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GRUPO DE INFORMACIÓN
EN REPRODUCCIÓN ELEGIDA

VIOLENCE WITHOUT END

GIRE

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INTRODUCTION

In 2000, the case of Paulina Ramírez Jacinto from Baja California received a flurry of media attention.¹ Paulina, a young girl from a low-income family, was denied access to abortion services to terminate a pregnancy resulting from rape.

Although rape is a legal abortion indication in Baja California and the rest of the country, public officials, acting on personal beliefs rather than according to the law, resorted to manipulation and psychological pressure to deny Paulina access to the procedure. Therefore, in view of a lack of appropriate legal resources to access justice and the unwillingness of Mexican authorities, her case was brought before the Inter-American Commission on Human Rights (IACHR) in 2002.²

For years, the Mexican State refused to assume responsibility for the violations of Paulina's human rights. This situation remained unchanged until Paulina and her family and the Mexican government signed a Friendly Settlement Agreement with the mediation of the Mexican Foreign Relations Ministry and the IACHR.

Paulina's case is emblematic not only because it sheds light on the reality faced by girls and women in Mexico and Latin America but also because of the significance and implications of her struggle for justice. Among the reparations included in the Agreement was recognition by the government of Baja California that it lacked an appropriate legal framework to enable women to exercise their right to terminate a pregnancy resulting from rape. This paved the way for the passage of legal reforms that would promote significant progress in the field of women's reproductive rights.³

Seventeen years after the Paulina case and 11 years after the Friendly Settlement, obstacles have not decreased. Every year, in Mexico, at least 600,000 sexual crimes are committed. Nine in ten of the victims of such offenses are women, with four out of ten aged less than 15 years old. Appallingly, 50% of the sexual crimes occur in the victim's home—the place where they should feel the safest—and 60% of the crimes are perpetrated by relatives or acquaintances.⁴ Mexican authorities receive more than 1,640 reports of sexual violence every day. Nonetheless, of greatest concern is the fact that this high number represents only 10% of the actual cases.⁵

1. For more information about Paulina's case, see GIRE's publications *Paulina, Five Years Later* and *Paulina, Justice through International Mechanisms*, both available in GIRE's digital library at <http://gire.org.mx/biblioteca/>

2. Paulina's case was submitted by three organizations—the Center for Reproductive Law and Policy (today, the Center for Reproductive Rights), Alaíde Foppa, and Epikeia.

3. The reforms included an amendment to Article 79 of the Regulations of the Organic Law of the Baja California Attorney General's Office, which allows rape victims to receive legal abortion. It also stipulated that the Baja California Ministry of Health would release a policy containing guidelines for health service providers to terminate pregnancies resulting from rape. In addition, the federal Ministry of Health committed itself to updating the Official Mexican Norm on medical care for victims of domestic violence (NOM-190-SSA1-1999), which was subsequently replaced with NOM-046-SSA2-2005 to include sexual violence occurring outside the family and to establish legal abortion service procedures.

4. Executive Commission for Victims, Booklet on the Rights of Child Victims of Sexual Violence. Available in Spanish at <<http://www.ceav.gob.mx/wp-content/uploads/2016/06/cartilla.pdf>>

5. *Ibid.*

According to the National Public Security System (SNSP) the federal and state Public Prosecutor's offices received 111,413 reports of rape between 2009 and 2016.⁶ This figure is in sharp contrast with the number of abortions in cases of rape that the federal and state health ministries, the Mexican Social Security Institute (IMSS), and the Institute for Social Security and Services for State Workers (ISSSTE) report having performed during the same period—only 63.⁷

Among Mexican girls and adolescents, factors such as sexual violence are associated with high rates of pregnancies. According to the National Strategy for the Prevention of Adolescent Pregnancy (ENAPEA),⁸ victims of sexual violence are at risk not only of unwanted pregnancies but also of physical and psychological harm and sexually transmitted infections (STIs). Pregnancy cuts short adolescents' childhood and education, further worsening the potential poverty and marginalization in which they live.⁹

In 2013, the General Law for Victims (LGV) came into effect and eliminated the requirements that victims of sex crimes and violations of human rights had to meet to access legal abortion. The Regulations of the General Health Law in Matters of Health Service Provision and the Official Mexican Norm on Domestic and Sexual Violence and Violence against Women (NOM 046-SSA2-2005) were amended in 2014 and 2016, respectively. The amendments to the latter norm (NOM 046) were harmonized in accordance with the LGV. Consequently, in theory and throughout the country, women and girls over 12 years of age who are victims of a sexual assault and become pregnant as a result of the crime have the right to request a legal abortion at any public health facility. They can exercise this right without having to file a report of the rape or obtain authorization for an abortion from a judicial authority (a judge or a Public Prosecutor's Office) or the consent of their mother, father, or guardian. Nonetheless, health providers who are unaware of their legal obligations or those who impose their personal beliefs at the expense of the health—and sometimes the life—of girls and women, continue to represent obstacles in exercising the basic rights that would enable women and girls to recover from a violent incident and a pregnancy that should have never happened in the first place.

This edition includes responses to requests for access to information that were not incorporated into the first edition because they were received after the report was published. It also includes updated figures, normative provisions and cases of access to abortion after rape that GIRE had registered, documented and accompanied up to November 2017. All the names of the women and girls mentioned in this report have been changed out of respect for their privacy however, it is important to note that, although the names are not real, each story is true.

6. For data disaggregated by state, see map on page 35.

7. For data disaggregated by state, see charts on pages 39 and 40.

8. Federal Government, National Strategy for the Prevention and Care of Adolescent Pregnancy, Mexico, 2015, p 66. Available in Spanish at <<http://bit.ly/1FOMY11>>

9. *Ibid*, p. 63.

PALOMA, 10 YEARS OLD, TABASCO, 2015

Requirements to access legal abortion services in cases of rape, as per the Tabasco Penal Code:

“In these cases, a final ruling on the rape or unlawful insemination will not be required. Evidence of the facts will suffice...” Article 136.

Paloma was raped and became pregnant when she was 10 years old, but state health services in Tabasco refused to perform an abortion. The first health center that she visited denied her the service because “no gynecologist wanted to perform the procedure.” The regional hospital specialized in women’s health, *Hospital Regional de Alta Especialidad de la Mujer*, in Tabasco admitted her for observation to allow time for the hospital’s bioethics committee to decide whether to perform the abortion. Neither this requirement nor that requiring a judge to rule in favor or against the abortion was stipulated in the state Penal Code or the then-current Code of Criminal Procedure. The health providers said that they would not perform abortion, arguing that they needed authorization from a judge. Such behavior constituted a breach of the law.

Days passed and Paloma’s health began to deteriorate in the hospital. She experienced recurring emotional crises and severe pain and swelling that prevented her from walking. Nonetheless, she never received any medication to help her cope with her condition.

Further, despite efforts by GIRE and Catholics for the Right to Decide (*Católicas por el Derecho a Decidir*), the Tabasco Public Prosecutor’s Office tried to hinder Paloma’s rights by reclassifying the crime of rape to one of pederasty. Thus, based on an erroneous and restrictive interpretation, Paloma had no other choice but to carry her pregnancy to term because she was no longer deemed a rape victim.

In regard to Paloma’s case, the hospital’s bioethics committee concluded, “She is not sick. She only has the normal ailments brought about by any pregnancy. In her case, the discomfort is worse because she is only 10 years old.” The committee also said that the fetus was viable and since the hospital had received cases of nine-year-old girls who “give birth uneventfully.” In their opinion, Paloma was not in any danger.

