



MATERNAL HEALTH, REPRODUCTIVE RIGHTS AND THE CRIMINALISATION OF ABORTION

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INTRODUCTION AND OVERVIEW

Women's rights are violated in very specific ways regarding their sexual and reproductive life. Protecting these rights by law is especially important because they are connected to the private, domestic sphere, in which women's rights are more often violated. For a long time, women's specific human rights were not properly protected by international or regional Human Rights instruments. Examples of this are the lack of legislation to protect women against domestic violence and of specific statutory laws to guarantee women's decisions on their fertility. In this sense, international and regional human rights protection instruments were gender blind as they did not address widespread violations of women's human rights.

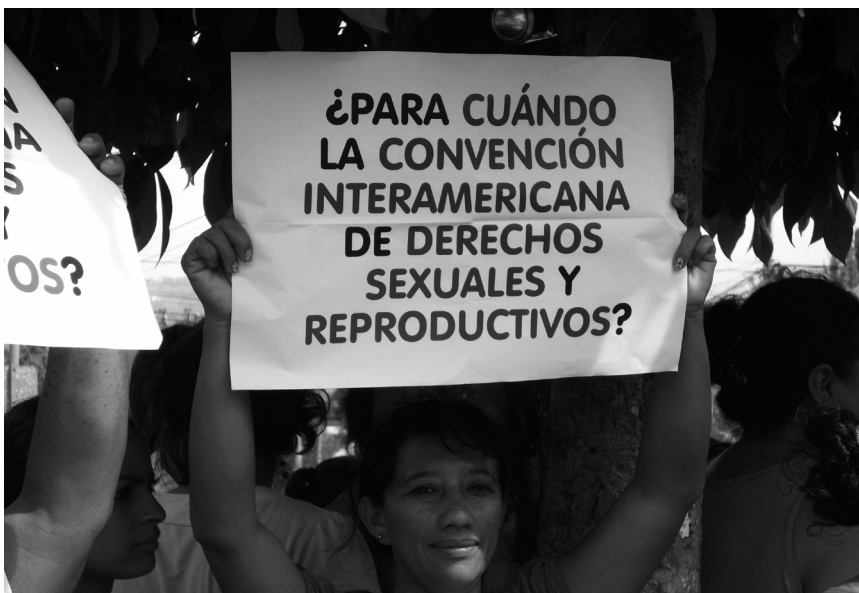
This paper aims to give an overview of international instruments and policy commitments to women's reproductive rights, with special attention to reproductive health and maternal health; focusing on the situation of women's reproductive rights in Central America and highlighting the struggles carried out by women's and feminist organisations in the region.

International Commitments on Women's Reproductive Rights

Reproductive Rights are human rights recognised by the International Conference on Population and Development – ICPD – (Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995). The right to sexual and reproductive health implies that people are able to enjoy a mutually satisfying and safe relationship, free from coercion or violence and without fear of

infection or unwanted pregnancy, and that they are able to regulate their fertility without adverse or dangerous consequences. Sexual and reproductive rights provide the framework within which sexual and reproductive well-being can be achieved¹.

The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) recognises that rights to reproductive and sexual health include the right to life, liberty and security; the right to health care and information, and the right to non-discrimination in the allocation of resources to health services and in their availability and accessibility. Of central importance are the rights to autonomy and privacy in making sexual and reproductive decisions, as well as rights to informed consent and confidentiality in relation to health services. The CEDAW Convention commits States to ensure women have control over and decide freely and responsibly on matters related to their sexual and reproductive health, including being free from coercion, lack of information, discrimination and violence². It also requires States to ensure women have appropriate services in connection with pregnancy, childbirth and the post-natal period, including family planning and emergency obstetric care. The requirement for States to ensure safe motherhood and reduce maternal mortality is implicit.



Citizens for Decriminalisation of Abortion, Demonstration, El Salvador

Box 1. International Commitments to Women's Sexual and Reproductive Rights

Universal Declaration of Human Rights

Art 2; Art 3

Millennium Development Goals

(MDGs), in particular goal 3: commitment with women's empowerment and goal 5: commitment to improve maternal health/reducing maternal mortality.

International Covenant on Economic, Social and Cultural Rights

Art 12: right to the highest attainable standard of health requires States parties to take steps to provide for: "the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child"; in General Comment 14, paragraph 14, UN Committee on Economic, Social and Cultural Rights has stated that this Treaty obligation must be: "understood as requiring measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre-

and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information".

CEDAW Convention, in particular, requires States parties to: "agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women" and that they "shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning" (Art 2(1)); "ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation" (Art 12(2)).

CEDAW Committee, General Recommendation 24, the right to health includes entitlements to a range

of health interventions which have an important role to play in reducing maternal mortality. These include: emergency obstetric care (EmOC); a skilled birth attendant; education and information on sexual and reproductive health; safe abortion services where not against the law; other sexual and reproductive health care services, such as family planning services; primary health care services.

Quito Consensus, ensures that sexual and reproductive rights are human rights and that universal access to comprehensive healthcare, which includes sexual and reproductive healthcare, are considered to be an essential condition for guaranteeing women's participation in political affairs and in paid work and, hence, in decision-making positions for all women and, as a matter of priority, for young women, the poorest women, indigenous women, Afro-descendent women, rural women and women with disabilities.

