of their age and gender. The following highlights key elements of the recommended steps.

Step 1: Comprehensive prevention

234 Inter-American Court of Human Rights, Case of V.R.P., V.P.C. et al. v. Nicaragua, (Preliminary Objections, Merits, Reparations and Costs), Judgment of 8 March 2018, Series C No. 350, para. 290. See also the Case of González et al. (“Cotton Field”) v. Mexico, (Preliminary Objection, Merits, Reparations, and Costs), Judgment of 16 November 2009, paras 388 and 400, and the Case of Gutiérrez Hernández et al. Guatemala, (Preliminary Objections, Merits, Reparations and Costs), Judgment of 24 August 2017, Series C No. 339, para. 176. and Inter-American Commission on Human Rights, Access to Justice for Women Survivors of Sexual Violence: Education and Health, OEA/Ser.L/V/II.Doc.65, 28 December 2011, para. 58, oas.org/en/iachr/women/docs/pdf/SEXUALVIOLENCEEducHealth.pdf.

235 “particularmente vulnerables a la violencia”, Inter-American Court of Human Rights, Case of Veliz Franco et al. v. Guatemala, (Preliminary Objections, Merits, Reparations and Costs), Judgment of 19 May 2014, para. 134.

236 Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 24.

237 Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 24.

238 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 92. (Spanish only).

239 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 240. (Spanish only) Also see Inter-American Commission on Human Rights. *Towards the Effective Fulfillment of Children’s Rights: National Protection Systems*, OEA/Ser.L/V/II. Doc.206/17, 30 November 2017, para 77.

240 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 44 to 58, 2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf.

- Target the root causes of gender-based sexual violence: Use public awareness campaigns to challenge attitudes, traditions, customs and behavioural practices which make violence against girls acceptable.²⁴¹
- Take measures to positively promote respectful child-rearing and children's rights: Disseminate information through schools, peer education, families and community programmes, to empower children about their rights; train parents and caregivers on children rights; invest in child development; and promote techniques for positive discipline.
- Improve child protection systems to ensure a more effective response: Strengthen the links between the health system and child protection services at the community level; promote home visiting programmes; make informed policies based on quality data collection; and adopt procedures and codes of professional ethics.²⁴²
- Provide comprehensive sexuality education for all children and adolescents, which is age-appropriate, evidence-based, gender sensitive and human rights based.

According to international standards, comprehensive sexuality education is a component of the rights to health²⁴³ and education.²⁴⁴ Various international mechanisms, including the CRC Committee, the CEDAW Committee and MESECVI, have stressed the importance of comprehensive and inclusive sexuality education and provided guidance for states on implementation, stating that programmes should include:

- scientifically accurate²⁴⁵, evidence-based, non-judgmental information;²⁴⁶
- culturally relevant²⁴⁷ and human rights based ;²⁴⁸
- programmes at all levels of the education system²⁴⁹ with specific efforts to reach out-of-school children;²⁵⁰
- age-appropriate content;²⁵¹
- ensuring teachers possess adequate knowledge, understanding and skills to convey the information accurately and appropriately;²⁵²

241 Inter-American Court of Human Rights (2018) Case of V.R.P., V.P.C. et al. v. Nicaragua, para. 153. And Inter-American Court of Human Rights, Case of González et al. ("Cotton Field") v. Mexico, (Preliminary Objection, Merits, Reparations, and Costs), Judgment of 16 November 2009, para. 258. And Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 30 (a).

242 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, paras. 44 and 46.

243 The CESCR Committee has clarified that "the right to sexual and reproductive health, combined with the right to education (articles 13 and 14) and the right to non-discrimination and equality between men and women (articles 2.2 and 3), entail a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, evidence-based, scientifically accurate and age appropriate." Committee on Economic, Social and Cultural Rights, General Comment No. 22 (2016) on the Right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/22, 2 May 2016, para. 9; Committee on the Rights of the Child, General Comment No. 4 (2003), Adolescent Health and Development in the Context of the Convention on the Rights of the Child, CRC/GC/2003/4, 1 July 2003, para. 26; Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para 61.

