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They are girls, **not mothers**

**TEENAGE PREGNANCY, SEXUAL VIOLENCE
AND IMPUNITY IN LATIN AMERICA
AND THE CARIBBEAN**

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Teenage pregnancy, sexual violence and impunity in Latin America and the Caribbean



Latin America and the Caribbean (LAC) is the region with the second highest birth rates to girls under 15 years old in the world¹. Although data on pregnancy among girls is very limited² and varies significantly among countries in the region, birth rates for 2021 were estimated at 53.2 births per 1,000 girls ages 10-14 years³. According to data from the United Nations Population Fund (UNFPA), 2% of women of reproductive age in the region had their first birth before the age of 15⁴. These figures are linked to one predominant factor: sexual violence against girls⁵. In fact, it is estimated that 80% of sexual assaults in the region were committed against girls between the ages of 10 and 14⁶.

This alarming context of prevalence of sexual violence and pregnancy among girls is compounded by the lack of access to sexual and reproductive health services. Latin America and the Caribbean is one of the regions with some of the most restrictive and punitive abortion laws in the world⁷. There are still countries in the region that maintain an absolute ban on abortion and others where access is still restricted, even though voluntary termination of pregnancy is legal in certain circumstances, such as when there is a risk to the life or health of the pregnant woman. This is due both to the restrictive interpretations that the States themselves apply, and to the lack of guarantees so that health personnel can provide the service without fear of prosecution.

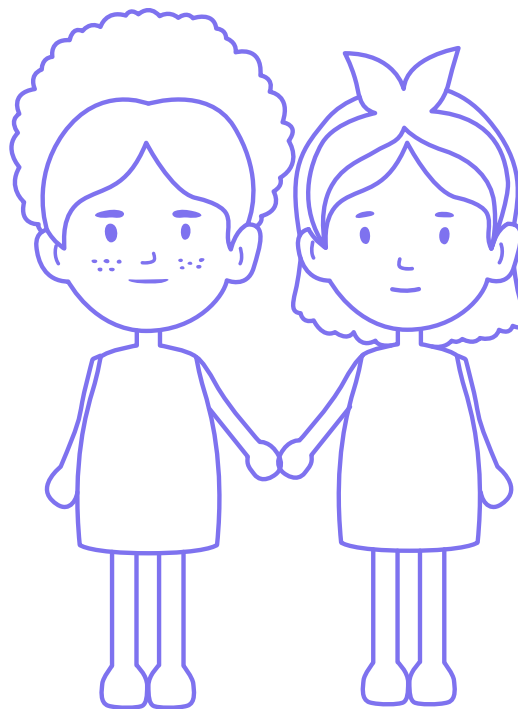
Partly due to the persistence of the barriers mentioned above, in 2022 the World Health Organization (WHO) recommended that States remove abortion as a crime from the criminal codes⁸.

- 1 United Nations Population Fund. Motherhood in childhood, the untold story. June 2022. At: https://www.unfpa.org/sites/default/files/pub-pdf/Motherhood%20in%20Childhood%20The%20Untold%20Story_EN.pdf
- 2 OPS. Technical review. 2020. At: https://iris.paho.org/bitstream/handle/10665.2/53134/OPSFPLHL200019_spa.pdf?sequence=1&isAllowed=y; United Nations, Department of Economic and Social Affairs, Population Division. Fertility among very young adolescents aged 10-14 years. New York: United Nations; 2020. (Document ST/ESA/SER.A/448).
- 3 World Health Organization. Adolescent pregnancy. September 15, 2022. At: <https://www.who.int/es/news-room/fact-sheets/detail/adolescent-pregnancy>
- 4 UNFPA and WHO. Technical Review: Adolescent Pregnancy in Latin America and the Caribbean; August 2020, p. 1. In: https://iris.paho.org/bitstream/handle/10665.2/53134/OPSFPLHL200019_spa.pdf?sequence=1&isAllowed=y and UNFPA Motherhood in childhood: The Untold Story, New York, June 2022, p. 28. In: https://www.unfpa.org/sites/default/files/pub-pdf/Motherhood%20in%20Childhood%20The%20Untold%20Story_EN.pdf
- 5 UNFPA. Socioeconomic consequences of adolescent pregnancy in six Latin American countries. Implementation of the Milena Methodology in Argentina, Colombia, Ecuador, Guatemala, Mexico and Paraguay. 2020. In: https://lac.unfpa.org/sites/default/files/pub-pdf/unfpa_consecuencias_en_6_paises_espanol_1.pdf
- 6 IACHR Calls on States to Eradicate Sexual Violence against Women, Girls, and Adolescents. At: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/315.asp>
- 7 Center for Reproductive Rights. The World's Abortion Laws. At: <https://reproductiverights.org/maps/worlds-abortion-laws/>
- 8 World Health Organization- WHO (2022). Guidelines on abortion care. At: <https://apps.who.int/iris/bitstream/handle/10665/352351/9789240045767-spa.pdf>. In March 2022, the World Health Organization issued new guidelines on the provision of abortion care. Among them, it recommended removing unnecessary regulatory barriers to accessing the service, such as the criminalization of abortion, requiring authorization from other individuals or institutions, or setting gestational limits.