Throughout this time, the State Public Prosecutor’s Office and the state health services gave Paloma’s parents contradictory information about the abortion procedure. They did not take into account that Paloma had been sexually assaulted and that they were forcing the girl to carry her pregnancy to term despite the risk to her life and her physical and emotional health.

Paloma and her family, accompanied by GIRE and CDD, presented a legal stay before a federal judge, arguing that delaying an abortion after rape constitutes cruel, inhuman, and degrading treatment, comparable to torture. Furthermore, it was requested that the judge order the abortion to guarantee Paloma’s health and physical integrity.

When the hospital was notified of the legal stay, the abortion was carried out immediately and Paloma did not experience any health complications.

1 /

**ACCESS TO ABORTION
IN CASES OF RAPE:
LAWS, PROGRAMS
AND RULINGS**

1.1 GENERAL LAW FOR VICTIMS AND NOM 046-SSA2-2005 ON DOMESTIC AND SEXUAL VIOLENCE AND VIOLENCE AGAINST WOMEN

The General Law for Victims (LGV) is mandatory for all federal and state authorities involved in actions relating to victims of rape and human rights violations throughout Mexico. The Law emphasizes that these survivors are entitled to assistance, protection, treatment, truth, justice, comprehensive reparations, and due diligence processes.

Article 29 of the LGV stipulates that all public hospitals will provide immediate emergency care to victims of crimes or human rights violations. The victims will be admitted for care, regardless of their economic status and nationality.

The LGV states that direct victims are:

Article 4 Individuals who have suffered harm or economic, physical, mental, or emotional injury or, in general, when their legal rights are at risk or injured as the result of a crime or violations of the human rights acknowledged by the Constitution and the international treaties to which the Mexican State is a party.

The LGV, in Article 30, lists a number of health services. These include emergency, dentistry, surgical, and hospital care services. It specifically mentions, in paragraph IX, the provision of voluntary abortion services in the cases stipulated in the law, with absolute respect for the will of the victim. In addition, the chapter on Measures for Immediate Assistance, paragraph IX (35), contains express provisions for the care of rape victims.

Article 35 All victims of sexual violence or any other behavior that undermines their physical or psychological integrity will be guaranteed access to emergency contraception and voluntary termination of pregnancy in the cases stipulated in the law, with absolute respect for the victim's will. In addition, the victims will undergo tests and specialized treatment for as long as it is necessary to make a full recovery, in accordance with the diagnosis and the recommended medical treatment. Monitoring the victims for sexually transmitted diseases and the Human Immunodeficiency Virus shall be a priority for victims of sexual violence.

The law also establishes that every public health institution that provides services, assistance, or treatment to victims must have personnel who can respond with a gender perspective.

The above must be carried out in accordance with the principles that the LGV establishes for public servants involved in the treatment of victims. The principles include the following:

GOOD FAITH. Public officials will not criminalize or hold the victims accountable for their situation. On the contrary, they will assume that the victims are acting on good faith and will provide the required services.

DUE DILIGENCE. The authorities will provide all services that the victim requires within a reasonable period of time to help the victim restore the full exercise of her rights.

NO CRIMINALIZATION. The authorities will not regard the victim as a suspect or hold them responsible for the acts that they have reported. It is forbidden to publicly speculate about the victim's likely involvement with organized crime or any criminal activity. Stigma and prejudice will be avoided.

SECONDARY VICTIMIZATION. The specific characteristics and conditions of the victim will not be grounds to deny her status as such. Authorities will not demand the use of mechanisms or proceedings that may aggravate the victim's condition nor will they establish requirements that may hinder or prevent the exercise of her rights or leave her exposed to further damage.

The LGV created the National System for Victims (SNAV) to create and coordinate public policies that protect, help, and provide access to justice and comprehensive reparations to victims of crimes and human rights violations committed at the federal, local, and municipal level. The operating body of the SNAV is the Executive Commission for Victims (CEAV), which has nine specialized committees, including one on sexual violence.

Number of legal abortion procedures for rape victims accompanied by the CEAV from 2014 to June 30, 2016.

Information does not exist

Source: Data obtained through freedom of information requests submitted by GIRE.

The Mexico City Executive Commission, as well as other state-level commissions, are obligated to address the cases of victims of criminal offences and human rights violations committed by public officials in the states or municipalities where the victims live.

ACCESS TO ABORTION AFTER RAPE IN ACCORDANCE WITH THE LGV IN SONORA: A POSITIVE EXPERIENCE

Azucena, a 12-year-old girl, lives in Cananea, in the state of Sonora. She was raped by a relative, who then threatened to hurt her mother if Azucena talked about it. Months later, after telling her mother that she was not feeling well, they visited a doctor who told them that she was eight weeks pregnant—a consequence of having been raped. Thus, Azucena and her mother filed a report before the Public Prosecutor's Office.

Azucena and her mother sought help and information about available options to deal with the pregnancy. Accompanied by GIRE and Radar 4th, they filed a request for legal abortion services for Azucena before the state Ministry of Health, in accordance with the Sonora Penal Code, the LGV, and the General Health Law Regulations in Matters of Health Care Service Provision.

In response to the request, the Sonora Ministry of Health and the state Public Prosecutor's Office through the General Directorate for Victims of Crimes attended to Azucena in a timely manner. In less than a week, she was transferred from Cananea to Hermosillo, where in late October 2014, she received abortion services at the Hospital Integral de la Mujer (Women's Comprehensive Care Hospital).

ACCESS TO ABORTION AFTER RAPE IN ACCORDANCE WITH THE LGV IN YUCATAN: A POSITIVE EXPERIENCE

Marta is 31 years old and has been diagnosed with epilepsy and schizophrenia. She lives in the municipality of Temozon, in Yucatan. She was raped by a man from her community. When she realized that there was something wrong with her body (that she was pregnant), she tried to commit suicide twice. Worried, her mother asked her what the matter was, and Marta told her about the rape. After undergoing an ultrasound examination that showed her pregnancy at 6.6 weeks, Marta and her mother decided to seek an abortion at the Agustín O'Horán General Hospital, where they were told that they would perform it only with an authorization from a judge.

Accompanied by GIRE, UNASSE, Humanitarian Services in Sexual and Reproductive Health, and Amelia Ojeda—a lawyer with Radar 4th—, Marta and her mother filed a request for a legal abortion before the state Ministry of Health, in accordance with the Yucatan Penal Code, the LGV, and the General Health Law, Regulations in Matters of Health Care Service Provision.

In response to the request, the state Ministry of Health, through the Department of Attention to Violence and the Director's Office of the Agustín O'Horán General Hospital, attended to Marta in a timely manner. In early July 2015, Marta was admitted to the General Hospital, where she received an abortion procedure. Thus, within ten days, Marta had access to a legal abortion.

The above cases have set an important precedent among state authorities. The cases show that, based on Penal Codes, the LGV, and the General Health Law Regulations in Matters of Health Care Service Provision, access to legal abortion in cases of rape can be guaranteed without imposing such requirements as filing a report and obtaining judicial authorization.

Based on the LGV, the NOM 046-SSA2-2005 establishes that:

Cases of rape are medical emergencies and require immediate care.

Paragraph
6.4.1

The NOM 046 specifies the minimum criteria to provide emergency care to victims of rape, as stipulated by the LGV. The criteria are mandatory for all institutions, agencies and organizations within the National Health System that offer health services for women who have been victims of sexual violence. Non-compliance may result in criminal, civil, or administrative penalties.¹⁰

The aforementioned medical care will be provided from a gender perspective. It will stabilize and heal the victim and prevent complications derived from their injuries.

