



# THEY ARE GIRLS: REPRODUCTIVE RIGHTS VIOLATIONS IN LATIN AMERICA AND THE CARIBBEAN

## Background

Latin America and the Caribbean is the only region in the world in which the pregnancy rate for girls under 15 years of age is rising.<sup>1</sup> Most pregnancies among girls are the result of rape, frequently by family members or other men close to them.<sup>2</sup> In Ecuador, the birth rate among girls between 10 and 14 years old increased from 2.5 per 1000 births in 2013<sup>3</sup> to 8 per 1000 in 2016<sup>4</sup>. This means that approximately 2700 girls under 15 gave birth each year<sup>5</sup>. In Guatemala between 2015 and 2017, an average of 1,569 girls between 10 and 14 years old gave birth each year<sup>6</sup>. Systemic sexual violence paired with minimal access to sexual and reproductive health services means that women and girls in Latin America and the Caribbean are frequently forced to carry unwanted pregnancies to term. This has a negative impact on girls' mental, physical, and social health and leaves them vulnerable to higher risks of maternal mortality, anxiety, depression, post-traumatic stress disorder, and suicide<sup>7</sup>.

The cases we bring before the United Nations Human Rights Committee (“the Committee”) are emblematic of a regional pattern of sexual and reproductive rights violations against girls and the lack of judicial recourse for victims of sexual abuse. Our petitioners' stories are uniquely their own because every instance of sexual violence is personal, but the violence, trauma, and human rights abuses they have experienced are *not* unique. **The Center for Reproductive Rights, Planned Parenthood Global, Mujeres Transformando el Mundo (MTM Guatemala), Observatorio en Salud Sexual y Reproductiva (OSAR Guatemala), Surkuna Ecuador, Fundación Desafío (Ecuador), and Debevoise & Plimpton LLP** have brought four cases before the Committee to call attention to the human rights abuses experienced by women and girls who are subjected to sexual violence in Latin America and the Caribbean, and who do

not have access to sexual and reproductive health. With these cases, we are holding governments accountable for these transgressions.

Latin America and the Caribbean are home to some of the most restrictive and punitive abortion laws in the world. In El Salvador, Haiti, Honduras, Nicaragua, Dominican Republic, and Suriname, abortion is completely illegal—with no exception. In El Salvador, the government has taken this even further and interpreted the law such that women are imprisoned for obstetric emergencies out of suspicion of their having had an abortion. In Guatemala, abortion is criminalized in all instances except when a pregnant woman's life is at risk, which is typically interpreted to mean immediate and imminent death. Therapeutic abortion is legal in Ecuador and Peru, but in practice women and girls face multiple barriers in actually accessing abortion services. The inability of women and girls to obtain safe and legal abortion care violates the following rights: life; integrity; health; freedom from torture, cruel, inhuman and degrading treatment; freedom from discrimination; the right of girls to be heard on matters that affect them; and the right to a private life.

These laws affect and punish all women, but they have a disproportionate impact on girls and adolescents, ethnically and racially marginalized populations, rural communities, women with disabilities, and women from lower socioeconomic backgrounds.

Each petitioner is from a rural area and was under 14 when she was raped and became pregnant. As girls from disadvantaged communities, their inability to access vital reproductive health services exacerbated the trauma they had already experienced and left them vulnerable to revictimization and further human rights violations.

## The Cases

### Fatima

**Country:** Guatemala

**Legal context:** Abortion is criminalized except when a woman's life is at risk. In practice, this has been interpreted in the narrowest way possible to include only immediate and imminent death.

**The facts:** Fatima was 12 years old when she was raped by a public servant, a man who also financially supported her mother and family. Fatima realized she was pregnant approximately three months after she was abused, and due to the trauma, remembers nothing from her pregnancy. State officials were aware that Fatima did not want to carry her pregnancy to term and were aware that her mental health was deteriorating and that she was expressing suicidal thoughts. Despite this, she was not offered access to abortion services, and she never received any legal or psychological support. Fatima gave birth to a son in September 2010, and a complaint was subsequently filed, resulting in an arrest warrant for her abuser. However, he was never detained, and the process for his capture and arrest has not moved forward.

**Until now, Fatima has received no justice for the crimes committed against her and for the human rights violations she experienced.**

### Lucia

**Country:** Nicaragua

**Legal context:** Abortion is criminalized in all cases, without exception for the life or health of the pregnant woman.

**The facts:** After being sexually abused by a priest for more than a year, Lucia discovered she was pregnant when she was 14. Lucia became socially isolated as a result of the pregnancy and was taunted by her community for being "the woman of the priest." Shamed and stigmatized for the sexual violence she experienced, Lucia was forced to drop out of school. Despite his known whereabouts, an official complaint, and a DNA test proving he is the father, the priest has faced no legal consequences for his crimes. She was never offered access to sexual and reproductive services. **Until now, Lucia has received no justice for the crimes committed against her and the human rights violations she experienced.**

### Norma

**Country:** Ecuador

**Legal context:** Abortion is legal in Ecuador when the pregnant woman was a victim of rape and has a mental disability, or when there is a risk to the pregnant woman's life or health. In practice, the health exception is interpreted in the narrowest way possible, to include only physical health. Effects on mental and social health are disregarded, and women who have been raped often face multiple barriers to access abortion services despite serious impacts on health.