In addition, the lack of information and comprehensive sex education prevents girls and adolescents from understanding the implications of affectionate and sexual relationships based on consent⁹, and imposes barriers for them to understand and exercise their sexual and reproductive rights according to their age and development.¹⁰

The litigation strategy

“They are girls, not mothers”



In May 2019, the Center for Reproductive Rights, Planned Parenthood Global, Mujeres Transformando el Mundo (MTM), the Observatorio en Salud Sexual y Reproductiva de Guatemala (OSAR), and Surkuna Ecuador, filed four individual cases against the States of Ecuador, Guatemala, and Nicaragua before the United Nations Human Rights Committee (“The Committee”). The four cases are representative of the regional pattern of girls forced to become mothers due to the persistence of sexual violence, the lack of access to sexual and reproductive health services, and the presence of restrictive regulatory frameworks that do not allow access to services such as voluntary termination of pregnancy.

These are the cases of **Norma v. Ecuador, Fatima v. Guatemala, Susana v. Nicaragua and Lucia v. Nicaragua**, four girls who were victims of rape and who, as a result of this violence, became pregnant when they were 13 years old. The aggressors were men in positions of power and authority whom they trusted. Despite the fact that the four girls expressly stated that they did not want to be mothers, they were prevented from accessing voluntary termination of their pregnancies and were forced to continue with them and endure forced maternity. Their health, life and life goals have been irreversibly affected and to this day their cases remain in impunity.

⁹ IACHR Court: Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs, para. 139. 24 June 2020.

¹⁰ UNFPA. United Nations International Technical Guidance on Sexuality Education. 2018. At: <https://www.unfpa.org/es/publications/orientaciones-tecnicas-internacionales-sobre-educacion-en-sexualidad>. See also: IACHR Court: Case of Guzmán Albarracín et al. v. Ecuador. Merits, Reparations and Costs, para. 139. 24 June 2020, at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_405_esp.pdf; Committee on the Rights of the Child. General Comment No. 20 on the realization of the rights of the child during adolescence. UN Doc. CRC/C/GC/20, para. 59, (2016); CEDAW Committee. General Recommendation No. 35 on gender-based violence against women. UN Doc. CEDAW/C/GC/35, para. 30 b) i), (2017).

Case 1:

Norma vs. Ecuador¹¹

Norma was placed under the protection of the National Institute for Children and Family of Ecuador (INFA) from a very early age, since it was discovered that her father sexually assaulted her cousin, and Norma was living with him at the time.

Although these facts were reported, Norma's father was never investigated. In 2011, when she was 12 years old, she was forced to live with her father again, who began to sexually assault her. This situation continued until 2013, when her siblings realized she was pregnant and filed a criminal complaint. Upon realizing that she was pregnant, her mental health deteriorated to the point that she attempted suicide. Despite the damage to her overall health and the fact that she expressed that she did not want to become a mother, she was denied access to voluntary termination of pregnancy and was forced to continue with the pregnancy. At the time of the events, abortion was only permitted in Ecuador to preserve the life and health of the woman - interpreted in a restrictive manner - and in cases of sexual violence against women with mental disabilities.

