

Alternative Report on the Convention on the Rights of the Child

“THE SITUATION OF VIOLENCE OF GIRLS AND ADOLESCENTS IN GUATEMALA”



INTRODUCTION

1. Asociación Red de Jóvenes para la Incidencia Política –INCIDEJOVEN- (The Youth Network for Political Advocacy), as a member of Red Latinoamericana y Caribeña de Jóvenes por los Derechos Sexuales (The Latin American and Caribbean Youth Network for Sexual Rights)–RedLAC-, in association with Asociación Guatemalteca de Humanistas Seculares, ONG (The Guatemalan Association of Secular Humanists), who work for the promotion and defense of sexual and reproductive rights of adolescents and young people and for the respect of the secularity of the State in Guatemala, present the following report in the framework of the 77th period of meetings of the Committee on the Rights of the Child in order to demonstrate the conditions of violence in which the girls and adolescent women of Guatemala live in. This report seeks to analyse the various manifestations of this violence, and the lack of an efficient response by the State to address structural problems, which have led to tragedies, such as the events of the children's home; Hogar Virgen de la Asunción. Moreover, it will emphasize the existing link between the violence and forced pregnancies and forced maternities and the lack of access to Comprehensive Sexuality Education (CSE).

2. Girls and adolescent women in Guatemala are constantly facing violence, in its various manifestations: physical, sexual, psychological, economic, structural and symbolic violence and in the worst of cases, with femicide. This is the result of a history marked by a system with profoundly patriarchal and racist roots, which places women in a subordinated and discriminatory position, naturalizing and making invisible the violence that they are subjected to and placing them into the private sphere, which limits their mobility and actions merely to the domestic domain, assigning them with household chores and to reproductive functions and thereby limiting their development, life plans and their participation in other environments.

3. It is important to mention that the violence that is exercised against the girls and adolescents in the country places them in an especially vulnerable position because they are confronted with various problems related to the full exercise of their human rights, such as the lack of access: to comprehensive sexuality health services, differentiated by age, to a secular and scientific Comprehensive Sexuality Education (CSE) based on human rights and the lack of opportunities to comprehensive development due to being forced to assume forced pregnancies and forced maternities, which affect their entire life cycle.

4. In 2017, from January to July, 35,823 births given by girls and adolescent women between 10 and 19 years of age were registered in the country (OSAR, 2017) and it has been estimated that one in every five adolescent girls, between the age of 15 and 19, have once been or are currently pregnant, moreover, 6 percent of girls under the age of 14 are or have once been pregnant (ENSMI, 2015: 17). This data, in itself highly worrying, is further worrying because these pregnancies are increasing and according to varying studies, they are strongly linked to sexual violence (Mujeres Transformando el Mundo, 2014). Furthermore, child and teenage pregnancies are evidence of the appropriation of the female bodies and the general understanding in the society of maternity as an obligatory social mandate. It is also worth mentioning that these forced pregnancies constitute one of the main reasons for school abandonment and maternal death.

5. According to multiple studies, Comprehensive Sexuality Education, when effectively implemented, can: increase the knowledge and the handling of scientifically accurate information on sexuality, clarify and consolidate positive values and attitudes, which are projected in social relations, strengthen the necessary capabilities in decision-making and the ability to act according to those decisions, improve the communication with the parents and other adults of confidence, and contribute to the improvement of the quality of education, since it is based on human rights and because it has cultural pertinence and social relevance (UNESCO, 2010). As the paragraph 47 of the Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment clearly states "Access to information on reproductive health is essential for a woman to exercise her reproductive autonomy, and her rights to health and physical integrity."