Maternal Health: A Reproductive Rights Issue

Women's sexual and reproductive health is determined by their access to health services, by their status in society and by gender discrimination. Maternal mortality occurs because of a failure to give effect to the rights of women to health, equality and non-discrimination.

Reproductive rights and particularly the right to life should be invoked to protect women whose lives are currently endangered by pregnancy. Even though between 1990 and 2010, maternal mortality worldwide dropped by almost 50%, every day, approximately 800 women die from pre-

ventable causes related to pregnancy and childbirth and 99 per cent of all maternal deaths occur in developing countries³. Maternal mortality is higher in women living in rural areas and among poorer communities, and young adolescents face a higher risk of complications and death as a result of pregnancy than older women. The major complications that account for 80 per cent of all maternal deaths are: severe bleeding, infections, high blood pressure during pregnancy and unsafe abortion. Skilled care before, during, and after childbirth can save the lives of women and newborn babies.

Improving maternal health is one of the eight Millennium Development Goals (MDGs) adopted by the international community in 2000. Under MDG5, countries committed to reduce maternal mortality by three quarters between 1990 and 2015. Since 1990, maternal deaths worldwide

have dropped by 47 per cent. It was a key issue discussed at the MDG Review Summit in September 2010 and led to a renewed focus on maternal health and increasingly maternal mortality by international donors and organisations. For example, the UK Department for International Development (DFID), has committed to saving the lives of at least 50,000 women in pregnancy and childbirth, a quarter of a million newborn babies, and enabling 10 million couples to access modern methods of family planning by 2015⁴. Similarly, at the London Summit on Family Planning hosted by the UK Government and the Bill and Melinda Gates Foundation, on 11th July 2012, the UK government committed £516m (\$801m) over eight years to achieving the summit goal of enabling an additional 120 million to have access to modern methods of family planning by 2020⁵.

Box 2. Maternal mortality

WHO defines 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 accidental or incidental causes.

In: International statistical classification of diseases and related health problems, 10th revision (ICD-10) (9).

Direct maternal deaths are those resulting from obstetric complications of the pregnant state (pregnancy, delivery

and postpartum), interventions, omissions, incorrect treatment, or a chain of events resulting from any of the above (i.e. obstetric haemorrhage or hypertensive disorders in pregnancy, or those due to complications of anaesthesia or caesarean section are classified as direct maternal deaths).

Indirect maternal deaths

are those resulting from previously existing diseases, or from diseases that developed during pregnancy and that were not due to direct obstetric causes but aggravated

by physiological effects of pregnancy (e.g. deaths due to aggravation of an existing cardiac or renal disease are considered indirect maternal deaths).

WHO, UNICEF, UNFPA and the World Bank (2012) *Trends in Maternal Mortality: 1990 to 2010*

A Woman's Right To Choose

On the occasion of the London Summit on Family Planning, Human Rights Watch maintained that "it is time to ensure that the clocks are not put back on women's human rights. Women's autonomy and agen-

cy to decide freely on matters related to sexual and reproductive health without any discrimination, coercion or violence must be protected under all circumstances⁶".

Autonomy also means that a woman seeking health care in relation to her fertility and sexuality is entitled to be treated as an individual in her own right and fully competent to make decisions concerning her own

health, including her decision to a voluntary interruption of pregnancy. The criminalisation of abortion is particularly heinous, because it not only impairs women's right to reproductive choice - to make free and responsible decisions concerning matters that are key to take control of their lives - but also exposes them to the serious health risks of unsafe abortion. Imposing childbearing is a serious denial of women's right to bodily autonomy.

Despite reproductive rights being internationally recognised as critical both for advancing women's human rights and for promoting development, over the last decade women's reproductive rights took a step backwards in Central America due to the resurgence of religious fundamentalisms as well as direct action of conservative political parties and coup governments (e.g. in Honduras). According to feminist and women's organisations activists, in Central America the Roman Catholic Church and right-wing Catholic groups exert direct influence on regulatory changes that limit the exercise of women's rights, counter to international agreements.



Citizens for Decriminalisation of Abortion, Demonstration, El Salvador

Box 3. Definitions

Miscarriage: spontaneous interruption of pregnancy.

Therapeutic Abortion: voluntary interruption of pregnancy induced when pregnancy constitutes a threat to the physical or mental health of the mother, for instance in case of illness or ectopic (misplaced) pregnancies - when pregnancy occurs outside the uterus (womb).

Ethical Abortion: voluntary interruption of pregnancy induced when a pregnancy is the result of rape or incest.

Eugenic Abortion: voluntary interruption of pregnancy induced because of possible severe foetal defects.

Abortion On Demand: the concept that a pregnant woman should be able to access an abortion at her request. "On demand" is used to mean that she should

have access to an abortion: without a waiting period, without having to first prove a special circumstance such as rape, without having to travel to another state or county, with no further cost-prohibitive restrictions.

Emergency Contraception: birth control option that women can use to reduce the risk of pregnancy after unprotected sex or contraceptive failure. EC are not effective once the process of implantation has begun, and will not cause abortion⁷.