OBLIGATIONS OF HEALTH SERVICE PROVIDERS TO RAPE VICTIMS

The NOM 046 states both general and specific obligations for health providers when treating a victim of sexual abuse.

GENERAL OBLIGATIONS

The NOM 046 obligates all institutions and organizations that form part of the National Health System (both public, social, and private institutions) to provide care to victims of sexual violence. The provisions include the following:

10. For example, the Federal Law on Metrology and Standardization, in Article 112, establishes administrative penalties: fines; temporary or definitive closure (partial or total); administrative arrest for up to 36 hours; suspension or revocation of authorization, approval, or registration; and suspension or cancellation of the certificate with the evaluation results.

| | | | | | | | |
|---|---------------------------------|---|-------------------------|--|------------------------|---|-----------------------|
| <p>All institutions that provide medical care in the public, social, and private sectors must have the necessary internal mechanisms and an appropriate manual of procedures to ensure the adequate application of a critical path for victims of sexual violence, in compliance with this Norm.</p> | <p>Paragraph 5.7</p> | | | | | | |
| <p>Health institutions must foster agreement and coordination with other public, social, and private institutions, agencies, and organizations to refer the users to receive care as needed, including psychological, legal, and social welfare services, among others. They should also refer them, when needed, to services, medical centers, and institutions that have larger resolution capacity to provide an accurate diagnosis and continuity in treatment or rehabilitation.</p> | <p>Paragraph 5.5, 5.6</p> | | | | | | |
| <p>Users who are victims of sexual violence must receive care from trained personnel that are sensitive to their needs. To that end, health institutions may take into account the contributions of civil society organizations specialized in the subject matter, provided they do not contravene this Norm or other applicable provisions.</p> | <p>Paragraph 5.8, 5.11</p> | | | | | | |
| <p>All service providers must meet the following criteria when attending to users that are victims of sexual violence: timeliness, technical and interpersonal quality, confidentiality, honesty, and respect for the user's dignity and human rights.</p> | <p>Paragraph 5.9</p> | | | | | | |
| <p>Notify the Public Prosecutor's Office through the form included in this Norm. Each case must be recorded and notified to the Ministry of Health.</p> | <p>Paragraph 5.10, 5.11</p> | | | | | | |
| <table border="0"> <tr> <td data-bbox="371 1269 824 1361"> <p>Number of reports of possible cases of sexual violence received by the Public Prosecutor's Office between January 1, 2009 and June 30, 2016:</p> </td> <td data-bbox="842 1269 1075 1330"> <p>» <u>433,983</u></p> </td> </tr> <tr> <td data-bbox="422 1402 824 1432"> <p>Number of reports of cases of underage girls:</p> </td> <td data-bbox="842 1381 1037 1443"> <p>» <u>49,270</u></p> </td> </tr> <tr> <td data-bbox="491 1473 824 1535"> <p>Number of reports of cases of women with disabilities:</p> </td> <td data-bbox="842 1473 998 1535"> <p>» <u>1,038</u></p> </td> </tr> </table> <p data-bbox="257 1596 1243 1647">Source: Elaborated by GIRE, based on data obtained through freedom of information requests to the Federal and Local health ministries. For data segregated by state, see Annex II.</p> | | <p>Number of reports of possible cases of sexual violence received by the Public Prosecutor's Office between January 1, 2009 and June 30, 2016:</p> | <p>» <u>433,983</u></p> | <p>Number of reports of cases of underage girls:</p> | <p>» <u>49,270</u></p> | <p>Number of reports of cases of women with disabilities:</p> | <p>» <u>1,038</u></p> |
| <p>Number of reports of possible cases of sexual violence received by the Public Prosecutor's Office between January 1, 2009 and June 30, 2016:</p> | <p>» <u>433,983</u></p> | | | | | | |
| <p>Number of reports of cases of underage girls:</p> | <p>» <u>49,270</u></p> | | | | | | |
| <p>Number of reports of cases of women with disabilities:</p> | <p>» <u>1,038</u></p> | | | | | | |

For GIRE, it is essential that the obligation to train and update the skills of health personnel, as stated in NOM 046, includes explicitly the use of better evidence-based surgical and medical methods to perform safe abortions and, thus, contribute to ensuring the well-being of girls and women. For example, it is important to ensure the replacement of obsolete surgical abortion methods, such as Dilation and Curettage (D&C), with Manual or Electric Vacuum Aspiration (MVA and EVA, respectively). In that regard, the World Health Organization (WHO) has developed technical guides to provide safe abortion care.¹¹

Through a freedom of information request, GIRE asked the Ministry of Health about compliance with paragraphs 6.7.2.9 and 6.7.2.10 of NOM 046 regarding the training and upgrading of skills for health personnel.

Via the National Center for Gender Equality and Reproductive Health (CNEGSR), the Ministry of Health replied that, “since the publication of the modification to the NOM 046 in the Official Gazette of the Federation, a four-day workshop had been carried out to train medical staff in the provision of care for sexual violence victims and voluntary termination of pregnancy”.

According to the reply to the information request, 90 health staff participated in the workshop. These included 36 men and 54 women from all states in the country, who will replicate the workshop in their states at least once, during 2016.

The NOM 046 states that victims of rape aged 12 or older will have access to pregnancy termination services without having to meet any requirement other than submitting a written request under oath. Nevertheless, in various Mexican states, documents—such as guidelines that regulate the provision of pregnancy termination services in cases of rape—have been found that expressly direct health personnel to require law enforcement authorization and/or a report of the crime to provide the services. In addition, other documents for Public Prosecutor’s Offices, such as protocols to investigate and address crimes against sexual freedom, establish that the Public Prosecutor’s Office will verify the facts before authorizing the abortion.

It is urgent that provisions be harmonized in accordance with the NOM 046 and the LGV regarding guidelines for medical personnel as well as protocols for law enforcement investigation, because they create confusion as to the obligations of health providers. Nonetheless, the framework that regulates the activities of medical staff is—according to the pro persona principle—the one stipulated in the LGV and the NOM 046, as it establishes fewer requirements for the victims and, hence, provides greater protection.

11. World Health Organization, *Safe Abortion: Technical and Policy Guidance for Health Systems*, 2nd edition, 2012, p. 65. Available at <http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf>

ADMINISTRATIVE STANDARDS (PROTOCOLS, GUIDELINES, AND/OR GUIDES) REGARDING ACCESS TO ABORTION IN CASES OF RAPE, BY STATE

| STATE | STANDARD | REQUIREMENTS |
|----------------------------|---|---|
| AGUASCALIENTES | No existing administrative standard was identified. | |
| BAJA CALIFORNIA | Regulations of the Organic Law of the Baja California Public Prosecutor's Office. | <ul style="list-style-type: none"> – Report of the rape; – Confirmation of pregnancy; – Elements that support the fact that the pregnancy is the result of rape; – Evidence that the pregnancy is 90 days or less. |
| BAJA CALIFORNIA SUR | No existing administrative standard was identified. | |
| CAMPECHE | No existing administrative standard was identified. | |
| CHIAPAS | Protocol for investigation of cases of rape and crimes related to the disappearance of women. | Once informed about her right to LTP, the victim is referred to a health institution to confirm pregnancy and gestational age. The gestational age and the date of the reported facts should match, and there should be enough elements to support that the pregnancy is the result of the rape. |
| CHIHUAHUA | <ul style="list-style-type: none"> – Model/due diligence protocol. – The crime of rape | <ul style="list-style-type: none"> – Does not include requirements. |
| | – Agreement 279 entered into by the Governor of the State, relating to the proceedings and measures to provide care and protection to victims of rape and non-consensual artificial insemination. | <ul style="list-style-type: none"> – Having received the report of the rape and the abortion request, the Public Prosecutor's Office re-requests the participation of experts in medicine and psychology to issue the case reports; – The woman is referred to the Office of the Deputy Public Prosecutor for Human Rights and Care of Crime Victims, where she receives information about the effects of the request and available support and alternatives; – If she decides to terminate her pregnancy, her decision will be documented; – The woman is referred to health services for confirmation of pregnancy and gestational age; – The results of the above are sent to the Public Prosecutor's Office to corroborate if the gestational age is consistent with the reported date of the rape; – The Public Prosecutor's Office should have the necessary elements to support that the pregnancy was the result of the rape. |