Norma was forced to carry a pregnancy, have a cesarean delivery and then suffered obstetric violence from her health care providers. Due to the trauma, Norma resisted contact with the newborn, as it caused her suffering; however, she was forced to breastfeed. She also expressed that she wanted to give the baby

up for adoption, but she never received adequate information to be able to carry out this decision.

During her pregnancy, Norma was forced to drop out of school. Although she wanted to return to school after giving birth, she was unable to do so because she had no support to care for her child. Her aggressor died years after the events, without having been apprehended or punished for the sexual violence against his daughter.

Today Norma is still waiting for justice for her and hopes that no girl will go through situations like the one she lived through.

¹¹ At the time, abortion in Ecuador was criminalized except when the pregnancy was the result of sexual violence against a woman with a disability and when there was a risk to the life or health of the pregnant woman. However, this exception was interpreted in a restrictive manner, ignoring mental and social health. On February 17, 2022, the National Assembly of Ecuador approved a bill allowing abortion in cases of rape within certain time limits.

Case 2:

Fátima

VS.

Guatemala¹²

Fatima was 13 years old when she was raped by a teacher and former member of the institution in charge of child protection in Guatemala. As a result of the rape, she became pregnant.

Fatima's mother filed a complaint against the aggressor for the rape of her daughter. Immediately, her family began to receive intimidating threats to withdraw their complaint. Months later, the judge hearing the case issued an arrest warrant for the aggressor. Although Fatima, her family, and her lawyers have provided information to the authorities about the aggressor's whereabouts, to date he has not been captured.

Both the rape and the unwanted pregnancy caused serious health consequences for Fatima, including suicide ideation. Despite this, and the fact that she stated on several occasions that she did not want to continue with the pregnancy, she was forced to carry it to term. Abortion is criminalized in Guatemala, except when the woman's life is at risk. This law has been interpreted in a restrictive manner, producing, in practice, a regulatory framework that prohibits access to voluntary termination of pregnancy in any case.

During her pregnancy, Fatima was forced to drop out of school. After giving birth, when she wanted to return, she was refused admittance with the excuse that she had to get married and even had to seek legal assistance to be able to return to school.

Today Fatima still faces the serious consequences of sexual violence, forced motherhood and the failure to obtain justice and reparations in her case. She hopes that no girl's childhood will be taken away from her.

¹² In Guatemala abortion is criminalized except when the woman's life is at risk. In practice, this has been interpreted in the most limited way to include only risk of immediate or imminent death..

Case 3:

Lucía

VS.

Nicaragua¹³

Lucía was 13 years old when a priest from the childrens choir of the parish she attended began raping her. As a result of the sexual violence, she became pregnant.

Lucía's family filed a complaint against the aggressor, for which they received threats and were stigmatized by the community for having denounced a "man of God". Months later, a judge ordered his arrest. Despite this, and even though the police knew where he lived and worked, he was never captured.

Both the rape and the resulting pregnancy caused serious health problems for Lucía. Although she did not want to continue with the pregnancy and said she "wanted to die", she was forced to carry it to term. In Nicaragua, abortion is criminalized under all circumstances, without exception.

In addition, Lucía had to face being called "the priest's wife" in her neighborhood and at school and being blamed for the multiple rapes she suffered.

Lucía not only hopes that sharing her case will generate the reparations that will allow her to resume her life, but also that no other girl will be forced to interrupt her childhood and her dreams because of forced motherhood

¹³ In Nicaragua abortion is criminalized in all cases, without exception.

Case 4:

Susana

VS.

Nicaragua¹⁴

Susana was born and raised in a rural area of Nicaragua plagued by violence. From the age of 7, she was raped by her maternal grandfather, who is a member of an illegal armed group.