REPRODUCTIVE RIGHTS IN CENTRAL AMERICA: A GLANCE AT THE CURRENT SITUATION

In Latin America 95 per cent of abortions are unsafe, including self-abortion and surgery conducted by non-professionals. The Caribbean (the sub-region that includes Cuba, where abortion is legal and generally safe) has the lowest proportion of unsafe abortions in the region (46 per cent), compared with nearly 100 per cent in Central and South America⁸. Nearly all safe abortions occur in the Caribbean, primarily in Cuba and several other countries, where the law is liberal and safe abortions are accessible. The criminalisation of abortion generally imposes an obligation on medical professionals to report abortions, as they have to report other crimes. The obligation on medical professionals to make reports to the police breaches patient confidentiality and also generate fear on women who may be reluctant to seek medical help during or after such an obstetric emergency or illicit abortion. As a result maternal mortality is significantly increased⁹. The majority of maternal deaths due to pregnancies complications, miscarriage or stillbirth affect mostly illiterate women from poor and rural backgrounds. They are also mainly young women¹⁰.

A sexist cultural system, sustained by conservatives and religious groups in some Central America countries, contributes to generate and perpetuate an unbearable and unfair situation for women. Young people lack information, sex education and access to modern contraceptive methods. In addition, "machismo" continues to inform young males that getting women pregnant and that having multiple partners are signs of masculinity.

Mexico

Mexico has high rates of maternal mortality, higher than other countries in Latin America, particularly among poor, rural, and indigenous communities¹¹. More deaths take place in rural communities due to the lack of modern health services and attachment to traditional birth methods, especially among indigenous communities. Recognising the high level of social inequality and the large number of uninsured among its

population, the government introduced the Coverage Expansion Programme (Programa de Ampliación de Cobertura).

Mexico is a federal system and, as a result, different State laws are enacted to regulate abortion causing a wide discrepancy within the country. The past decade has been especially relevant for abortion regulation in Mexico: it has gone from criminalising abortion with very restrictive exceptions, to broadening the exceptions in some states, to decriminalising abortion on demand during the first trimester, to initiate the debate on whether it should be recognised as a fundamental right of women, guaranteed by the State and ratified by the Constitution.

Since the introduction of legislation in 2007 in Mexico City abortion has been offered on request to any woman up to 12 weeks into a pregnancy. From the enactment until January 2011, more than 50,000 abortions took place. This legislation was strongly disputed and a landmark Supreme Court decision in 2008 upheld national legislation and recognised that "to affirm there is an absolute constitutional protection of life in gestation would lead to the violation of the fundamental rights of women"¹². Nevertheless, abortion is a crime in 18 out of 31 Mexican state's constitutions, and women can be sentenced to up to 30 years in prison in conservative-leaning states such as Guanajuato¹³. Even if all jurisdictions establish some exceptions and all penal codes permit legal abortion for rape victims, the reality is that many women and girls face serious obstacles in accessing sexual and reproductive health services after sexual violence, according to Human Rights Watch¹⁴. Since 2008, 16 states in Mexico have passed constitutional reforms that "protect life since conception", which in effect limit women's ability to exercise their fundamental human rights. The constitutional reforms do not change the status of legal exceptions in the criminal code that allow for abortion; however, this fact might create a chilling climate and could generate more instances of denial of services. The concern in this sense is due to the fact that constitutional reforms will exacerbate the obstacles women and girls face in accessing legal abortion.

Human Rights Watch points to inaccurate or lack of information on legal abortion and maintains that few state governments have invested in campaigns to inform the general public of the content of the law in this respect. Moreover, some doctors in the public health system are not aware either that abortion is legal for rape victims. This lack of legal knowledge by public health officials

influences rape victims' ability to access legal abortion because it directly conditions the treatment rape victims receive when they seek assistance. In several states, it can take months to get legal authorisation for abortion after rape, effectively ruling out the possibility of a safe abortion. In many cases, as rape victims deal with objections from public prosecutors, public health personnel, social workers, and family members, their pregnancies progress, sometimes to the point of making medical intervention impossible.

According to GIRE (Grupo de Información sobre Reproducción Elegida – the Information on Reproductive Choice Group) there are cases of women in Mexico who chose to have an abortion, where it is legal, women who have had miscarriages and have been criminalised. Currently 22 women, aged between 15 and 33 years old, have been prosecuted for having abortion in Mexico. One of these is Brenda, who travelled from Michoacán to Mexico City to have a termination before the 12th week which is within the legal limits but was prosecuted nevertheless. Another pregnant woman, Rosa, went to the hospital in the district of Hidalgo because she was bleeding and was charged with attempted abortion and sent to Tizayuca prison. She has been prosecuted for committing a crime but is still pregnant¹⁵.

Further legislation came into force in April 2009: the Official Mexican Policy NOM-046, "Family Violence, Sexual Violence, and Violence against Women: Criteria for Prevention and Response". This is an important step in addressing the inconsistencies in the provision of health services after rape, because it establishes the steps to be followed in the health system to help victims of sexual violence. The norm also establishes that in cases of pregnancy that result from rape, health service providers should offer counselling and information to the victims regarding legal termination of the pregnancy. The weakness of NOM-046 is that it is not binding upon the Attorney General's office (Ministerio Público), which is the only institution that can provide legal authorisation for abortions in cases of rape. Women's human rights groups in Mexico have expressed concern that, unless the Attorney General's office is regulated on discharging its obligations to authorise abortions in the case of rape, women will continue to encounter obstacles in seeking legal abortions, even with the improved protections provided under NOM-046.