| STATE | STANDARD | REQUIREMENTS |
|-------------|--|--|
| COAHUILA | No existing administrative standard was identified. | |
| COLIMA | No existing administrative standard was identified. | |
| DURANGO | No existing administrative standard was identified. | |
| GUANAJUATO | No existing administrative standard was identified. | |
| GUERRERO | <ul style="list-style-type: none"> – Protocol and basic principles to investigate and address crimes against sexual freedom for Public Prosecutor's Agencies, specialized in sex crimes and domestic violence, of the state Public Prosecutor's Office. | <ul style="list-style-type: none"> – Corroboration of the facts by the Public Prosecutor's Office. |
| | <ul style="list-style-type: none"> – General organizational and operational guidelines for health services related to the legal termination of pregnancy in Guerrero. | <ul style="list-style-type: none"> – Corroboration of the facts by the Public Prosecutor's Office. |
| HIDALGO | <ul style="list-style-type: none"> – Collaboration agreement for abortion care in Hidalgo*. | <ul style="list-style-type: none"> – Request for pregnancy termination by women who report having been raped. |
| JALISCO | <ul style="list-style-type: none"> – Protocol in cases of gender-based crimes against women for reasons of rape in Jalisco. | <ul style="list-style-type: none"> – Does not include any requirements. |
| MEXICO CITY | <p>Agreement A/004/06 by the Mexico City Public Prosecutor's Office that prescribes instructions to perform the legal termination of pregnancy and provide emergency contraception in cases of rape.</p> | <ul style="list-style-type: none"> – After the rape has been reported, expert psychological and medical reports will be prepared; – The victim will be referred to a health institution for confirmation of pregnancy and gestational age; |

* This document is consistent with the NOM 046.

| | | |
|-----------------------------------|---|--|
| MEXICO CITY (continued) | Agreement that amends, adds, and eliminates several points of Circular/GDF-SSDF-01/06, which contains the general organizational and operational guidelines for health services related to the legal termination of pregnancy in Mexico City, published in the Mexico City Official Gazette on November 15, 2006. | <ul style="list-style-type: none"> – The day of the abortion, an expert in genetics will attest to the victim’s identity and collect biological material to perform the necessary biopsy or genetic tests to compile the preliminary investigation. – Authorization by the Public Prosecutor’s Office to terminate the pregnancy. – A 20 weeks of pregnancy term. |
| MICHOACAN | – Investigation protocol for crimes related to the disappearance, rape, and murder of women for gender-based reasons. | – Among the formalities carried out by the Public Prosecutor’s Office during the investigation of a rape case when the likely perpetrator has not been detained is the authorization of the termination of pregnancy. |
| MORELOS | No existing administrative standard was identified. | |
| NAYARIT | No existing administrative standard was identified. | |
| NUEVO LEON | No existing administrative standard was identified. | |
| OAXACA | – Protocol by the Public Prosecutor’s Office. | – Report of the rape. |
| | – Memo 09/2011 on rules and interpretation criteria for abortion services when a pregnancy is the result of rape. | <ul style="list-style-type: none"> – Confirmation of pregnancy; – Enough elements to allow the Public Prosecutor’s Office to provide evidence that the pregnancy is the result of rape, including: <ul style="list-style-type: none"> a) the victim’s statement; b) police report of injuries and physical constitution; c) police report of the victim’s clothes; d) expert medical, gynecological, and psychological reports; – Written or in-person request by the woman or her representatives if she is underage or physically unfit. |

| | | |
|--------------------------|---|---|
| PUEBLA | — Protocol for the free and sovereign State of Puebla to investigate crimes related to the disappearance and rape of women and femicide, and provide care for women who are victims of a crime. | — Among the formalities carried out by the Public Prosecutor's Office during the investigation of a rape case when the likely perpetrator has not been detained is the authorization of the termination of the pregnancy. |
| QUERETARO | No existing administrative standard was identified. | |
| QUINTANA ROO | No existing administrative standard was identified. | |
| SAN LUIS POTOSI | No existing administrative standard was identified. | |
| SINALOA | No existing administrative standard was identified. | |
| SONORA | No existing administrative standard was identified. | |
| STATE OF MEXICO** | — Protocol and basic principles to investigate and address crimes against sexual freedom. | — Evidence of compliance with the requirements in Article 151 of the State of Mexico's Criminal Procedure Code will be submitted to the judicial authority. |
| TABASCO | No existing administrative standard was identified. | |
| TAMAULIPAS | No existing administrative standard was identified. | |
| TLAXCALA | No existing administrative standard was identified. | |
| VERACRUZ | — Protocol for the care of victims of gender-based, domestic, and sexual violence; human trafficking, and femicide.** | — It omits the right to the legal termination of pregnancy in cases of rape. |
| | — Protocol for basic diligencies to follow when investigating offences against freedom, family and gender violence. | — Does not contain requirements. |

* The State of Mexico's Criminal Procedure Code is no longer in effect. It was superseded by the Federal Criminal Code in June 2016.

** It states two options for women who are victims of sexual violence: keep the child conceived from the rape or give it up for adoption.

| | | |
|----------------------|---|--|
| YUCATAN | No existing administrative standard was identified. | |
| ZACATECAS | No existing administrative standard was identified. | |
| FEDERAL LEVEL | Comprehensive model to prevent and address domestic and sexual violence. Operations Manual. | <ul style="list-style-type: none"> – Report filed with the Public Prosecutor’s Office; – Authorization by a criminal court judge who has ruled that a rape occurred. |

SPECIFIC OBLIGATIONS

Medical care is provided in cases of several violence with the purpose of stabilizing the victim, preventing complications derived from their injuries and repairing damages. The following actions should be guaranteed for these victims:

Offer the victim emergency contraception immediately or no later than 120 hours after the incident. The user should receive detailed information on how to apply the method beforehand, in order to make a free and informed decision.

Paragraph
6.4.2.3

Inform the user about the potential risk of sexually transmitted infections. After evaluating the risk and based on her perception of such risk, HIV/AIDS prophylaxis will be prescribed.

Paragraph
6.4.2.4

Guarantee crisis intervention and subsequent psychological care to promote the user's emotional stability.

Paragraph
6.4.2.2

In the case of a pregnancy as a result of rape, public institutions that provide health services will offer voluntary termination of pregnancy when it is legally permitted. Victims of rape aged 12 years or older will have access to pregnancy termination services without having to meet any requirement other than submitting a written request under oath stating that the pregnancy is the result of rape. For users younger than 12, the father, mother, or guardian will submit the request.

Paragraph
6.4.2.7

The health care staff that participates in the pregnancy termination is under the obligation to act in accordance with the principle of good faith included in the LGV. Therefore, the staff is not required to corroborate the user's account.

Before the abortion, the user will receive detailed information about the potential risks and consequences to ensure that she makes an informed decision.

Whenever possible, having obtained the user's consent, medical evidence of the rape will be recorded. The user should be informed about her right to file a report. She will also receive information about the Executive Commission for Victims and other available support centers, as well as public, social, and private institutions where she can seek other services.