6. Guatemala has national and international regulatory framework, which obligates the State to implement Comprehensive Sexuality Education (CSE) and to guarantee the full development of girls and adolescents and a dignified life. These mandates are incorporated in, among others: Ley de Desarrollo Social (Law of

Social Development); Ley de Acceso Universal y Equitativo de Servicios de Planificación Familiar and Programa Nacional de Salud Reproductiva (The Law of Universal and Equal Access to Family Planning Services and the National Program of Reproductive Health) ; Ley de Maternidad Saludable; (The Law of a Healthy Maternity); Ley General para el Combate del Virus de Inmunodeficiencia Humana -VIH- y del Síndrome de Inmunodeficiencia Adquirida -SIDA- y de la Promoción, Protección y Defensa de los Derechos Humanos ante el VIH/SIDA (The General Law Against HIV/AIDS and the Promotion, Protection and Defense of Human Rights in front of VIH/AIDS); The Convention on the Elimination of All Forms of Discrimination against Women -CEDAW-; The Beijing Declaration and Platform for Action; International Conference on Population and Development -ICPD-; Montevideo Consensus and Law to Prevent Sanction and Eradicate Intra-Family Violence. However, the State has failed to implement these commitments in an adequate manner and therefore does not guarantee these rights.

7. The State of Guatemala does not have a comprehensive response or the political will to address the problems that affect the lives of the girls and adolescent women in the country. This is made evident by the lack of an efficient system of protection that would guarantee their access to exercise their rights. The failure of the State to protect them has been demonstrated on various occasions, including the most recent tragedy that occurred on the 8th of March of 2017 in the children's home Virgen de la Asunción where 43 adolescent girls and women died due to a fire. These events took place following a series of complaints by the girls who had been victims of a spectrum of violations against their fundamental rights inside the children's home, which was under the responsibility of the State. A further instance demonstrating the lack of commitment of the State towards women's rights is the sentence given by the Supreme Court of Justice on December 12th, 2017 which prohibits the distribution of the manual: Human Rights, Sexual and Reproductive Rights and Care for Pregnancies in Girls and Adolescents made by the Human Rights Ombudsman (Procuraduría de los Derechos Humanos). It is clear that this sentence responds to the interests of fundamentalist groups who oppose the recognition of sexual and reproductive rights as human rights and these actions increase the vulnerability of girls and adolescents.

i. I. VIOLENCE-TORTURE (Articles 2,3,12,16,19,34 of the Convention)

8. In its periodic report, presented to the Committee on the Rights of the Child in September 2017, the State of Guatemala states that the Secretary of Social Well Being (Secretaría de Bienestar Social -SBS-): "acts through the axes of prevention, protection and social reintegration to provide adequate attention to children. It works in programs that ensure compliance with the well-being and integral development of children and adolescents, within the framework of the Conventions ratified by Guatemala in the field of human rights." However, the existing statistics on the situation of systematic violations of the human rights of girls and adolescent women show the opposite.

9. In Guatemala every day, an estimated 14,5 people die in violent circumstances and 9,2 percent of the victims are under the age of 18 (UNICEF 2013). 4,7 percent of women report having experienced sexual violence in their childhood (PAHO, 2017) and girls and adolescent women are those most vulnerable to suffer sexual and physical violence. This is reflected in the available statistics, which show that the sexual crimes performed against girl children between the ages of 0 and 6 years are almost at the same level as those committed against boys of the same age. However, the sexual violence suffered by adolescent girls (13 to 17 years old) is significantly higher than the sexual violence suffered by adolescent boys of the same age (PDH, 2017).

10. The data provided by PDH demonstrates the cultural attitudes regarding women and especially adolescent women. It is evident that the female bodies are viewed as male property and the violence that they fall victim to continues to be normalized and made invisible. This is further visible in the cases of girls and adolescent women who are most often vulnerated in their family environment. The data from January 2017 shows this vulnerability and deprotection; 38,66 percent of sexual crimes were performed against adolescent girls between 13 and 17 years of age, 13,02 against girls from 7 to 12 years of age and 5,13

against girls between 0 and 6 years of age, meaning over half of the victims of sexual violence were under-aged girls (PDH, 2017).

11. Girls and adolescent women are commonly in a disfavored position within the family. In 2016, 14,000 children were hospitalized for beatings or fractures caused by disciplinary punishments by their parents, mothers and / or caregivers. Forensic doctors also report that many children have been hanged, drowned and even injured to death in these contexts (Trejo, 2017). In 2013 36,170 cases of intrafamilial violence was reported and 3,420 of the victims were between the ages of 15 and 19 years of age (INE, 2017). Despite these alarming statistics, UNICEF estimates that only 25 percent of the violence committed against children and adolescent is registered by the institutions of the justice system and the majority of the cases are not filed due to the lack of confidence in the justice system and the state institutions (Rodríguez, 2014). Moreover, the violence against children is often not viewed as violence due to the authoritarian culture of “machismo” and adultcentrism, furthermore there is a strong social stigma associated with being a victim of intrafamilial violence and for openly opposing it. The victims that dare to speak out against it are often rejected by their families and communities, which contributes to the creation of a “culture of silence” and the victims tend to be left isolated and without the necessary resources (Halvorsen, 2014: 427).