A survey carried out in the provinces of San Juan Cotzocón and Teotitlán del Valle

by the Network for Reproductive Rights in Mexico (Red por los Derechos Sexuales y Reproductivos en México) found that rights to contraception are being denied, especially those of young and indigenous people and there are many cases of medical staff refusing to provide contraception to widows and to single mothers under 18 years. In the state of Oaxaca they documented cases of hospital medical staff disseminating false information about contraception, stating that contraceptive pills may cause infertility and that using condoms can lead to Sexually Transmitted Diseases (STDs)¹⁶.

Guatemala

Guatemala has signed and ratified most of the international treaties regarding the protection of human rights, including treaties related to the protection of women's human

rights at international and inter-Americas levels, such as the CEDAW and the regional Convention of Belem do Pará on violence against women. The Guatemalan government has also prioritised the war against poverty by creating greater opportunities for the population to access education, health, and other basic services. The Ministry of Public Health and Social Assistance (MPHSA) seeks to achieve these objectives through administrative modernisation, decentralising services, and developing health programs for the neediest groups. In 2001, the government approved a National Reproductive Health Plan which has as one objective to lower maternal mortality. It also includes family planning but the reality is that women's access to contraceptives is deeply limited by poverty, lack of education, rural geography, and the gender blindness of laws such as the "Universal Access to Fa-

mily Planning Law" (2006).

The Guatemala Constitution, Article 3 (Title II, Chapter 1) stipulates that the government "guarantees and protects human life since its conception, the same as the integrity and security of the person". Until 1973, there were no exceptions in the Penal Code to the general prohibition of abortion. Anyone who performed an abortion, and a woman who consented to an abortion, were subject to imprisonment. In September 1973 the Penal Code was amended and therapeutic abortion was allowed only to prevent danger to the life of the woman and abortion remains illegal on all other grounds. The Government has since expressed concern about the high rate of induced abortions.

The reality in Guatemala is that two women die daily due to complications before, during or after childbirth and the maternal mortality rate is 120 maternal deaths per 100,000 live births, the second highest in Latin America¹⁷. No national data on abortion are available but it is estimated that nearly 65,000 induced abortions are performed annually, which means that one abortion is performed for every six births.

Honduras

The National Plan on Healthcare 2021 (adopted in 2005) specifically targets maternal mortality and the Accelerated Strategy for Reduction of Maternal Mortality (known as Estrategia RAMNI) refers to maternal health as an issue relating to women's equal opportunities. Unfortunately, abortion is only mentioned twice in the document in the section related to young women, and specifically in connection to intra-familial relations that cause women to have abortions, drop out of school and suffer from low self-esteem.

In 1985, a new Penal Code came into force that designated limited exceptions under which abortions could be legally performed: in case of rape; to save the mother's life and in case of foetal impairment. However, it did not make an explicit exception to save a woman's life. In spite of great controversy the situation unchanged until new legislation in 1996. Since then, penalties were introduced for women who have abortions and professionals who perform them and abortion is classified as a crime equivalent to "murder" (articles 126; 127; 128 of the Criminal Law Statute). As to the status of terminations for therapeutic purposes in order to save a woman's life, the situation is not entirely clear. The Penal Code that is now in force provides no stated exceptions



Tierra Viva, Demonstration in front of the Ministry of Public Health, May 2012, Guatemala

to the general prohibition against abortion. However, the Code also contains provisions on “necessity” as a defence, and the Physician’s Code of Conduct allows them to save a woman’s life.

Following the coup in 2009 the Congress, whose Minister of Health is a member of Catholic fundamentalist group ‘Opus Dei’, passed a new law prohibiting the Emergency Contraception Pill. This ban was legally challenged and brought to the Supreme Court of Honduras but they upheld the ban (2012) on the grounds that it was considered abortive. The ban of emergency contraception is widely recognised by international and regional human rights bodies, like the Inter-American Commission on Human Rights, as violations of a woman’s ability to exercise her fundamental rights¹⁸.

El Salvador

There are two health care systems in El Salvador: the first is private, expensive and of fairly high quality, and the other, provided for free by the state, is of poor quality, does not have the adequate technological equipment and has overworked and poorly paid medical staff. The maternal mortality rate is comparatively high for the region at 110 per 100,000 live births. This can be attributed to the fact that state health services are of low quality and fragmented. In particular, there is a limited inter-sectoral approach and gender focus, and services provided in rural and urban areas vary. Provision of public health services, financed via a social tax, is of such a low standard that many families enter into large amounts of debt in order to give birth in a private hospital.

The government has earmarked public funds to ensure access to family planning services, however, coverage remains low. Hormonal contraceptives are included on the essential drug list of the Ministry of Health¹⁹ and plenty of information regarding family planning and maternity can be found on the Ministry of Health website. Recent work to increase awareness of family planning strengthened and helped El Salvador’s family planning program become self-sustainable resulting in a contraceptive usage prevalence rate²⁰ of 73 per cent²¹. Despite this, teenage pregnancy rates remain high: 42 per cent of women have been pregnant by the age of 20. This rate is much higher in women with low educational levels (66 per cent) and with lower socioeconomic status (60 per cent). The fecundity adolescent rate in El Salvador, at 104 births per 1,000 women between the ages of 15–19, is over the regional average of 80 per 1,000 in Latin

America and Caribbean²².