Paragraph
6.4.2.5,
6.4.2.6,
6.6.1

From January 1, 2009 to June 30, 2016, emergency contraception was offered to 8,729 victims of rape at public health services in Mexico.

Source: Data obtained through freedom of information requests submitted by GIRE. For data disaggregated by state, see Annex III.

HEALTH SERVICE PROVIDERS' RIGHTS REGARDING LEGAL ABORTION, IN ACCORDANCE WITH NOM 046

Conscientious objection among nurses and medical staff implies the recognition of the right to freedom of conscience and refers to the possibility of refusing to carry out activities that conflict with an individual's personal and religious beliefs.¹² Nonetheless, since it is an individual right, the possibility of being an objector is limited to personnel that participate directly in an activity; it does not include administrative staff, for example. Health institutions cannot be conscientious objectors, because they are under the obligation to have nurses and medical staff that are not objectors to ensure timely and appropriate provision of abortion services. If, for justified reasons, a user cannot receive the services at the institution where she seeks such care, the institution should immediately refer her to a health facility capable of providing the service that she needs. The NOM 046 includes the possibility of conscientious objection, which is on an equal basis with women's right to terminate a pregnancy resulting from rape:

6.4.2.7

Conscientious objection of nurses and medical staff responsible for pregnancy termination must be respected.

6.4.2.8.

For the intents and purposes stated in paragraph 6.4.2.7, public health institutions must have trained physicians and nurses that are not conscientious objectors. If the service cannot be timely and appropriately provided when the request for care is submitted, the user will be immediately referred to a health facility that has personnel willing to provide the service and the infrastructure required for quality care.

12. The International Covenant on Civil and Political Rights, in Article 18.3, states: Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

EXAMPLES OF EFFECTIVE ACCESS TO ABORTION IN CASES OF RAPE: APPLICATION OF THE GENERAL LAW OF VICTIMS AND NOM 046

NANCY, 24 YEARS OLD, HIDALGO, 2016

Nancy, a supermarket cashier, was sexually assaulted by her boss while taking inventory one evening. He threatened to harm her family and fire her if she talked about it. When Nancy realized that she was pregnant, the perpetrator increased the threats and went to Nancy's house to intimidate her.

Although she presented a document of the facts to the managers, they refused to take measures against the offender.

Accompanied by GIRE, Nancy filed an abortion request before the Hidalgo Ministry of Health. In the request, she stated under oath that her pregnancy was the result of rape. The abortion procedure was authorized but despite having reported the rape with the Public Prosecutor's Office, the investigation was shelved due to an alleged lack of evidence.

MINERVA, 18 YEARS OLD, HIDALGO, 2016

One afternoon, in the street, Minerva was approached by an acquaintance who asked to have a word with her. When she refused, the offender, aided by a friend of his, pushed her into an alley and raped her. He told her that he would be watching her and threatened to hurt her mother to keep Minerva from talking about the incident. Deeply affected by the assault and the resulting pregnancy, Minerva stopped eating. When her mother insisted on knowing what was wrong, Minerva told her what had happened.

Accompanied by GIRE, Minerva filed a request for a legal abortion, under oath, with the state Ministry of Health, in accordance with NOM 046. The abortion was authorized.

At the same time, Minerva reported the sexual violation to the Public Prosecutor's Office. GIRE facilitated access to a psychologist, from whom she received a psychological evaluation that was incorporated into her file, with the aim of keeping her case open, as they are frequently closed prematurely in Hidalgo.

BOOKLET ON THE RIGHTS OF CHILD VICTIMS OF SEXUAL VIOLENCE

This tool, developed by the Sexual Violence Committee of the CEAV, helps parents and teachers identify cases of children and adolescents under their supervision who are victims of sexual violence. The booklet includes, among other things, characteristics, potential harm, and prevalence of child sexual violence in Mexico, characteristics of cyber-harassment, and what to do when a child or adolescent has experienced sexual violence. Steps to follow in these cases expressly include:

7. If the girl or adolescent is pregnant as the result of rape, she has the right to terminate the pregnancy. She should request the procedure at a public health institution. If the victim is older than 12 years of age, she should not be required to file a report or obtain authorization from her parents or guardian.

Further, the booklet reiterates,

In cases of sexual violence, access to emergency contraception, voluntary termination of pregnancy, and prevention of HIV and sexually transmitted infections must be guaranteed.

1.2 GENERAL LAW ON THE RIGHTS OF CHILDREN AND ADOLESCENTS

This law, which applies to the entire country, establishes children and adolescents as right holders. The full exercise, respect, protection, and promotion of their human rights will be guaranteed in accordance with the provisions in the Constitution and the international treaties to which Mexico is party.

Article 49 of this Law stipulates that when children and adolescents are victims of crimes, the provisions of the LGV will apply. Further, in Article 50(v), it expressly states the right of children and adolescents to the highest possible level of health and requires that federal and state authorities implement sexual and reproductive health services. In addition, the Law mandates that health services adopt the necessary measures to identify and address cases of victims of crime, human rights violations, and sexual violence.

The Law established the need to create the National System for Comprehensive Protection to implement policies, procedures, services, and actions to protect the rights of children and adolescents (SIPINNA). Under the SIPINNA, federal and state child protection authorities are tasked with the protection and restitution of children and adolescents' rights. To that end, they work in coordination with administrative authorities, including those at health services.

The child protection authorities, as defined in Article 122, hold several responsibilities. These include the legal capacity to intervene in jurisdictional proceedings in which children and adolescents participate; filing reports before the Public Prosecutor's Office of incidents that may constitute crimes against children and adolescents; and submitting requests to the Public Prosecutor's Office to implement urgent measures when a child's life, integrity, or freedom is at imminent risk. Protection authorities can directly instruct the implementation of urgent measures, as long as they justify them and notify the Public Prosecutor's Office and the jurisdictional authority. Among these measures is the immediate provision of medical care by an institution of the National Health System.

I.3 NATIONAL STRATEGY FOR THE PREVENTION OF ADOLESCENT PREGNANCY

On June 23, 2015, the Mexican President presented the National Strategy for the Prevention of Adolescent Pregnancy (ENAPEA) to decrease the number of adolescent pregnancies within a framework of respect for the human rights of the target population —girls and women aged 10 to 19— while ensuring the exercise of their sexual and reproductive rights.

To that end, the framework outlines the State’s obligations; the most significant of which include:

Guarantee pregnant girls and adolescents’ access to prenatal care—including identification of high-risk pregnancies, particularly among those under 15 years of age, that threaten their health and life—and pregnancy termination services.

Provide girls and adolescents who are victims of sexual violence with health care, including prophylaxis to prevent sexually transmitted infections, emergency contraception, and pregnancy termination services.

The ENAPEA establishes objectives and lines of action for access to abortion in cases of rape. These include the following:

| OBJECTIVE | LINES OF ACTION |
|---|--|
| <p>2. Foster an enabling environment that favors free, responsible, and informed decisions among adolescents regarding the exercise of their sexuality and the prevention of pregnancy.</p> <p>“A modification of the environment includes changes in social, legal, and cultural norms to prevent and eradicate abuse and sexual violence against children and adolescents, especially among economically disadvantaged populations.”</p> | <p>4. Promote state-level legislation to harmonize penal codes with national and international regulations, particularly the articles on child sexual violence and abuse. For example, revise the laws on consensual underage sexual activity, kidnapping, statutory rape, rape of minors, and forced marriage.</p> <p>5. Strengthen actions to prevent and address violence and sexual abuse in children and adolescents, especially in rural, indigenous, and marginalized urban populations, as well as migrant contexts.</p> <p>Raise awareness about the consequences of sexual abuse through community-level meetings, programs, and recreational activities at schools.</p> |

4. Increase demand and quality of sexual and reproductive health services for adolescents.

14. Improve, expand, and adapt friendly services for adolescents, ensuring equal access to acceptable, affordable, and effective care, according to WHO criteria.