12. UNICEF states that every day 21 legal complaints of child abuse and 19 cases of sexual violence against under-aged girls are registered. In 2013 every month 4 children died due to stray bullets and 35 were made orphans following distinct violent acts. It is clear that the State does not have an efficient system to provide protection for children and adolescents and moreover, it does not have the capacity to punish those responsible for the crimes committed against children and adolescents (Rodríguez, 2014). In 2015, the processes of investigation and prosecution in cases of intrafamilial and sexual violence took, on average, a year and the impunity in these cases continued to be extremely high; from January to October, the Public Ministry (Ministerio Público) received 11,449 reports of physical and sexual violence against women; however, during this same period of time, a mere 527 convictions were issued for sexual or physical violence against women, meaning that only 4,6 percent of these cases resulted in a sentence (UNHCR, 2016: 9). In its report to the Committee, the State of Guatemala reports that from 2009 to 2013 there has been an increase of 43% in the sentences given by Supreme Court of Justice because 1,032 were issued in 2009 and 1,472 in 2013. Despite the fact that the number of sentences has moderately increased, the percentage of impunity in these cases continues to be extremely high and the numbers presented by the State can hardly be described significant.

13. The impunity is not only limited to the cases of violence against girls and adolescents, but is also evident in the cases of femicide; Guatemala has the third highest rates of femicide in the world (9,7/100,000) and the factors contributing to the extreme violence against women are: organized crime, gender-based discrimination, unemployment and the lack of education (Halvorsen, 2011: 426). The statistics provided by UN Women demonstrate that in the year 2013, 748 women lost their lives in situations of violence; on average 2 women died everyday as a consequence of violence and the data presented by the judicial power show an alarming increase as in 2015, 1236 cases of femicide were registered (Comisión Interamericana de Derechos Humanos 2015:112). The femicide rate in the country has increased in the past decade and the majority of the women who lose their lives due to the violence exercised against them because of the fact that they are women are young between 16 and 30 years of age, meaning that the troubling phenomenon of femicides is not merely a reality affecting the adult women in the region but rather a problem that also risks the lives of girls and adolescent women, who constitute the most vulnerable group of the population. Alarming, the mortality rate of women is reaching the high levels of the most violent phase of the Armed Conflict (Sanford, 2013: 105 y 108).

14. The femicides, however, should not be understood as isolated events between individuals but rather as a public and political issue. Those responsible for the killings of women are not only the aggressors of these acts, but also the State and the judicial structures due to their failure to punish and investigate these crimes and due to normalizations of the misogyny in the society, permitted by the State. Gender-based violence is not a private issue; it has a social, legal, political and cultural character and it is a manifestation

of the power relations between the genders. The State of Guatemala is responsible for the high number of femicides occurring in the country due to its commission, tolerance and omission of violent acts against women, especially against young and adolescent women and girls. The femicides continue to exist because the State does not guarantee the right of women and girls to protection (Sanders 2013, 112-113).

15. The violence against women has a negatively accumulating effect on the society; it deprives families of a source of income, it perpetuates poverty and unemployment and puts children at risk of emotional and health problems. Moreover, it taxes the resources of the healthcare system and violates the basic human rights of women and children (Halvorsen, 2011: 426-427).