244 UN General Assembly, Report of the United Nations Special Rapporteur on the right to education, Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms, A/65/162, 23 July 2010, paras 19, 20 and 40.

245 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 61 and Committee on the Elimination of Discrimination against Women (CEDAW Committee) and Committee on the Rights of the Child, Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, 14 November 2014, para. 68.

246 UNFPA, State of the world population, 2013, Motherhood in Childhood: Facing the challenge of adolescent pregnancy, p. 44, unfpa.org/sites/default/files/pub-pdf/EN-SWOP2013.pdf.

247 UNFPA, State of the world population, 2013, Motherhood in Childhood: Facing the challenge of adolescent pregnancy, p. 44; and Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 61.

248 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 61.

249 Follow-up Mechanism of the Belém Do Pará Convention (MESECVI), Declaration on Violence against Women, Girls and Adolescents and their Sexual and Reproductive Rights, OEA/Ser.LII/7.10 MESECVI/CEVI/DEC.4/14, 19 September 2014, p. 7, oas.org/en/mesecevi/docs/CEVI11-Declaration-EN.pdf.

250 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence CRC/C/GC/20, 6 December 2016, para. 61.

251 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence CRC/C/GC/20, 6 December 2016, para. 61.

252 Committee on the Elimination of Discrimination against Women (CEDAW Committee) and Committee on the Rights of the Child, Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, 14 November 2014, para. 68.

- gender sensitive and inclusive, promoting gender and sexual diversity perspective, and providing equal access for all children;²⁵³
- content promoting self-awareness and knowledge about body changes and maturation processes, including anatomical, physiological and emotional aspects;²⁵⁴
- content that addresses gender and power relations, gender stereotypes, norms and roles and engages all students including men and boys to critically assess gender norms and normative behaviours;²⁵⁵
- sexual and reproductive health and rights, responsible parenthood and sexual behaviour;²⁵⁶
- discussion on prevention of sexually transmitted infections;²⁵⁷
- focus on preventing early pregnancy;²⁵⁸ and
- information available in alternative formats to ensure accessibility to all adolescents, especially adolescents with disabilities.²⁵⁹

Comprehensive sexuality education is a key mechanism to enable children to make informed decisions about and defend their rights including prevention of sexual abuse. However, comprehensive sexuality education is also a long-term measure for contributing towards eliminating all forms of gender-based violence, including violence against women and girls, in the future as children pass into adulthood. Similarly, several human rights bodies, such as the CRC Committee, the CEDAW Committee and the IACHR have recommended implementing “educational programs with a gender and sexual diversity perspective” as a preventive tool to eradicate discriminatory stereotypes based on gender, power imbalances and gender inequality.²⁶⁰ These institutions stress the importance of beginning during childhood to work with the group of peers on profound changes towards positive masculinities and progressive gender-based attitudes and expectations.²⁶¹

Step 2: Identification, reporting and referral of cases of abuse

- Train school staff to detect risks and signs of maltreatment even if the child does not ask for help.
- Create clearly defined protocols and readily accessible reporting mechanisms for the identification of cases of abuse. Prioritize “help-oriented services offering public health and social support, rather than as triggering responses which are primarily punitive. Children’s right to be heard and to have their views

253 Committee on the Rights of the Child General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 60.

254 Committee on the Rights of the Child General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 60.

255 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará), art. 6 b), 8 b.; Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 30; Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 59; and Committee on the Rights of the Child General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 60.

256 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence CRC/C/GC/20, 6 December 2016, para. 61 and Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 36 (2017) on the right of girls and women to education, CEDAW/C/GC/36, 27 November 2017, para. 69 (i), tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/36&Lang=en.