In 1998, the government passed a new Penal Code banning all abortions without exceptions. This was a shift from an earlier law which allowed abortions in cases of threats to the health or life of the woman, as well as in cases of rape, incest, or severe foetal abnormality. The abortion laws were further solidified in 1999 with a constitutional amendment defining a human being from the moment of conception. While the number of illegal abortions performed every year is unknown, attempts to self-abort are the second highest cause of maternal mortality in the country. In addition to the risk of death as a result of unsafe abortion procedures, El Salvador’s absolute ban on abortion has led to the arbitrary imprisonment of women suffering from miscarriages and complications in their pregnancies. Women are currently in prison for having abortions, some serving sentences of up to 30 years. Under current Salvadoran law, anyone who performs an abortion with the woman’s consent, or a woman who self-induces or consents to someone else inducing her abortion, can be imprisoned for up to eight years. Healthcare professionals are obliged to maintain patient confidentiality, but also to report any crimes to the police, including that of abortion. A note from the Attorney General’s Office is displayed in the maternity department of public hospitals, reminding staff of this and putting them under pressure to make reports²³. However, many women who miscarry or experience emergency obstetric complications, if the foetus is deemed to have been viable, are charged with aggravated homicide, for which they can be imprisoned for up to 50 years, and consequently spend decades behind bars²⁴. In June 2012, the Citizens for the Decriminalisation of Abortion (CFDA) (Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico) pointed out that El Salvador’s stringent anti-abortion legislation has imprisoned 628 women since a law was enacted in 1998. Twenty-four of these women were indicted for “aggravated murder”, after an abortion, miscarriage or stillbirth. Morena Herrera, president of CFDA, maintains that the majority of women who have been charged are extremely vulnerable for being poor, young and with low levels of education. These women, who are more likely to suffer from obstetric complications, are regularly reported to the police following a miscarriage, stillbirth or premature labour. Significantly, not one such report has been made to the police by a private clinic or hospital²⁵.

Health promoters and community leaders

are concerned that young people should have greater knowledge concerning their sexual and reproductive health and be empowered to make healthy decisions. Past efforts to implement educational programs in schools have been met with resistance by the Church and members of the central government, as well as by some community members. The Ministry of Education recently prepared materials to integrate sexual and reproductive health into the national curriculum. But conservative members of the government and the Church edited the materials and removed any information about contraception and redirected the focus to sexual abstinence.

Nicaragua

The Nicaraguan Ministry of Health (MINSa) has a Maternal Mortality Reduction Plan which includes training midwives, a Health and Nutrition Community Programme (PRO-COSAN), Contraceptives for Communities (ECMAC), a Childbirth Plan and a Community Transport Committee. However, many of these programmes are only implemented in selected communities. National maternal mortality rates are 100 per 100,000 live births but according to the National Health Policy, maternal mortality rates are considerably higher in poor and rural areas, and associated with illiteracy, high rates of teenage pregnancies, home births, and abortion²⁶. Nicaragua has committed to reduce maternal mortality by 75 per cent by the year 2015 under MDG5.

A report²⁷ by MINSa indicates that three new hospitals were built in 2011 and new maternal health units were set up across the country, especially in the poorest and rural areas. However, representatives from the Latin America and Caribbean Women’s Network (LACWN) during the Second National Conference on Women’s Health and Life, held in Managua on 25th May 2011, pointed out that this report lacks information about the quality of the health system and uses data over- or under-reporting on sensitive issues such as adolescent pregnancy, maternal mortality, abortion and violence against women. The report also lacks qualitative information, and does not refer to access to contraception or sex education. There is no mention of the inaccessibility of health services for women who live in rural areas, except for access to Casas Maternas, which are volunteer-run maternity houses in remote rural areas, that offer free shelter, medical counselling, and assistance to high-risk pregnant women. The report only mentions that in 2010 there were 89 Casas Maternas operating in the 14 SILAIS (rural

areas), which is a significant improvement in access to better services for pregnant women. Unfortunately, the 2012 government budget for the Health System does not give details of how much is allocated to support the Casas Maternas, despite the reiterated demands of women's organisations, such as the Colectivo de Mujeres de Matagalpa and SIMUJER²⁸, for improvements in the provision, which lack equipment and need highly skilled and trained staff, such as social workers and psychologists, especially for pregnant adolescent in rural areas who have been raped.