**The facts:** Starting at the age of 12, Norma was sexually abused by her father; at 13, she discovered she was seven months pregnant. Her brother filed a complaint with the police but nothing was ever done. No one offered her sexual and reproductive health services. Desperate and traumatized, Norma attempted to kill herself. Despite the obvious effects the pregnancy had on her mental health, she never received psychological support, and a private doctor told her she was too far along to receive a therapeutic abortion. During labor, Norma refused to be touched, prompting the doctor to comment that she had opened her legs before, so why could she not do so now? After her traumatic birth experience, Norma was continually asked whether she wanted to keep the baby, but was given no information regarding her options. A doctor even offered to buy her child. **Until now, Norma has received no justice for the crimes committed against her and for the human rights violations she experienced.**

### Susanna

**Country:** Nicaragua

**Legal context:** Abortion is criminalized in all cases, without exception for the life or health of the pregnant woman.

**The facts:** Susanna's grandfather began sexually abusing her when she was six years old, and at 13 she became pregnant. In addition to the lack of psychological and legal support and sexual and reproductive health services, Susanna had no access to maternal health care during her pregnancy. Since giving birth, Susanna has received repeated death threats from her grandfather. She has repeatedly tried to submit complaints to the police, but each time she was told that they did not have the proper jurisdiction to take action. Her criminal complaint was rejected five times and then archived under the argument that she did not follow up. She is still fleeing from her aggressor. **Until now, Susanna has received no justice for the crimes committed against her and for the human rights violations she experienced.**

## The Rights Violated

International human rights bodies have upheld that forcing a woman to carry to term a pregnancy resulting from rape has severe mental health consequences and constitutes a violation of the right to health.<sup>8</sup> Due to either total criminalization or the presence of unlawful barriers, each of our clients was denied an abortion following sexual violence. The lifelong impact that this has had on their physical, emotional, and mental health is compounded by the fact that they were young girls living in poverty, and when they tried to report their abuse, they were revictimized by the very systems designed to keep them safe.

These cases highlight both the prevalence of sexual violence in the region and the lack of sexual and reproductive health services available to women and girls. Each petitioner was 14 years old or younger when she became pregnant as a result of rape. They all stopped going to school, and none of them was informed of the options available to her or granted access to abortion in the instances in which it was legal. Every one of them filed an official complaint, and not a single one of their accusers has ever been detained or charged. The similarities in their stories is striking, and we know there are thousands more like them. Countless other girls living in Latin America and the Caribbean have been affected by restrictive and punitive abortion laws, and unless these laws are amended, countless more girls will continue to suffer.

## Demands for Action

- Ensure women and girls have access to information and sexual and reproductive health services, without any discrimination, regardless of their gender, age and socioeconomic context.
- Review and modify legal framework regarding abortion and adapt it to international human rights standards.
- Guarantee effective access to legal and safe abortion, at least when the life and health of the pregnant woman or girl is threatened.
- Comply with international standards, which define dignified life and health as a state of complete mental, social, and physical well-being.
- Guarantee the right of girls and adolescents to be heard in decision-making about their reproductive health, creating adequate internal mechanisms for consultation and decision-making.
- Ensure that the dignity of girls and adolescents facing forced pregnancy is respected and that comprehensive care is provided by specialized professionals who are sensitive to gender and youth.

- Ensure that justice and health authorities do not engage in institutional violence and revictimize girls and adolescents.
- Ensure access to justice and an effective remedy without discrimination for girls and adolescents who are victims of sexual violence and face forced pregnancy. This includes ensuring due process of law and judicial guarantees free from gender stereotypes.

## Endnotes

1. PAN AMERICAN HEALTH ORGANIZATIONS (PAHO) ET AL., ACCELERATING PROGRESS TOWARD THE REDUCTION OF ADOLESCENT PREGNANCY IN LATIN AMERICA AND THE CARIBBEAN, 15 (2017), available at <http://iris.paho.org/xmllui/bitstream/handle/123456789/34493/9789275119761-eng.pdf?sequence=1&isAllowed=y&ua=1>
2. Ibidem, pg. 26
3. Informe MSECVI, available at: <http://www.oas.org/es/mesecvi/docs/mesecvi-embarazoinfantil-es.pdf>
4. ESTADÍSTICAS VITALES, INEC, 2017.
5. Llerena Pinto, F.P. Llerena Pinto, M.C. El Embarazo en la preadolescencia. En inteligencia Económica para el Desarrollo. Quito: Económica CIC, Ecuador 2018
6. Vicepresidencia de la Nación de Guatemala. Plan Nacional de Prevención de Embarazos en Adolescentes - PLANEA, available at: <https://conjuve.gob.gt/descargas/PLANEA.pdf>; Embarazos y partos en madres entre 10 y 19 años, available at: <https://osarguatemala.org/embarazos-y-partos-de-madres-entre-10-y-19-anos-2017>; Procuraduría de Derechos Humanos. Informe anual circunstanciado de derechos humanos 2017, available at: <https://www.pdh.org.gt/biblioteca-digital-informes-informes-anales>
7. PAHO ET. AL, ACCELERATING PROGRESS, *supra* 1, pg. 24
8. Paulina del Carmen Ramírez Jacinto v. Mexico, Friendly settlement, Petition 161-02, Inter-Am. Comm'n H.R., Report No. 21/07, OEA/Ser.L/V/II.130, doc.22 rev.1 (2007).

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