257 Follow-up Mechanism of the Belém Do Pará Convention (MESECVI), Declaration on Violence against Women, Girls and Adolescents and their Sexual and Reproductive Rights, OEA/Ser.L/V/II.7.10 MESECVI/CEVI/DEC.4/14, 19 September 2014, p. 7, oas.org/en/mesecevi/docs/CEVI11-Declaration-EN.pdf; Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence CRC/C/GC/20, 6 December 2016, para. 61 and Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 36 (2017) on the right of girls and women to education, CEDAW/C/GC/36, 27 November 2017, para. 68, tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/36&Lang=en.

258 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence CRC/C/GC/20, 6 December 2016, para. 61 and Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 36 (2017) on the right of girls and women to education, CEDAW/C/GC/36, 27 November 2017, para. 68, tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/36&Lang=en.

259 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence CRC/C/GC/20, 6 December 2016, para. 61.

260 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 72 (b). See also: Inter-American Commission on Human Rights, *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 116; Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 28; and Committee on the Elimination of Discrimination against Women (CEDAW Committee) and Committee on the Rights of the Child, Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, 14 November 2014, para. 61.

261 Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 30 and Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 30 (b), tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf.

taken seriously must be respected.” When reports are made in good faith, processes must be in place to ensure the protection of the professional making the report.

- Design protocols and training for those responsible for coordinating responses by the child protection system focused on both the short and long-term needs of the child. Protocols should also include follow-up procedures and procedures for evaluating the system’s response.²⁶²

Step 3: Investigation and judicial involvement

The IACHR has noted that states must strengthen guarantees of protection during criminal investigations and proceedings when cases relate to the rape of a child, especially if the sexual violence took place within the family, because of the serious risk to the continued well-being of the child. In this context, the CRC Committee and the IACHR have both highlighted how sexual violence in the home prevents children from reporting and exposes them to repeated sexual violence.²⁶³

Because of their gender and age, young girls are at high risk of further violations of their rights. Access to justice²⁶⁴ is one example of the need to ensure “an intersectional focus that takes into account the gender and age of the girl”²⁶⁵ in order to guarantee her the set of additional protections she needs and has a right to.

- Criminal investigation and proceedings must be timely. The failure to ensure prompt delivery of justice may constitute institutional violence, increasing the impact and the trauma experienced by the girl.²⁶⁶ Investigation procedures should ensure victim-sensitive methods of collecting evidence to avoid causing further harm. They should promote the best interest of the child aiming at their physical and psychological recovery and social reintegration

The IACHR and other international bodies have called on states to take special care that girl survivors of sexual violence are not subjected to an excessive number of medical and psychological evaluations²⁶⁷ and that they are not interviewed more often than is strictly necessary, in consideration of their best interests and in order to avoid revictimisation or a traumatic impact.²⁶⁸ The Court has also specified that access to justice involves not only a duty to not cause more trauma but also a positive obligation to ensure survivors’ effective participation²⁶⁹ through the provision of information on their rights²⁷⁰ and active participation in the criminal justice process.²⁷¹ One way of meeting these two requirements is for the state to provide girls with legal assistance,²⁷² someone who can be both her spokesperson and a

262 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, paras. 48 to 50. 2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf.

263 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 236. And Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 3 h).

264 International Covenant on Civil and Political Rights, Art. 14; International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5 a); Convention on the Elimination of all Forms of Discrimination against Women, Art. 15; Convention on the Rights of Persons with Disabilities, Arts 12 and 13; American Convention on Human Rights, Articles 8 and 24; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women - Convention of Belém do Pará, Articles 4 g. and 7 b., f., and g.

265 Inter-American Court (2018) V.R.P, V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, para. 154, corteidh.or.cr/docs/casos/articulos/seriec_350_esp.pdf (Spanish only).

266 Inter-American Court of Human Rights, (2018) V.R.P, V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, Series C No. 350, para. 298.