Similar to El Salvador, the government has made abortion illegal on all counts and the current Penal Code (2008) gives lengthy prison sentences for those breaking the law. Nicaragua has the highest teenage pregnancy rate in Latin America and the Caribbean, and adolescent girls between 15 and 19 years account for a quarter of all births²⁹. Unsurprisingly, the abortion ban hasn't deterred women and teenagers from terminating their pregnancies, but has only forced them to turn to dangerous methods that put their lives and health at risk. As a result, unsafe abortion is currently the leading cause of maternal deaths in the country. Moreover, adolescent girls are also adversely affected by the blanket abortion ban because they are more likely to develop dangerous complications during pregnancy and need life-saving therapeutic abortions. Nicaraguan law, however, does not allow any exceptions even in those instances. Between 2008 and 2010, seventy-nine women were charged with having abortions and three were convicted (one of whom was only 16 years old) according to National Police records. Of the 79 women charged, nearly a third (32.87 per cent) were under 18 years old, and over a third were unemployed. Nicaragua's prohibition of all abortions was criticised by Ana María Pizarro from the Latin American and Caribbean Women's Health Network, who said that the anti-abortion policy was particularly cruel given the poverty of the majority of women, the lack of information about sex and reproduction, and the fact that Nicaragua has one of the highest levels of adolescent pregnancy in Latin America³⁰. The cases of the 79 women did not receive any media attention. At the Second National Conference on Women's Health and Life, feminist groups reported that it is impossible to establish what happened to those 79 women, and find out if they have been convicted and are in prison. This is despite the Access to Information Act (Ley de Acceso a la Información Pública), which is being violated by the government institutions in-

involved in these cases.

Nicaragua has an overall contraceptive prevalence rate of 72 per cent³¹. Greater access for poor people to contraceptives and family planning services has had a significant impact in increasing the uptake of family planning methods on a national scale. Legal and political support for reproductive health is strong in Nicaragua, where the constitutional guarantee to reproductive rights ensures contraceptive security. As a result, family planning services are offered by multiple government agencies and private sector organisations, thereby increasing contraceptive access and availability. In addition, the Nicaraguan Ministry of Health uses the community-based contraceptive distribution strategy to target the underserved population. Unfortunately, in 2012 the Ministry of Health did not allocate a budget for implementing sex education or for the manual produced by the government to promote sexual and reproductive health among young people³². This is in spite of cultural norms which clearly try to control women's bodies and fertility. According to Dr. Alba Alvarado, a paediatrician who oversees a network of health services for women and children throughout the country, men view the use of contraception as women's way of sleeping around without getting pregnant. "Nicaragua is still Catholic," Alvarado says, "so there is a religious component against birth control. Men also object to their wives using contraceptives because they think a small family means a lack of virility³³".

So, despite some positive results in the area of family planning, as a result of Nicaragua's total ban on abortion, the government is not complying with a number of international treaties, including the Convention of Belém do Pará, CEDAW, the Inter-American Convention on Human Rights, and the advice of the UN Human Rights Committee³⁴. In this way its abortion law is not only contradictory to its maternal health policies, it also breaches Nicaragua's international reproductive and human rights obligations.

In 2010, during the First National Conference on Women's Health and Life, an Alert System for Women's Health and Life (Sistema de Alerta por la Salud y la Vida de Las Mujeres) was established across the country to keep track of any violations of women's rights related to women's health, maternal mortality, abortion, and violence against women.

Costa Rica

One of the most prosperous countries in

Latin America, Costa Rica has made considerable investment in health and education. Despite a public health care system designed to meet the health needs of the entire population, issues relating to internal corruption and demographic changes have hampered its viability. Whilst common use of contraception and the presence of skilled personnel at 98 per cent of births are effective measures against unintended pregnancies and have resulted in a comparatively low maternal mortality rate of 44 per 100,000, a high incidence of adolescent pregnancy and complications due to unsafe abortion persist.

Despite the Costa Rican government taking steps to address these problems, the strong presence of the Catholic Church and the continued use of abstinence-until-marriage curricula in schools, make abortion under any circumstance highly stigmatised and may hinder the likelihood of contraceptive use among unmarried adolescents. There is no formal program for comprehensive sex education in schools. Many attempts that have been made in this area have failed in the face of fierce opposition from fundamentalist groups that have great influence in political decision-making related to sexual and reproductive health.

Costa Rica has one of the highest prevalence rates (80 per cent³⁵) in the use of birth-control methods in Latin America and the Caribbean. However, the rate of unwanted pregnancy is 42 per cent and the annual number of abortions is reckoned to be 27,000³⁶. There is no specific legislation or public policy in Costa Rica prohibiting, encouraging or promoting the use of emergency contraception, but it is not offered by the country's public health system. Recently, the Board of the CCSS (The Costa Rican Social Security Bank) rejected the use of emergency contraception on legal rather than medical grounds. In this regard, the country's sexual and reproductive health policy continues to be led by influential elites³⁷.

Abortion rights are severely restricted in Costa Rica, and government policies have not kept pace with the advancement of women's rights in the country³⁸. Abortion in Costa Rica is considered a crime. However, article 121 of the Penal Code authorises therapeutic abortion when the health and life of the woman is at risk.



Tierra Viva, Women's Day activities, March 2012, Guatemala

ACTIONS AND CAMPAIGNS IN CENTRAL AMERICA: EXPERIENCES FROM THE GROUND

One of the unwavering political principles of the feminist and women's movements in Central America is the defence of sexual and reproductive freedom as an unalienable right of all people, a right that implies recognising the ability of women and men to make decisions over their own bodies and lives. In this regard, the right to a comprehensive and high quality sex education, to contraception and to safe, free and legal abortion are an intrinsic part of reproductive and sexual rights. Many actions are taken by women's organisations in order to guarantee these fundamental rights of women.