Gradually expand coverage of friendly sexual and reproductive health services for adolescents at primary care facilities of all health institutions until 2018. Friendly services should meet the established criteria.

Develop a mechanism to continuously train health providers within special National Health System agencies to raise quality care standards of friendly sexual and reproductive health services for adolescents. Importantly, provision of the services must be autonomous and independent, without intervention of the parents or guardians.

Train health providers to inform pregnant adolescent girls about legal indications for first-trimester abortions and accompany them in the process of requesting the termination, as needed.

Update and disseminate the legal framework for the obligation of health staff to provide sexual and reproductive health services to the adolescent population.

1.4 GENERAL LAW ON WOMEN'S ACCESS TO A LIFE FREE FROM VIOLENCE

This Law establishes the basis for the coordination between the federal government, the states, and the municipalities to prevent, punish, and eradicate violence against women. It also lays down the guiding principles for the formulation and execution of the relevant federal and state public policies.

The Law stipulates measures that seek to guarantee a life free from violence for women and promote their comprehensive development and full participation in all spheres. In addition, it defines types and manifestations of violence against women, including institutional violence.

Article 18

Institutional violence comprises acts or omissions by public servants at all levels of government that discriminate against women or are intended to delay, hinder, or prevent the benefit and exercise of their human rights and of public policies designed to prevent, address, investigate, punish, and eradicate the different types of violence.

Therefore, institutional violence is denying, delaying, or hindering the access of girls and women to abortion in cases of rape. This right is clearly established in the Mexican legal framework and public policies.

1.5 HEALTH REGULATIONS

The General Health Law (LGS) regulates the human right to the protection of health, as stated in Article 4 of the Constitution. Federal and state authorities have concurrent power to regulate provision of health services.

The LGS Regulations in Matters of Medical Care Provision stipulate the basis for health service provision in Mexico. The Ministry of Health and state-level governments are responsible for their application.

This instrument stipulates specifically that health providers are under the obligation to provide care for injuries, disease, and emotional trauma to victims of a crime or a violation of their human rights:

Article
215
Bis 3

The victims that have experienced, injuries, disease, and emotional trauma as the result of a crime or a violation of their human rights are entitled to the restoration of their physical and mental health. To that end, public health facilities will provide them with medical services, including care for medical emergencies, as per the Law, the General Law of Victims, the present regulations, the orders issued by any public institutions providing medical services, and other applicable legal instruments.

As stated in the Regulations, in cases of medical emergencies, public health facilities must provide the victim with a variety of services. These include access to voluntary abortion services in the cases stipulated by law, including rape, with absolute respect for the victim's will.

Abortion services will be provided to victims of sexual violence regardless of their nationality or economic status, without requiring the filing of a report or a complaint (Article 215 bis 6). In addition, the victims that are not beneficiaries or entitled to receive care at the institution to which the health facility belongs will be guaranteed the termination even when the facility is not able to provide the specialized services that they need (Article 215 bis 4).

Health providers will assess the general health status of the victim to identify any injury or ailment resulting from the crime or violation of her human rights. Subsequently, they will thoroughly treat any medical emergency¹³ or stabilize the general condition of the victim before referring her, if needed, to another health facility.

The Regulations also include provisions that govern the way health providers treat the victims. They will consider the main injury and consequences of the victimizing event and will provide care to women, girls, adolescents, and people with disabilities and from indigenous groups using a differentiated approach (Article 215 bis 4). Further, the Regulations stipulate that the head of the health facility will notify the Public Prosecutor's Office—and, if applicable, other relevant authorities—of any cases requiring medical care for injuries or other ailments where the commission of an unlawful act could be presumed.¹⁴

Each state has a local health law. Three states (Baja California Sur, Colima, and Tlaxcala) require filing a report and obtaining authorization from the Public Prosecutor's Office to receive an abortion in cases of rape.

13. A medical emergency will depend on the nature and consequences of the crime. Even if a victim does not seek immediate care, her case should still be regarded as a medical emergency.

14. Significantly, such notification should never be used by the authorities as a mechanism for coercing the victim or as a requirement to access the health services that she needs.

ACCESS TO ABORTION IN CASES OF RAPE ACCORDING TO STATE HEALTH REGULATIONS

| STATE | ARTICLE | REQUIREMENTS |
|---------------------|----------------------------------|---|
| AGUASCALIENTES | No provisions for legal abortion | |
| BAJA CALIFORNIA | No provisions for legal abortion | |
| BAJA CALIFORNIA SUR | 62 | Filing a report (implicit) Authorization by the Public Prosecutor's Office |
| CAMPECHE | No provisions for legal abortion | |
| CHIAPAS | No provisions for legal abortion | |
| CHIHUAHUA | No provisions for legal abortion | |
| COAHUILA | No provisions for legal abortion | |
| COLIMA | 20 bis | Filing a report (implicit) Authorization by the Public Prosecutor's Office |
| DURANGO | No provisions for legal abortion | |
| GUANAJUATO | No provisions for legal abortion | |
| GUERRERO | No provisions for legal abortion | |
| HIDALGO | No provisions for legal abortion | |
| JALISCO | No provisions for legal abortion | |
| MEXICO CITY | 58 59 | |
| MICHOACAN | No provisions for legal abortion | |
| MORELOS | No provisions for legal abortion | |
| NAYARIT | No provisions for legal abortion | |
| NUEVO LEON | No provisions for legal abortion | |
| OAXACA | No provisions for legal abortion | |
| PUEBLA | No provisions for legal abortion | |
| QUERETARO | No provisions for legal abortion | |
| QUINTANA ROO | No provisions for legal abortion | |
| SAN LUIS POTOSI | No provisions for legal abortion | |
| SINALOA | No provisions for legal abortion | |
| SONORA | No provisions for legal abortion | |
| STATE OF MEXICO | No provisions for legal abortion | |
| TABASCO | No provisions for legal abortion | |
| TAMAULIPAS | No provisions for legal abortion | |
| TLAXCALA | 44 bis | Filing a report (implicit) Authorization by the Public Prosecutor's Office |
| VERACRUZ | No provisions for legal abortion | |
| YUCATAN | No provisions for legal abortion | |
| ZACATECAS | No provisions for legal abortion | |

1.6 CRIMINAL LEGISLATION

Abortion is regulated at the state level in Mexico. In general, it is considered a crime. However, there are certain cases that are exempt from criminal liability or where punishment is waived. In other words, there are indications under which abortion is not considered a crime.¹⁵

Each state-level penal code¹⁶ defines the grounds for exemption from criminal liability and for granting a waiver of punishment.¹⁷ In practice, this translates into legal discrimination because women have more or less rights to terminate their pregnancy depending on where they live. For example, a woman whose pregnancy threatens her health and lives in a state that does not regard this risk as a legal indication will have to travel to Mexico City to receive an abortion (provided she can afford it). Otherwise, she will have to carry the pregnancy to term at the expense of her health or have an illegal abortion, which entails the risk of not only facing criminal charges but also endangering her health and life. In general, state-level regulations are very restrictive. The only indication for legal abortion in all the states is when the pregnancy is the result of rape.

In contrast, elective abortion is legal only in Mexico City during the first 12 weeks of gestation.