267 Inter-American Court, Case of Rosendo Cantú v. Mexico, para. 24; Case of Favela Nova Brasília v. Brazil, para. 254; Case of López Soto et al v. Venezuela, paras 241 and 245 (repetition statement, Case of Selvas et al v. Mexico, para. 272; Advisory Opinion-17/02, paras 56 and 60; Committee on the Rights of the Child, General Comment No. 12 (2009): The right of the child to be heard, CRC/C/GC/12, 20 July 2009, para. 248; Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, paras 51 and 54; Economic and Social Council, Resolution 2005/20, Guidelines on Justice in Matters involving Child Survivors and Witnesses of Crime, E/2005/INF/2/Add.1, 22 July 2005, paras 23 and 31.a); World Health Organization, Responding to children and adolescents who have been sexually abused, WHO Clinical Guidelines, 2017, p. 20.

268 Inter-American Court, Case of V.R.P, V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, para. 168, corteidh.or.cr/docs/casos/articulos/seriec_350_esp.pdf (Spanish only).

269 Inter-American Court, Case of V.R.P, V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, para. 164, corteidh.or.cr/docs/casos/articulos/seriec_350_esp.pdf (Spanish only). The involvement of the girls means that they can take decisions with regard to issues that have consequences for their lives, in line with their age and maturity, and that these decisions will be taken into account. Convention on the Rights of the Child, Article 12; Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, para. 21 and Committee on the Rights of the Child, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, para. 39.

270 Committee on the Rights of the Child, General Comment No. 12 (2009): The right of the child to be heard, CRC/C/GC/12, 20 July 2009, para. 64.

271 Inter-American Court of Human Rights, Case of V.R.P, V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, Series C No. 350, para. 160.

272 Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013, para. 96 and Economic and Social Council, Resolution 2005/20, UN Doc. Guidelines on Justice in Matters involving Child Survivors and Witnesses of Crime, UN Doc. E/2005/INF/2/Add.1, 22 July 2005, para. 22.

source of support. The Inter-American Court of Human Rights and the IACHR consider that girl survivors of violence should be provided with legal assistance from a lawyer with expertise in gender and children's rights.²⁷³

- Ensure investigations invite and give due weight to the child's views and their right to be heard, either directly or through a representative.²⁷⁴

States should remove evidentiary rules and procedures that allow for discrimination based on gender and/or age; the IACHR has stressed that discrimination based on gender and age frequently results in girls' testimonies being disregarded by the authorities as "a wild imagination."²⁷⁵

In recurring jurisprudence, the Inter-American Court of Human Rights²⁷⁶ has stated that survivors' allegations of rape or other sexual violence should not be dismissed when there are no apparent signs of physical aggression²⁷⁷ and that states should avoid giving "excessive weight to the lack of physical evidence".²⁷⁸ It has also noted that a victim's account should be treated as "fundamental evidence of the act"²⁷⁹ and that dismissing girls' statements in cases of rape or sexual abuse is discriminatory and lacks a "gender perspective"²⁸⁰ and a perspective on improving the protection of girls' rights".²⁸¹ The Court has underlined the effect of personal prejudice and gender stereotypes which affect the objectivity of state officials responsible for investigating complaints, "influencing their perception when establishing whether an act of violence has occurred or not, and when evaluating the credibility of witnesses and of the victim herself".²⁸²

- Ensure personnel are trained in child rights-based and child and gender-sensitive approaches: Design trainings that place special emphasis on the care of those who report they have been raped, particularly if they belong to groups in situations of greater vulnerability, such as Indigenous women²⁸³ and girls.²⁸⁴
- Coordinate and follow-up the interventions of each institution: Define the responsibilities of each institution that intervenes in cases of abuse, the scope of any action to be taken, with clear guidelines on when each action should be applied, and develop a mechanism and timeline for periodic review, monitoring and evaluation.