16. In its report to the Committee, the State of Guatemala mentions that the main laws designed to protect the women, adolescents and girls of the country are: -PINA-, (Ley de Protección Integral de la Niñez y Adolescencia: The Law for Comprehensive Protection of Children and Adolescents) from the year 2003, and the Law against Sexual Violence and Human Trafficking -VET- (Ley Contra la Violencia Sexual y Trata de Personas del año 2009) from the year 2009. However, no reference is made to the Law against Femicide and other forms of Violence against Women (2008), nor to the Law to Prevent Sanction and Eradicate Intrafamily Violence (1996) (Ley para Prevenir Sancionar y Erradicar la Violencia Intrafamiliar (1996)). The approval of these laws marks an important advancement in the recognition of women and girls as subjects of rights, yet these laws have not been fully implemented and applied. For example, the law against femicide has been difficult to implement due to the fact that it is a “special law”, meaning that it does not replace the articles on violence against women in the Penal Code but coexists with them (England, 2014: 137). This has caused problems, because some of the procedures related to the prosecution are different in the Penal Code than they are in the law against femicide. These contradictions have caused confusion in the implementation and because of the continuing sexist attitudes, the agents of the justice system tend to refuse to apply this law. On the other hand the VET law is not a “special law” but rather a revision of some of the articles that were considered sexist in the Penal Code.

17. The legal framework of Guatemala understands violence as an act that involves an aggressor and a victim. However, this focus makes invisible the social conditions, which permit and reproduce the relations of domination. The social context of the normalization of the violence against women, adolescent women and girls has resulted in the tendency of the justice system officials to blame the victim, including girls in their early childhood, for the acts committed against them. Furthermore judges tend to favor other laws and principles, instead of the laws designed to protect women, and refuse to apply those laws in their sentences (Menjívar, Drysdale Walsh, 2016: 14). Moreover, the police receives minimal training in these issues and their capacity to investigate sexual crimes or to assist survivors is extremely limited (UNHCR, 2016: 9).

II. FORCED PREGNANCIES AND FORCED MATERNITIES (Articles 3, 6, 13, 14, 17, 23, 28, 29 of the Convention)

18. The existing obstacles of physical and sexual violence faced by girls, adolescents and women in the access to justice mechanisms are not the only forms that their rights are violated. As expressed by Claudio Cordone of Amnesty International, justice is not merely about the right not to be tortured or to be able to freely express one's views, but justice is also about being able to attend school, have access to drinking water, health and education, and to have guaranteed access to education and maternal health. These rights are fundamental human rights and should be protected by law (Morais Correa, 2014: 345).

19. The State has not shown the political will to guarantee these rights for children and adolescents and as a consequence, the problem of forced pregnancies and maternities, closely linked with the variety of manifestations of violence, continues to increase. In the year 2009, OSAR registered 41,529 births given by girls and adolescents aged between 10 and 19 years of age, while in the first six months of 2017, 35,823 births given by the same age-group were registered (osarguatemala.org).

20. According to the statistics provided by La Secretaría contra la Violencia, Explotación y Trata de Personas (The Secretariat against Violence, Exploitation and Human Trafficking),-SVET-, demonstrate that from January to July 2017, there were 1,244 pregnancies of girls under the age of 14, while The Observatory on Sexual and Reproductive Health -OSAR- (Observatorio en Salud Sexual y Reproductiva) reports 1,138 registered births given by girls under 14 years of age in the period of January to June of 2017. Therefore, the data from the different institutions is contradictory and demonstrate the lack availability of reliable statistics. To further elaborate on this point, for example, SVET reports 75 cases of pregnancies of girls under the age of 14 in the department of Guatemala, while OSAR reports 135 of these pregnancies in the same department. Furthermore, it is important to highlight that due to their illegality, abortions are not registered in the country and neither are all of the births given and therefore there is no reliable data on the true number of pregnancies that occur in girls and adolescent women. However, despite the underreporting of these pregnancies, the existing data demonstrates that it is a severe problem and the State must assume its responsibility and take immediate action to create long term, comprehensive policies in order to address this issue, to prevent forced pregnancies and to attend to the needs of those already facing a forced pregnancy, ensuring that they can live a dignified life.

21. In Guatemala, la majority of the pregnancies faced by girls under the age of 14 are the result of sexual violence and four in five of the aggressors are close family members of the victims (Wulfhorst, 2017); putting into evidence the position of vulnerability in which girls and adolescent women live within their family and the perception of their bodies as male possessions. In these cases, a pregnancy tends to be the only physical evidence of the violence that is inflicted upon them in their homes and in the broader society, which begs the following question; “If a pregnancy is the only way to prove the sexual violence, then what is the true number of girls and adolescent women that are victims of sexual violence?”