Although it is recognized that the State has an interest in investigating events that may constitute a crime, under no circumstance should access to abortion after rape depend on whether the acts reported are consistent with the description of the crime of rape in the Penal Code. As shown in the cases reviewed in this report, the crime has been often reclassified (for example, from rape to consensual underage sexual activity) in an attempt to annul the rape victim's right to an abortion. The investigation of the crime and the exercise of the rape victim's rights should consist of separate and independent processes.

ELSA, 12 YEARS OLD, MEXICO CITY, 2014

Elsa and her mother had to file a report at the Public Prosecutor's Office because her father had raped her. She was only 12 years old.

The following day, when Elsa found out that she was 13 weeks pregnant, she decided to have an abortion. The Public Prosecutor's Office, however, classified the crime reported as corruption of a minor and not as rape. This was a major obstacle because, according to the Public Prosecutor's Office, this crime does not justify granting the authorization to terminate a pregnancy. Finally, accompanied by GIRE, Elsa was able to receive an abortion due to the threat to her health that the pregnancy constituted at her young age.

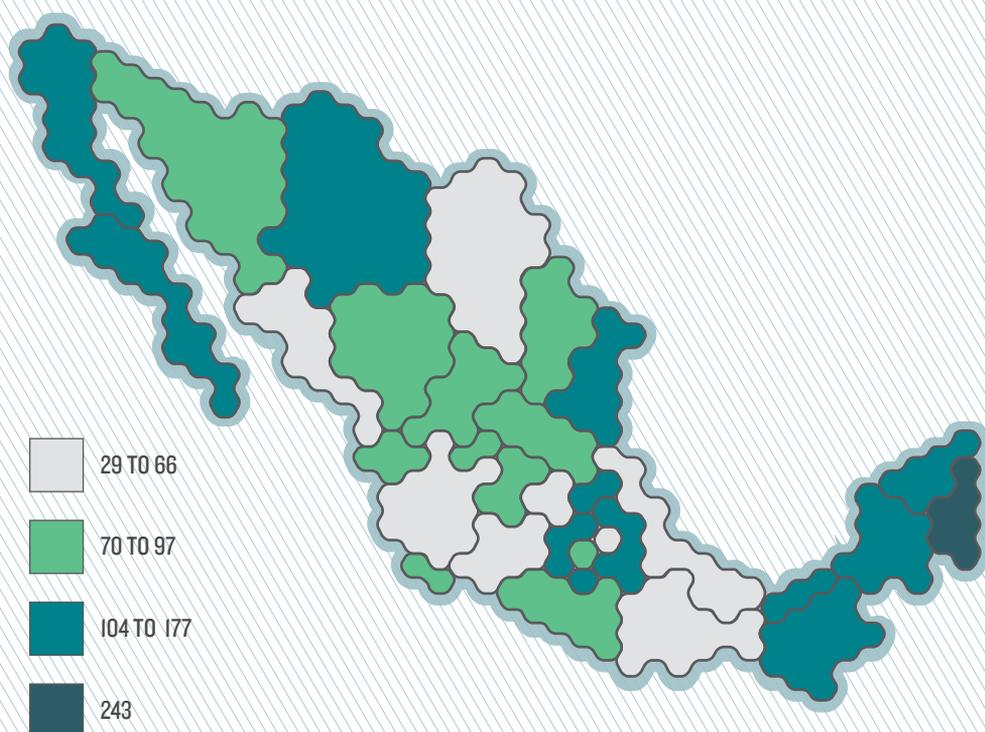
15. Exemption from criminal liability means that abortion is not deemed a crime under these indications. In contrast, grounds where punishment is waived means that the act is a crime but not punished.

16. See Annex 1 for a list of indications for legal abortion found in state penal codes.

17. In nine states, the penal codes regard rape as grounds for exemption from criminal liability in cases of abortion: Aguascalientes, Baja California Sur, Campeche, Chihuahua, Durango, Guerrero, Michoacan, Mexico City, and San Luis Potosi. The Federal Penal Code and the penal codes of the remaining 23 states regard rape as grounds where punishment is waived.

The LGV, the LGS Regulations in Matters of Health Service Provision, and the NOM 046 stipulate that victims of rape must have access to an abortion without the need of a judicial/law enforcement authorization or filing a report. Nonetheless, in practice, the lack of harmonization among state criminal laws, in which several still stipulate these requirements, often translates into a denial of girls and women's access to their rights.

RATES OF SEXUAL VIOLENCE REPORTS 2009-2016



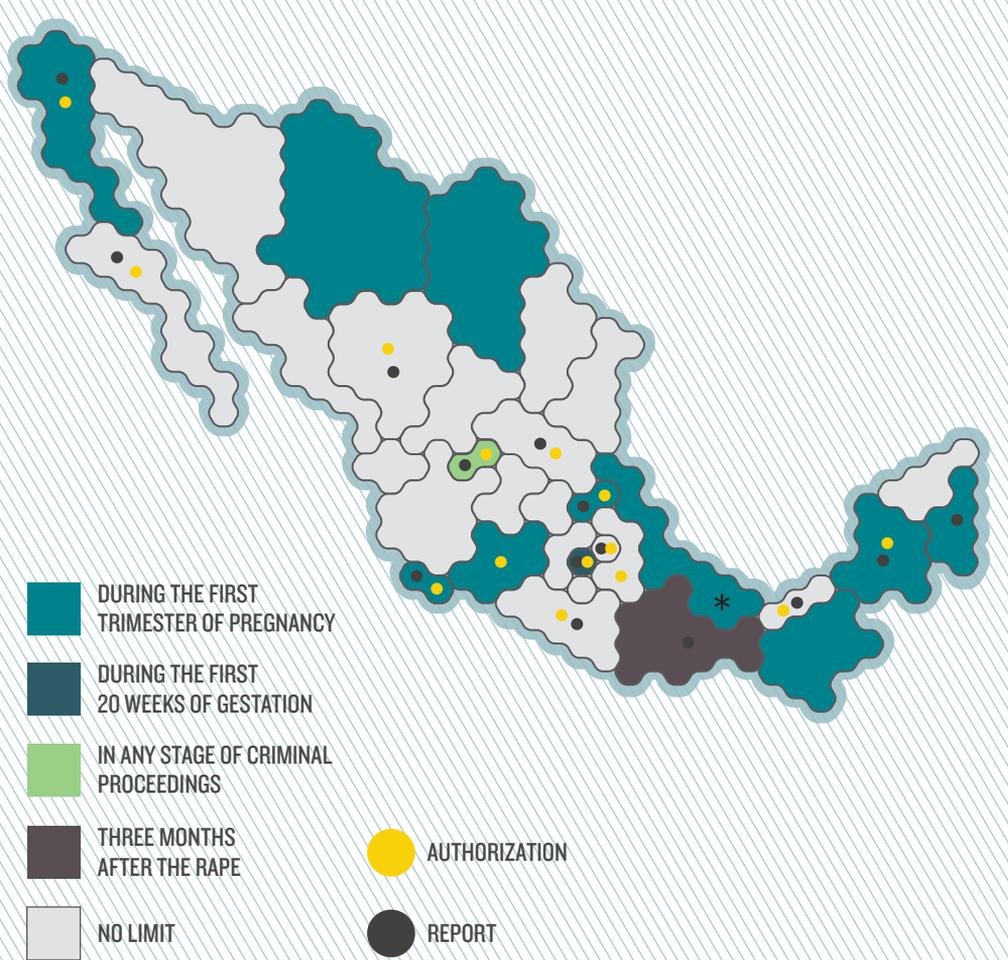
| STATE | RATE* | STATE | RATE* | STATE | RATE* |
|------------|-------|-----------------|-------|---------------------|-------|
| TLAXCALA | 29 | AGUASCALIENTES | 78 | STATE OF MEXICO | 120 |
| SINALOA | 45 | MEXICO CITY | 79 | CHIAPAS | 120 |
| COAHUILA | 52 | GUERRERO | 81 | YUCATAN | 120 |
| OAXACA | 55 | NUEVO LEON | 81 | TAMAULIPAS | 124 |
| JALISCO | 64 | SONORA | 84 | TABASCO | 138 |
| VERACRUZ | 64 | DURANGO | 84 | BAJA CALIFORNIA | 148 |
| MICHOACAN | 66 | SAN LUIS POTOSI | 91 | BAJA CALIFORNIA SUR | 159 |
| GUANAJUATO | 70 | COLIMA | 97 | MORELOS | 173 |
| NAYARIT | 74 | QUERETARO | 104 | CHIHUAHUA | 177 |
| ZACATECAS | 77 | HIDALGO | 110 | QUINTANA ROO | 243 |
| PUEBLA | 77 | CAMPECHE | 115 | | |

*RATE: NUMBER OF REPORTS PER 100,000 INHABITANTS.