The aggressor also prohibited her from leaving the house or receiving visitors. These events occurred repeatedly until September 2014, when she was 13 years old, when she became pregnant. Susana's grandmother tried to file a complaint against the aggressor five times, but it was rejected by different police stations.

After Susana managed to file the criminal complaint, she did not receive any news about the progress of the investigation for four years. After that time, she was informed that the State could not take action in the case due to the situation of violence and the presence of armed groups in the area where her aggressor lived.

In Nicaragua, abortion is criminalized in all circumstances, without exception. Therefore, Susana had no options to terminate her pregnancy, but neither did she have access to maternal health services during pregnancy. At the time of delivery, the health personnel committed obstetric violence against her.

Susana was never able to access education. Today, in addition to experiencing the irreversible effects of sexual violence and forced motherhood, she continues to be in danger because her aggressor is at large.

She hopes that the Committee will bring justice to her case so that no girl survivor of sexual violence is forced to become a mother.

¹⁴ In Nicaragua abortion is criminalized in all cases, without exception, even when there is a risk to the life or health of the pregnant woman.

A case that represents hope

Accompanying these four cases, a fifth case was filed on October 8, 2020: the case of **Camila vs. Perú**¹⁵ before the Committee on the Rights of the Child, which was decided in May 2023.

Camila was an indigenous girl living in a rural area of the Peruvian Andes. At the age of 9, her father raped her for the first time and continued to do so for years. As a result of the sexual violence against her, she became pregnant at the age of 13.

Her mother, a Quechua-speaking woman, learned of the sexual violence when she noticed her daughter's pregnancy and, together with Camila's godmother, filed a criminal complaint.

Camila did not wish to continue with the pregnancy and therefore requested the termination of the pregnancy but received no response. In Peru, therapeutic abortion is permitted by law; however, there are still serious barriers in accessing one. During the course of her pregnancy, Camila faced a miscarriage. Instead of receiving the care she required, she was charged for the crime of "self-abortion", which meant a new re-victimization that turned her into a criminalized child.



On May 15, 2023, the Committee on the Rights of the Child ruled that Peru is responsible for the violation of Camila's human rights and determined that in order to prevent similar violations in the future, the State has the obligation to decriminalize abortion in all cases of child pregnancy, among other measures¹⁶. This is the third conviction that Peru has received from a United Nations Committee¹⁷ for cases of girls who requested an abortion and were denied.

¹⁵ Represented by Promsex Peru and PPGlobal.

¹⁶ Committee on the Rights of the Child. *Camila v. Peru*, Communication No. 136/2021, 13 June 2023, UN Doc. CRC/C/93/D/136/2021.

¹⁷ The first conviction against Peru was in the case of 17-year-old K.L., who was denied a termination of a non-viable fetus. She was forced to carry the pregnancy to term until she gave birth to a fetus that died a few hours after delivery. In 2005, the UN Human Rights Committee held the Peruvian State responsible for failing to provide K.L. with a voluntary termination of pregnancy and for subjecting her to cruel, degrading and inhuman treatment. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhstcNDCvDan1pXU7dsZDBaDUczAnaR4IHcz8a0P%2BoOgLwA8uuhj0x2ZVGxkXprSuJPXZNYEyd3NO7cFEDXd%2BLp00W66MaPoQ%2B51My3jCsiuxZB8OJS9q5UVp5SI5NqjQ05JiyWEcsqq0ueCXUdDIEDVM%3D>. The second was in the case of L.C., who at the age of 13 became pregnant as a result of sexual violence. After learning the news, she threw herself off a roof and suffered severe spinal injuries. Although she requested the termination of the pregnancy in order to proceed with urgently needed surgery, the surgery was postponed because of the pregnancy. In 2011, the CEDAW Committee declared the Peruvian State internationally responsible for violating L.C.'s human rights and established that the postponement of the surgery was an act of discrimination that prioritizes the reproductive function and not the physical and mental wellbeing of girls and women. https://www2.ohchr.org/english/law/docs/cedaw-c-50-d-22-2009_sp.pdf

Human rights violations

The individual communications submitted to the UN Human Rights Committee argued that the **States of Ecuador, Guatemala and Nicaragua violated several rights of Norma, Fatima, Lucia and Susana enshrined in the International Covenant on Civil and Political Rights¹⁸, among them**

The lives of Fatima, Norma, Lucia and Susana were deeply affected and their life goals were interrupted due to sexual violence, pregnancy and forced motherhood. As a result, their right to life¹⁹ and to a life with dignity (**Article 6 of the International Covenant on Civil and Political Rights - ICCPR**) was violated.