22. Despite the varying contexts in which child and adolescent pregnancies occur, it is important to highlight some common traits: young bodies are not fully developed to endure the pregnancy process and giving birth without adverse consequences (Boletín de la Organización Mundial de la Salud,2009), moreover, a pregnant girl under the age of 15 is five times more likely to die during their pregnancy than a woman in her 20s, and therefore these pregnancies put the lives and mental and physical health of the girls at risk (OSAR 2017).

23. Besides the existing links between sexual violence and the pregnancies of girls and adolescent women, it is also important to highlight the structural violence that can be said to be the root cause of the problem. Undesired and/or unplanned pregnancies of adolescents are manifestations of the lack of opportunities for the youth in the society and of the persistent inequality between men and women. According to the gender inequality index, in 2014, Guatemala, together with the Republic of Syria, held the 119th place out of 155 countries (UNDP Human Development Reviews). The asymmetric power relations between men and women is illustrated in the following survey; 63 percent of adolescent women between 15 and 19 years of age reported having to ask for the permission of their partners to use contraceptive methods (Gutmacher Institute, 2014) and according to The National Maternal and Child Health Survey (ENSMI- 2008-2009), 81,6 percent of the guatemalan men considered that their wife or partner required their permission to leave the house, 58,9 percent to use contraceptive methods, and 67,0 percent to use the household income (ONU mujeres). Other factors contributing to the problem includes the lack of sexual education and deficient sexual and reproductive health services (Wulfhorst, Independent.co.uk, 2017).

24. In Guatemala, one in every ten adolescent women between 15 and 19 years of age report having had sexual relations (Gutmacher 2014). However, the public policies tend to deny the reality of the sexuality of adolescents (Richardson and Birn, 2011:184). The limited or non-existent investment in sexual and reproductive health by the State has resulted in deficient knowledge on the topics; 55 percent of sexually active, never married, 15 to 19 years old adolescent women have an “unsatisfied need for contraception”, meaning that they are not planning on having a child in the next two years but nonetheless, are not using any method of contraception (Gutmacher Institute 2014). Furthermore, studies have shown that there is a lack of knowledge regarding fertility in the menstrual cycle, which is an important indicator of sexual and

reproductive health knowledge. A mere 15 percent of Guatemalan women knew when they were most likely to get pregnant during their menstrual cycle. (Richardson & Birn, 2011: 184).

25. In its report to the Committee, the State of Guatemala fails to profoundly address the issue of forced pregnancies and forced maternities, solely focusing on one aspect of the problem and leaving aside the structural variables. The report mentions the following programs, laws and policies in regard to the issue: The National Plan for the Prevention of Adolescent Pregnancy -PLANEA- promoted by the National Council of Youth -CONJUVE-, the "Friendly Spaces" of the Ministry of Public Health and Social Assistance -MSPAS-, the Healthy Motherhood Law, the Universal Access Law and the Equitable Family Planning Services, as well as the "Protect Me From Pregnancy"- Campaign, promoted by the Observatory on Reproductive Health -OSAR-.

26. The National Plan for the Prevention of Adolescent Pregnancy -PLANEA- establishes an inter institutional mechanism for the prevention of adolescent and child pregnancies, however it does not include indicators that would allow the evaluation of the progress in its implementation. Due to this limitation, a pilot plan of actions is currently being realized in five municipalities of the department of Alta Verapaz, however, this coverage is evidently not wide spread or representative enough. Moreover, it is important to highlight that CONJUVE is not an executive entity, which limits the coverage and the sustainability of PLANEA as a state policy.

27. In its report, in paragraph 15, the State of Guatemala reports that in each municipality there are 338 "Friendly Spaces" provided by the Ministry of Public Health and Social Assistance -MSPAS-. Later in the report, in paragraph 239, a mention is made that 239 "Friendly Spaces" exist in the country, demonstrating contradictions in the information provided in the report. Moreover, the "friendly spaces" do not have a focus on human rights, much less on sexual and reproductive rights. Furthermore, they are informal spaces where a variety of actions, not necessarily related to sexual and reproductive rights, are realized.