273 Inter-American Court of Human Rights, Case of V.R.P., V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, paras 161 and 387, corteidh.or.cr/docs/casos/articulos/seriec_350_esp.pdf (Spanish only). And Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 243.

274 Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 30 (e).

275 Inter-American Commission on Human Rights, *Access to Justice for Women Survivors of Sexual Violence: Education and Health*, OEA/Ser.L/V/II.Doc.65, 28 December 2011, para. 52.

276 Inter-American Court of Human Rights, Case of Espinoza González v. Peru (Preliminary Objections, Merits, Reparations and Costs) Judgment of 20 November 2014, para. 153.

277 Inter-American Court of Human Rights, Case of J. v. Peru (Preliminary Objection, Merits, Reparations and Costs) Judgment of 27 November 2013, para. 329. "the absence of physical signs does not mean there has been no ill-treatment, as these acts of violence against people frequently leave no permanent marks or scars. The same is true for cases of sexual violence and rape, where such signs will not necessarily be reflected in a medical examination since not all cases of sexual violence and / or rape cause physical injuries or diseases that can be verified through a medical examination."

278 Inter-American Court of Human Rights, Case of Women Survivors of Sexual Torture in Atenco v. Mexico (Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, para. 315, corteidh.or.cr/docs/casos/articulos/seriec_371_esp.pdf (Spanish only) and the Case of Rosendo Cantú et al v. Mexico (Preliminary Objection, Merits, Reparations and Costs) Judgment of 31 August 2010, para. 99.

279 Inter-American Court of Human Rights, Case of Rosendo Cantú et al v. Mexico (Preliminary Objection, Merits, Reparations and Costs) Judgment of 31 August 2010, para. 89.

280 Inter-American Court of Human Rights, Case of Espinoza González v. Peru (Preliminary Objections, Merits, Reparations and Costs) Judgment of 20 November 2014, para. 281.

281 Inter-American Court of Human Rights, Case of V.R.P., V.P.C. et al v. Nicaragua (Preliminary Objections, Merits, Reparations and Costs) Judgment of 8 March 2018, para 295, corteidh.or.cr/docs/casos/articulos/seriec_350_esp.pdf (Spanish only).

282 Inter-American Court, Case of Gutiérrez Hernández and others v. Guatemala (Preliminary Objections, Merits, Reparations and Costs) Judgment of 24 August 2017, Series C No. 339, para. 173.

283 Inter-American Court of Human Rights, Case of Fernández Ortega et al. Mexico, (Preliminary Objection, Merits, Reparations, and Costs), Judgment of 30 August 2010, para. 259.

284 Inter-American Court of Human Rights, Case of V.R.P., V.P.C. et al. v. Nicaragua, (Preliminary Objections, Merits, Reparations and Costs), Judgment of 8 March 2018, Series C No. 350, para. 393.



Step 4: Monitoring, evaluation, follow up and investment

- Objectives and indicators: Design measurable indicators to inform, evaluate and improve legislation, policies, programmes and budgets to end sexual violence.
- Data collection: Disaggregate the information collected considering “the intersectional element of gender, childhood and factors such as socio-economic status, race, ethnicity”,²⁸⁵ disability status, sexual orientation and gender identity.²⁸⁶
- Follow up: Define the responsibilities of each institution that intervenes in a case, the aims of any action taken and the mechanism and dates for review at each stage.
- Funding: Invest in children's rights.²⁸⁷ Adopt laws and policies to support resource mobilization that is ongoing and sufficient through “effective cross-sectoral, inter-ministerial, interdepartmental and inter-agency coordination and cooperation.”²⁸⁸ In 2016, the CRC Committee commented on the particular need for financial investment in children's rights to ensure effective procedures.²⁸⁹
- Accountability: Adopt accountability measures to ensure the implementation of plans and programmes is efficient and effective.²⁹⁰

285 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 241.

286 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 150.