By being forced to assume unwanted pregnancies and maternity, and by the obstetric violence committed by health personnel against them, the States violated their right not to be subjected to torture, cruel, inhuman and degrading treatment (**Article 7 of the ICCPR**).²⁰

Having faced biased and stereotyped criminal proceedings, as well as living in countries where laws restrict, limit or prohibit access to sexual and reproductive health services such as abortion²¹, constituted a violation of their right to non-discrimination and equal protection (**Articles 3 and 26 of the ICCPR**).

¹⁸ 2.3, 3, 6, 7, 9, 17, 19, 24.1 and 26 of the Covenant.

¹⁹ The HRC has established that the right to life extends to reasonably foreseeable threats and life-threatening situations, even if those threats do not result in loss of life (HRC, Toussaint v. Canada, Communication No. 2348/2014 (CCPR/C/123/D/2348/2014), (July 24, 2018), para. 11.3.) Specifically, in relation to abortion, in the recent General Comment No. 36 the HRC established that States parties may not regulate the voluntary termination of pregnancy in a manner that endangers the lives of girls and women and that, in fact, States parties must provide safe, legal and effective access to abortion when the life and health of the pregnant woman or girl is at risk (HRC, ICCPR General Comment No. 36: Article 6 (Right to life), CCPR/C/GC/3, (October 30, 2018), para. 8.)

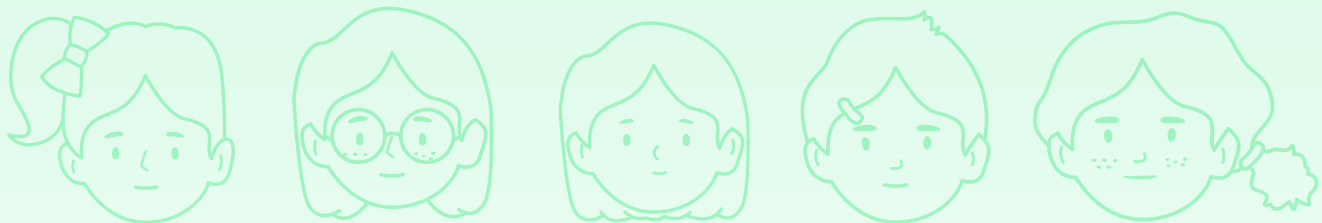
²⁰ Based on the precedents already established by K.L v. Peru, LMR v. Argentina, Mellet v. Ireland and Whelan v. Ireland, the denial of an abortion by state authorities violates Article 7 when the physical and mental health of the pregnant woman is at risk and, as was specifically established in LMR v. Argentina, this violation is made particularly grave by the victim's status as a young girl (HRC, LMR v. Argentina, CCPR/C/101/D/1606/2007 (April 2011), para. 9.2.)

²¹ As developed in General Comment No. 35, the right to security of the person includes the right to personal integrity, which includes the physical and mental integrity of the person (Human Rights Committee-HRC, General Comment No. 35: Article 9 (liberty and security of person), CCPR/C/GC/35 (December 16, 2014), para. 9.) In this regard, according to the HRC, the State party has an obligation to protect individuals against intentional infliction of bodily or mental harm that includes risks to physical and mental health. According to other UN committees and the IACHR, sexual and reproductive health is intimately related to the right to personal integrity, the right to personal autonomy and other civil and political rights that underpin the physical and mental integrity of individuals (CESCR, General Comment No. 22 on the right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), para. 10; IACHR, Case of I.V. v Bolivia. Preliminary Objections, Merits, Reparations and Costs, Series C, No. 328 (30 November 2016), paras. 154-158

Due to the lack of access to sexual and reproductive health services, including the voluntary termination of pregnancy, the girls' integrity was affected, which means the States did not guarantee their right to personal security²² **(article 9 of the ICCPR)**.