The Women's Support Centre 'Tierra Viva' is a feminist organisation, created in Guatemala in 1989 with the mission to confront the inequality, subordination and discrimination of women. The group seeks to promote women's sexual and reproductive rights by influencing political decision-making, supporting the creation and growth of local women's organisations, and contributing to raise awareness of all Guatemalans about women's rights.

Currently it is the only feminist organisation in Guatemala raising awareness about abortion as both a public health and women's rights issue. Tierra Viva is working with other feminist organisations in the country to build a support network to prevent death, disability, and the suffering that women and their families face as a result of unsafe abortions. They have carried out two campaigns that aimed to tackle the situation of unsafe abortion and to promote sex education as a basic tool for preventing abortions:

■ A Campaign to reduce unsafe abortion which included workshops and talks

on abortion, and first hand accounts by women, with participants from various professions and geographical locations. By raising awareness about abortion as a pressing health and human rights issue, the campaign was aimed at key political and legal players, such as lawyers and judges, to press for access to safe reproductive health services. They also produced material as leaflets to inform women about emergency contraception (effectiveness, side-effects, etc.).

■ A Campaign on sex education, which Tierra Viva organised as member of the Coordinating Committee May 28th (the International day of Action for Women's Health), to press the Guatemalan government to introduce sex education into the school curriculum. In 2009 they carried out a national campaign, along with 12 other organisations, to promote sex education which aimed to increase by three quarters the number of schools with sex education programmes by 2015, and to increase by 50 per cent the number of young people that have access to sexual and reproductive services throughout Guatemala.



Tierra Viva, Information activities on women's reproductive rights, May 2012, Guatemala

So far, they have achieved greater visibility of the lack of sex education and its consequences, such as: teenage pregnancies, higher rates of HIV among young people, maternal mortality, sexual violence and unsafe abortion. They have established a dialogue between the Minister of Education and civil society, underlining the importance of sex education; and created policy guidelines, aimed at political parties, advocating for the inclusion of sex education in their political agendas.

The Feminist Central American Program "La Corriente"

is a feminist organisation created in 1994 in Nicaragua that aims to increase women's rights through research on women's participation in politics, organising women's leadership training, disseminating feminist proposals and organising meetings and exchanges. Moreover, La Corriente aims to build coalitions among women's rights

activists to share experiences, strategies and best practices.

■ In December 2011 La Corriente published a research report called *"The decision to have an abortion: between necessity and guilt"*. In this work, they use a feminist framework to analyse myths and stereotypes about sexuality and maternity and their consequences for women's lives, giving special attention to young women. This research focused on the Nicaraguan social and political context, which is characterised

by authoritarian education, religious fundamentalism, sexism and misogyny, lack of information on sexuality issues, sexual violence and poverty and lack of public health services.

■ This research is based on first hand accounts by women who have experienced abortion directly or indirectly (i.e. women that decided to have an abortion at some point in their lives or women that supported or helped other women having an abortion). ***They point out the responsibilities of men, as part of a sexist social system; of government, for not providing sex education and information services to prevent unintended pregnancies; and of religious groups that oppose sex education, safe contraceptives and abortion.*** The main purpose of the report is to highlight the social and political responsibility of men, politicians and governments on this issue, as well as stimulating reflection and debate in order to tackle abortion as a public health issue.

Citizens for the decriminalisation of therapeutic, ethic and eugenic abortion

(Agrupación ciudadana por la despenalización del aborto terapéutico, ético y eugenésico) is a Salvadoran coalition composed of feminist and women's organisations. Currently it is the most active group struggling to decriminalise abortion in the country. They have carried out campaigns to support women who have been imprisoned and accuse the Salvadoran Penal System for

criminalising the most vulnerable groups, especially poor women, women with low educational levels, young women and women living in rural areas. They provide free legal advice and legal representation for women with low-incomes that have been prosecuted or convicted for having abortions, and they advocate at national and international levels.

An emblematic case is that of Manuela (a pseudonym) a 33-year-old Salvadoran mother of two, who was convicted of murder and sentenced to 30 years in prison after suffering severe complications and a miscarriage while giving birth. According to CFDA, she was not given an opportunity to meet with her lawyer nor to speak in her own defence and had no right to appeal the decision. Shockingly, the judge overseeing her case said: "her maternal instinct should have prevailed" and "she should have protected her child". After several months in prison she was diagnosed as having cancer but did not receive the appropriate health care and she died in prison in 2010. On 21st March 2012, a petition was filed with the Inter-American Commission on Human Rights by the Center for Reproductive Rights and local Salvadoran organisation Feminist Collective for Local Development in behalf of Citizens for Decriminalising Abortion. This legal campaign marks the first time an international judicial body will hear the case of a woman imprisoned for seeking medical care due to obstetric emergencies, as a result of a total abortion ban. The Inter-American Commission on Human Rights has a strong record for defending gender and human rights, as well as the power to increase international pressure on states ignoring their human rights obligations through the publicity of the commission's decisions. Hopefully, a successful case at this level will encourage El Salvador, and maybe even

other countries in the region with similar policies, to recognize the danger of its strict abortion laws and to ensure they are being held accountable for their record on human rights.