28. The State has passed the Law of Healthy Maternity and the Law of Universal and Equal Access to Family Planning, which obligate the State of Guatemala to implement Comprehensive Sexuality Education (CSE) in the educational system at the national level. Currently CSE is not recognized as a human right, despite the fact that providing it is a responsibility of the State established in the Decree 42-2001 of the Law of Social Development (Ley de Desarrollo Social). However, this point is not specified in the National Base Curriculum and the budget assigned to train teachers is insufficient, which impedes its implementation in the educational system.

29. The report of the State refers to the Ministerial Declarations as progress made in the sphere of sexual and reproductive rights (paragraph 236). In the year 2008, in the framework of the XVIII International Conference of HIV, the first Meeting of Ministers of Education and Health in Latin America and the Caribbean was realized, in which the Ministerial Declaration "Prevention with Education" 2008-2015 was signed. In the declaration, the countries commit to integrate Comprehensive Sexuality Education (CSE) in all educational levels and to open up "friendly spaces" for the youth and adolescents. In this context, these actions were monitored by The Mesoamerican Coalition for Integral Education in Sexuality (la Coalición Mesoamericana por la Educación Integral en Sexualidad), which was responsible for the evaluation of the advances made in: the incorporation of CSE in the National Base Curriculum, the elaboration of educational materials for teachers and students, and the incorporation of all the themes, that the full implementation of CSE implies, including the supply of modern contraceptive methods, "friendly spaces" for adolescents and young people, and the fulfillment of the goals of both ministries. Despite these advances, it is clear that there is little political will, which is reflected in the limited budgetary expenditure for the implementation of the programs that address nationwide education on sexual and reproductive health and rights.

30. Paragraph 79 of the State's report exclaims that: "The State budget is aimed at improving the living conditions of the entire population, without neglecting any department of the country". However, in the

evaluation on the implementation of the Declaration revealed that the progress made by the State was moderate due to budgetary difficulties, a low coverage in the implementation and a failure to include all of the themes related to sexual and reproductive rights of adolescents. The low level of improvements achieved following the signing of the Declaration demonstrates the low level of political will to achieve significant changes in the lives of the adolescents of the country.

31. Admittedly, Guatemala has made minor advances in the themes related to the implementation of CSE and sexual and reproductive health, for example designing and printing educational materials, training teachers through the pilot plan in some departments, and working in an inter institutional manner in the framework of the Strategy for Comprehensive Sexuality Education and Prevention of Violence and the National Policy of Promotion and Integral Development of Women (Estrategia de Educación Integral en Sexualidad y Prevención de la Violencia –EIS-PV- y la Política Nacional de Promoción y Desarrollo Integral de la Mujer –PNPDIM-). Unfortunately the progress of these processes have been limited due to the changes in government from 2012 to 2017.

32. Considering the statistics on the situation of the children and adolescents of the country and the failure to fully implement the commitments made, it is evident that the State of Guatemala has not guaranteed the full exercise of their fundamental rights, such as providing them with: protection from the continuum of violence that they are subjected to, access to education and health services, as well as ensuring that they live a dignified life free of discrimination. Due to its failure to prevent, investigate and punish the cases of violence against girls and adolescent women, the State of Guatemala is responsible for maintaining and reproducing a context that permits the naturalization of the continuum of violence. The forced pregnancies and maternities faced by girls and adolescent women should be understood as a consequence of failure of the State to care for its youth and of the neglect of their fundamental rights.

32. The General Comment Number 14 on the right of the child to have his or her best interests assessed and taken as a primary consideration emphasizes that the child's best interests must be considered in all the measures or decisions that affect him or her, both in the public and in the private sphere. Paragraph 4 states the objective of the concept of the child's best interest is both the full and effective enjoyment of all the rights recognized in the Convention and the holistic development of the child. As previously mentioned, the State of Guatemala has created an environment that encourages and normalizes the forced pregnancies and forced maternities of girls and adolescent women due to the failure to implement the programs, policies and laws designed to protect them and therefore is not complying with the principle of the best interest of the child.