Not allowing Fatima, Norma, Lucia and Susana to access the termination of pregnancy they requested, thus ignoring their decision not to become mothers, was an arbitrary interference against their autonomy and implied a violation of their privacy²³ **(Article 17 of the ICCPR)**.

Their right to seek, access and receive information²⁴ **(Article 19 of the ICCPR)** was also violated, as they were not provided with access to comprehensive sexual education that would allow them to understand the violence they were suffering or to seek help. Nor were they provided with information on the options available to them to deal with the unwanted pregnancy resulting from the rape.



- 22 As developed in General Comment No. 35, the right to security of the person includes the right to personal integrity, which includes the physical and mental integrity of the person (Human Rights Committee-HRC, General Comment No. 35: Article 9 (liberty and security of person), CCPR/C/GC/35 (December 16, 2014), para. 9.) In this regard, according to the HRC, the State party has an obligation to protect individuals against intentional infliction of bodily or mental harm that includes risks to physical and mental health. According to other UN committees and the IACHR, sexual and reproductive health is intimately related to the right to personal integrity, the right to personal autonomy and other civil and political rights that underpin the physical and mental integrity of individuals (CESCR, General Comment No. 22 on the right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), para. 10; IACHR, Case of I.V. v Bolivia. Preliminary Objections, Merits, Reparations and Costs, Series C, No. 328 (30 November 2016), paras. 154-158.
- 23 The Human Rights Committee has recognized that women's reproductive functions are part of their private life (General Comment No. 28).
- 24 Article 19 of the Covenant protects the freedom to seek, receive and impart information and ideas of all kinds. The Committee has confirmed that Article 19 protects the right of access to information as a right in itself, and in turn has recognized that it is an essential component of respect for other fundamental rights, including the right to life, the right to a fair trial, and the right to privacy. HRC, Toktakunov v. Kyrgyzstan, Communication No. 1470/2006, UN Doc. CCPR/C/101/D/1470/2006 (Apr. 21, 2011); HRC, Rafael Rodríguez Castañeda v. Mexico, Communication No. 2202/2012, UN Doc. CCPR/C/108/D/2202/2012 (Aug. 29, 2013).

Reparations

This legal strategy before the Human Rights Committee seeks to ensure the States guarantee full reparation for **Norma, Fatima, Lucia and Susana, and that measures be taken to prevent similar violations from occurring in the future. To this end, the Committee is expected to rule that the States have the obligation to:**

1. **Amend** their legislation on voluntary termination of pregnancy to ensure that all girls can access this essential health service on equal terms and without discrimination. To this end, States must ensure safe, timely and accessible procedures for termination of pregnancy.
2. **To regulate** the service of voluntary termination of pregnancy in the health care system and not in the penal system, in accordance with the World Health Organization²⁵.
3. **Adopt** measures to ensure that health personnel can provide information and services for the termination of pregnancy without fear of criminal penalties.
4. **Adopt** measures so that girls can be heard, and their decisions are respected.
5. **Guarantee** comprehensive sexual education so that girls can have the tools to understand the implications of sexual and affectionate relationships based on consent.
6. **Ensure** effective judicial remedies so that cases of sexual violence do not go unpunished.
7. **Adopt** measures to eradicate gender stereotypes and obstetric violence in the context of access to sexual and reproductive health services.

The favorable decisions in the cases of Susana, Lucia, Fatima and Norma in the Human Rights Committee will be a precedent in terms of access to justice in cases of girls who became pregnant as a result of sexual violence. **In addition, these cases will contribute to advancing international jurisprudence on sexual and reproductive health, impacting more than 170 countries that are part of the Covenant,** by establishing that information and services for voluntary termination of pregnancy must be guaranteed without discrimination.

25 World Health Organization (2022). OP. CIT



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