Another case is that of Sonia Contreras Tá-bora, who in 2005 at the age of 20 having suffered obstetric complications when she went into premature labour, was charged with provoking an abortion and received a 30-year prison sentence. Citizens for the Decriminalisation of Abortion, along with 11 other feminist and women's collectives in El Salvador, have lobbied for years for Sonia to be freed. They believe that Sonia's trial violated legal procedures as they delivered the verdict that she had provoked her abortion, despite a lack of evidence or an autopsy of the foetus. After seven years behind bars Sonia Tá-bora was to have her case reviewed on 29th July 2012, but the hearing was postponed twice due to allegedly bureaucratic and logistic difficulties to transfer her to court. Eventually, after all these years of struggle and pain Sónia finally gained her freedom on 14th August 2012.

The Feminist Collective for Local Development

(Colectiva Feminista por el Desarrollo Local) is a feminist organisation and also a very active member of Citizen for Decriminalisation of Abortion. They take actions in the Coalition's campaigns and also carry out workshops on preventing teenage pregnancy, especially in rural areas.

Along with Feminist Collective for Local Development, they built a network called the Legal-based

Abortion Movement for Women's Health

in order to raise awareness of the need to change the current legislation on abortion in El Salvador. They also promote community-based activities to raise awareness on women's reproductive rights, such as: conferences, courses for journalists and women leaders of organisations, etc.



Citizens for Decriminalisation of Abortion, Demonstration for women prosecuted for having abortions, El Salvador

September 28 Campaign - Day for the Decriminalisation of Abortion in Latin America and the Caribbean.

The women's movement proclaimed September 28 as the Latin American and Caribbean Day for the Decriminalisation of Abortion at the 5th Latin American and Caribbean Feminist Meeting held in 1990 in Argentina. Since then feminist organisations known internationally for their actions in defence of reproductive rights have coordinated a regional campaign for the decriminalisation of abortion.

The September 28 Campaign addresses a number of issues relating to abortion: as a public health concern, because of its impact on women's health; as a matter of human rights and democracy, associated with the free exercise of voluntary motherhood; as a question of social justice, since poor women are most affected by the laws that criminalise abortion and face the threat of imprisonment; and as an issue related to the separation of Church and State, because organised religions are very involved in anti-abortion initiatives.

The September 28 Campaign is an essential mobilisation strategy that seeks to transform both society's understanding of abortion and the pertinent laws from a women's human rights perspective by focusing on women's biological, psychological and social realities, which often do not offer the necessary conditions for motherhood. Their 2010 Call for Action – Safe & Legal Abortion slogan clearly stated the campaign's demands: "Women Decide, Society Respects, the State Guarantees, Churches Do Not Intervene".



Tierra Viva, Women's Day March, March 2012, Guatemala

CONCLUSIONS AND RECOMMENDATIONS

Maternity rights and maternal health provisions are not being adequately addressed by governments in Central America and there are serious violations of women's human rights, especially in the case of the total ban on abortions. Restricting access to abortion is rooted in traditional patriarchal values perpetuated by laws, governments, judicial systems and religions that aim to control women's reproductive function and sexuality. Women's bodies are controlled by a lack of access to comprehensive sex education and information, free and accessible contraception (including emergency contraception) and free, legal and safe abortions. Actions are needed internationally to advocate for women's reproductive rights as Central American governments that do not guarantee these rights are not complying with the international agreements they have ratified.

In order to fully comply with international human rights conventions and international commitments to increase women's reproductive rights and improve maternal health, the following recommendations are proposed:

■ In Central America greater coordination between national ministries and health sectors is required in order to implement and promote a holistic approach to reproductive and maternal health.

■ National governments should set clear, realistic and measurable goals and take effective actions to reduce maternal mortality.

■ While supporting family planning and contraception, governments should also support women's choice to have access to legal, voluntary and safe abortions. These measures should be appropriate and take into account the specific needs of disadvantaged groups, such as poor, young, indigenous and Afro-descendent women and girls.

■ Governments should promote and guarantee high quality and co-responsible sex education for both young women and men. This should focus on prevention and address issues such as gender stereotypes, masculinities, motherhood and women's right to choose, in order to challenge and change attitudes and practices.

■ Health systems should guarantee good quality, free and accessible maternal health care and pre- and post-abortion care.

■ Reproductive health care should include access to contraception and counselling services for adolescent girls and boys and women and men on different methods of contraception and should underline the responsibility of both to avoid unwanted pregnancies.

■ Secular governments should remain so, in particular, the Church should not influence government policies regarding women's reproductive rights.

■ Women's organisations should be supported in their efforts and actions to achieve their goals to improve women's sexual and reproductive health and in their campaigns to support women's and girls rights to live free from sexual coercion and violence.



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Useful websites

Central America Women's Network www.cawn.org

Citizens for the decriminalisation of therapeutic, ethic and eugenic abortion (Agrupación ciudadana por la despenalización del aborto terapéutico, ético y eugenésico) www.agrupacionporladespenalizacion.blogspot.co.uk/

Feminist Collective for Local Development (Colectiva Feminista por el Desarrollo Local) www.colectivafeminista.com

Tierra Viva www.tierra-viva.org

Central America Feminist Program 'La Corriente' www.movimientofeministanicaragua.org

MexFam - International Planned Parenthood Federation <http://www.ippfwhr.org/en/category/topic/mexfam>

Campaign for decriminalising abortion in Latin America and Caribbean www.28deseptiembre.org

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