33. Abortion in Guatemala is penalized and, according to Article 137 of the Penal Code (1973), it is only allowed in cases where the life of the pregnant woman is in danger, therefore unplanned pregnancies in girls, and adolescents who reach term, can be considered as forced pregnancies and consequently forced maternities, because they do not reflect the autonomous decision on the part of these girls and adolescent women, but rather an imposition on the part of the State because it denies them the access to legal, safe and free abortion services. However, despite the legal restrictions and the moral and social penalization of abortion in the country, it has never stopped being practiced. On the contrary, the situation of girls and adolescents is aggravated by being forced to perform an abortion in clandestine and unsafe conditions, which represent many risks to their health and their life. In fact, it has been shown that restrictive laws in relation to abortion do not contribute to its reduction, but it does, however, contribute to the increase in maternal deaths.

34. Every year, an estimated 65,000 unsafe abortions are performed in Guatemala. It is important to mention that the most affected with this problem are young women living in conditions of poverty and extreme poverty, who do not have the resources to pay for the services of private clinics or to travel abroad to perform an abortion in safe and legal conditions. On the other hand, those who oppose the approval of legal, safe and free abortion in Guatemala, are conservative groups with economic and political power, and the opportunities to pay for a private abortion service and, therefore, are able to ignore

the reality of most Guatemalan women (Richardson & Birn, 2011: 189). Furthermore, this context makes a public debate on the topic impossible, which has made abortion a reality that nobody talks about.

35. Despite the risks that a pregnancy presents to the physical and psychological health of girls and adolescent women, the State denies them the option of a legal and safe interruption of their pregnancies, and therefore clearly demonstrating that the best interests of the child are not considered as a priority in state policies. According to Article 36 of the Convention on the Rights of the Child "States Parties shall protect the child against all other forms of exploitation that are detrimental to any aspect of their well-being", and upon ratification of the Convention, the State of Guatemala committed itself to ensure that: "No child is subjected to torture or other cruel, inhuman or degrading treatment or punishment." (Article 37); Therefore, to force a girl to give birth and to assume motherhood, despite the risks that it represents to her physical and psychological health, her comprehensive development and life plans, should be considered as torture. However, in Guatemala, girls and adolescents do not have the option to interrupt an unwanted pregnancy because of the penalty that exists in the national legislation, this contravenes the prohibition of torture and ill-treatment, as mentioned in the Office of the Special Rapporteur Against Torture and Others. Cruel and Inhumane Treatment in paragraph 50: limitations on the interruption of a pregnancy are contrary to the prohibition of torture and ill-treatment.

III. CHILDREN'S HOME, VIRGEN DE LA ASUNCIÓN (Articles 15, 20 and 25 of the Convention)

36. The State's report highlights that in accordance with the principle of the best interests of the child, the Quality Standards for the care of children in temporary shelters have been implemented, through directing the actions of those in charge, respecting the dignity, security and opinions of the children and adolescents (paragraph 43). The National Council of Adoptions -CNA- through the "Standards" prohibits strong, humiliating, and terrifying disciplinary measures, among others, as stipulated in standard 15, in harmonious coexistence, subsection 2) of NNA Disciplines. Through supervisions in children's homes, the comprehensive development of the population under their care is guaranteed, providing them the proper attention, care and feeding, health and education services and the adequate physical and sanitary conditions. The SBS carries out educational, recreational and vocational guidance and timely stimulation activities aimed at children and adolescents, with the main objective of ensuring the comprehensive development of the population that reside in the following children's homes:

- i) Virgen de la Asunción, housing children from 0 to 18 years old;
- ii) Temporary in Quetzaltenango and Zacapa, housing children from 0 to 12 years old;
- iii) Integral Shelter and Welfare Center, housing children from 5 to 18 years of age, with mental, moderate, high, severe and profound disabilities, in situations of abandonment and orphanhood. "(Paragraphs 183, 194 and 196).

37. The tragedy that occurred on March 8, 2017 at the children's home, Virgen de la Asunción, an institution under the responsibility of the Ministry of Social Welfare, clearly contradicts the above mentioned statement provided by the State and demonstrates the endemic and structural violence against girls, adolescents in the country and the devaluation of their lives by the State and the society.