287 Committee on the Rights of the Child, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4), CRC/C/GC/19, 20 July 2016, para. 21 and 59 to 66.

288 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 57. [2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf](https://www.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf).

289 Committee on the Rights of the Child, General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4), CRC/C/GC/19, 20 July 2016, para. 21 and 59 to 66..

290 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/13, 18 April 2011, para. 57. [2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf](https://www.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf).



Step 5: Transformative reparation

- Gender perspective: Incorporate a gender perspective in the design of reparation for violence against young and adolescent girls in order to structurally transform the situation of discrimination and inequality that facilitated the violence.²⁹¹ For example, CEDAW has noted that reparation could come in the form of “monetary compensation, the provision of legal, social and health services, including sexual, reproductive and mental health services”.²⁹²
- Intersectional approach: Reparations should be appropriate for the needs of the individual survivor and the differentiated impact of the damage caused. For example, the IACHR has stated that sanctions “must be determined in light of the intersectional nature of the discrimination they seek to address, and the set of rights affected.”²⁹³
- Non-discrimination: Eliminate gender-based discriminatory practices in law, policies and access to education, such as rules that exclude pregnant girls from school or create obstacles to their return following childbirth.²⁹⁴ Given that education is transformative in assisting women to access empowering roles, the CEDAW Committee has urged states to take concrete measures to guarantee the right to education for all girls.²⁹⁵
- Transformational reparation: Do not isolate the girls. The IACHR has emphasized that the practice of separating girl survivors of sexual violence from their families and institutionalizing them contributes to further stigmatization and discrimination in access to education.²⁹⁶

291 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 68 and 140; Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57, 5 January 2016, para. 66; and Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 33.

292 Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 33 (a).

293 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 141.

294 CEDAW Committee, General recommendation No. 36 General recommendation No. 36 (2017) on the right of girls and women to education, CEDAW/C/GC/36, November 27, 2017, paras. 24 (g) and 25.

295 Committee on the Elimination of Discrimination against Women (CEDAW Committee), General recommendation No. 36 (2017) on the right of girls and women to education, CEDAW/C/GC/36, 27 November 2017, paras. 1 and 5.

296 Inter-American Commission on Human Rights. *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe*, 14 November 2019, OEA/Ser.L/V/II. Doc.233/19, para. 231. (Spanish only).

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“THEY ARE GIRLS, NOT MOTHERS”

STEPS TO ENDING SEXUAL VIOLENCE AGAINST CHILDREN AND ADOLESCENTS AND FORCING GIRLS INTO MOTHERHOOD IN PARAGUAY

Each year in Paraguay, hundreds of girls under age 14 become pregnant, often as a result of rape, usually by someone close to them.

Girls deserve a life free from violence. They deserve a childhood without being forced to be mothers. Girl survivors of sexual violence also deserve autonomy back over their bodies and their life plans.

Yet this research, carried out between 2019 and 2021, finds that Paraguay’s most senior authorities are failing to listen to its own professionals who respond to sexual violence in children and adolescents. Because of this, Paraguay is failing to promote early detention, to provide comprehensive sexuality education with a gender lense, and to coordinate and streamline its response to avoid secondary victimisation, leaving too many girls unable to enjoy their human rights. Additionally, by forcing girls to carry unwanted pregnancies to term, the state is further harming girls with major implications for their life project, and in ways that could amount to torture and other ill-treatment.

Authorities must immediately introduce comprehensive sexuality education into the educational system to ensure children and adolescents have the skills to raise alert if they are threatened by sexual violence. They must also finalize the long-overdue single pathway to provide comprehensive care for child and adolescent survivors of sexual abuse, and avoid systemic secondary victimisation, as required by national law. Paraguay should also implement a country-wide program to support girl survivors of sexual violence, including girls that become pregnant and are forced to carry the pregnancy to term, to help them re-build their lives and overcome the severe long-term harm sexual violence can inflict.