38. Since 2002 reports of child abuse and sexual and physical violence had been presented in the children's home Virgen de la Asunción and between the years 2012 and 2016, the Human Rights Ombudsman had received and passed on 45 reports of abuse in the home to the Public Ministry, which, however, failed to act upon the received information and the State never did anything in regards to the situation of the children and adolescents under its care. In 2013 various employees of the children's home were found guilty of sexual abuse and in 2016, a judge from the Family Court found that the practices of the children's home, including punishments resembling torture, violated the human rights of the girls and adolescents (Goldman, 2017). As stated by one of the neighbors, "Anyone who lives around here, knows that that place is like hell." (Nómada, 2017)

39. The girls and adolescents tried to escape this continuum of violence to which they had been subjected to for a long time, and days before the tragedy, they succeeded. On March 7, 60 girls and adolescents escaped. On March 8, the girls and adolescents were violently returned to the home by state authorities and placed under lock and key and in inhumane conditions. In the process in which the girls and adolescents demanded to be allowed to leave, a fire occurred and, when the fire became unsustainable, despite the cries for help from the girls, the state authorities prevented them from leaving. The result was that 43 died and 13 resulted with severe burns. (Goldman, 2017). The State of Guatemala is responsible for the death of 43 girls and adolescents, as an accomplice to the systematic violence lived in the Virgen de la Asunción Home. In addition, it is incomprehensible why it took so long for help to arrive at the scene to rescue the girls and teenagers. On the day of the tragedy, basic safety rules established in regulations of the National Coordinator for Disaster Reduction -CONRED- were completely ignored. (Goldman, 2017).

40. This case reflects the severe social conditions of violence and discrimination faced by girls and adolescents in Guatemala and, above all, the little or no concern on the part of the government to guarantee their right to a decent life, as well as the lack of compliance with its obligations established in the Convention on the Rights of the Child. This tragedy should not be understood as an isolated event, but rather as the consequence of a system that allows and invisibilizes the violence that is exercised against the children and adolescents under responsibility of the State.

IV. RECOMENDACIONES

1. Create awareness among State authorities and personnel, particularly judges, about the laws such as, the Law Against Femicide and Other Forms of Violence Against Women and The Law of Sexual Violence, Exploitation and Human Trafficking that were designed to protect girls, adolescents and women. The State should emphasize and encourage the implementation of these laws without any type of discrimination or stereotypes. The stereotypes about women in the social imaginary, may affect the way in which these laws are interpreted and therefore make it difficult for women to access justice. Therefore, the State, in order to comply with article 5 of the CEDAW, should spread and educate on the norms that favor women and should emphasize the sentences that have been given in the cases of violence against women as examples for judges and other institutional actors.
2. Realize permanent and systematic campaigns in order to eradicate harmful stereotypes and cultural practices that violate the fundamental rights of girls and adolescent women as well as the rights of girls in educational institutions. Furthermore, create awareness on these topics amongst parents, teachers, students, and community leaders.
3. Implement Comprehensive Sexuality Education in all educational levels in a gradual, age-appropriate manner and guarantee that the education be provided based on the principles of secularity and on scientific knowledge, gender perspective and human rights.
4. Monitor and guarantee the accountability on the provision of modern contraceptive methods in all health centers and guarantee the access to sexual and reproductive health services with a specific focus on the needs of the children and adolescents of the country.
5. Guarantee access to therapeutic abortion to reduce maternal deaths in adolescents and rates of unsafe abortions in the country. It is also essential to expand access to abortion in cases of sexual violence, considering the high rates of violence against girls and adolescents.
6. The events of the children's home of Virgen de la Asunción, where 43 adolescent girls lost their lives, reveal that the tragedy was merely the tip of an iceberg of the situations of violence in these types of state run children's homes. The lack of resources, care and political will to improve the lives of the adolescents living in state care risks their comprehensive development. The State should assume responsibility of its error and take all possible measures to ensure that the events like those of Virgen de la Asuncion do not occur again.
7. The three State branches should consider the prevention of forced pregnancies and forced motherhoods as a priority to recognize that they are closely linked to the violence against girls and adolescent women and therefore, the State should recognize that obligating a girl or adolescent woman to carry out her pregnancy and to assume maternity against her will is torture.

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