Source: GIRE, based on data from: CONAPO, Proyecciones de la Población 2010-2050 and National Public Security System, Incidencia Delictiva 2009-2017.

REQUIREMENTS FOR ABORTION AFTER RAPE

(PENAL CODES, STATE HEALTH LAWS AND GUIDELINES OR ADMINISTRATIVE PROTOCOLS)



| | | |
|---|--|--|
| <p>14 STATES REQUIRE AUTHORIZATION</p> | <p>13 STATES ESTABLISH A TIME LIMIT</p> | <p>14 STATES REQUIRE PRIOR REPORT TO POLICE</p> |
|---|--|--|

* The protocol for Attention to Victims of Gender-based, Family or Sexual Crimes, Human Trafficking and Femicide ignores the right to legal abortion after rape. It only foresees two possibilities: reconciling with the pregnancy or giving the baby up for adoption.

REQUIREMENTS IN STATE PENAL CODES

| STATE | GESTATIONAL AGE LIMIT | AUTHORIZATION | REPORT | ARTICLE |
|---------------------|--|--|-------------------|---------|
| AGUASCALIENTES | Yes At any moment during the criminal proceedings | Yes A judge | Yes (Implicit) | 103 |
| BAJA CALIFORNIA | Yes Within 90 days of gestation | Yes Public Prosecutor's Office | Yes | 136 |
| BAJA CALIFORNIA SUR | No | Yes Public Prosecutor's Office | Yes | 156 |
| CAMPECHE | Yes Within 12 weeks of pregnancy | Yes Public Prosecutor's Office | Yes | 159 |
| CHIAPAS | Yes Within 90 days of gestation | No | No | 181 |
| CHIHUAHUA | Yes Within 90 days of gestation | No | No | 146 |
| COAHUILA | Yes Within 90 days of gestation | No | No | 361 |
| COLIMA | Yes Within the first 3 months of pregnancy | Yes Public Prosecutor's Office | Yes | 141 |
| DURANGO | No | Yes Public Prosecutor's Office | Yes (Implicit) | 150 |
| GUANAJUATO | No | No | No | 163 |
| GUERRERO | No | Yes Public Prosecutor's Office | Yes (Implicit) | 159 |
| HIDALGO | Yes Within 90 days of gestation | Yes Public Prosecutor's Office or judge | Yes | 158 |
| JALISCO | No | No | No | 229 |
| MEXICO CITY | No | No | No | 148 |
| MICHOACAN | Yes Within 12 weeks of pregnancy | No | No | 146 |
| MORELOS | No | No | No | 119 |
| NAYARIT | No | No | No | 371 |
| NUEVO LEON | No | No | No | 331 |
| OAXACA | Yes Within 3 months of the rape | No | No | 316 |
| PUEBLA | No | No | No | 343 |

| | | | | |
|--------------------|---------------------------------------|------------------------------------|----------------|-----|
| QUERÉTARO | No | No | No | 142 |
| QUINTANA ROO | Yes Within 90 days of gestation | No | Yes | 97 |
| SAN LUIS POTOSI | No | Yes (Corroboration of facts) | Yes (Implicit) | 150 |
| SINALOA | No | No | No | 158 |
| SONORA | No | No | No | 269 |
| STATE OF MEXICO | No | No | No | 251 |
| TABASCO | No | Yes (Corroboration of facts) | Yes (Implicit) | 136 |
| TAMAULIPAS | No | No | No | 361 |
| TLAXCALA | No | No | No | 243 |
| VERACRUZ | Yes Within 90 days of gestation | No | No | 154 |
| YUCATAN | No | No | No | 393 |
| ZACATECAS | No | No | No | 312 |
| FEDERAL PENAL CODE | No | No | No | 333 |

| | | |
|--|---|--|
| NUMBER OF AUTHORIZATIONS FOR ABORTION FOR RAPE ISSUED BY FEDERAL AND STATE PUBLIC PROSECUTOR'S OFFICES | NUMBER OF AUTHORIZATIONS FOR ABORTION FOR RAPE RECEIVED BY THE IMSS, THE ISSSTE, AND STATE MINISTRIES OF HEALTH | NUMBER OF ABORTIONS FOR RAPE PERFORMED BY THE IMSS, THE ISSSTE, AND STATE MINISTRIES OF HEALTH |
| 43 | 32 | 63 |

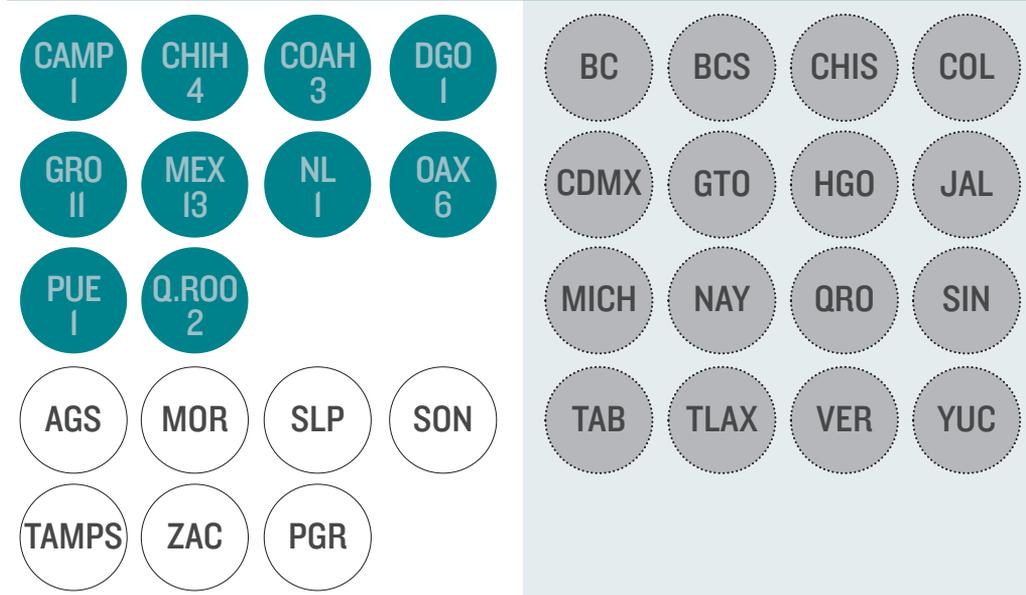
Source: Elaborated by GIRE based on data obtained through requests for public information between January 1, 2009 and June 30, 2016.

ABORTION AUTHORIZATIONS AFTER RAPE

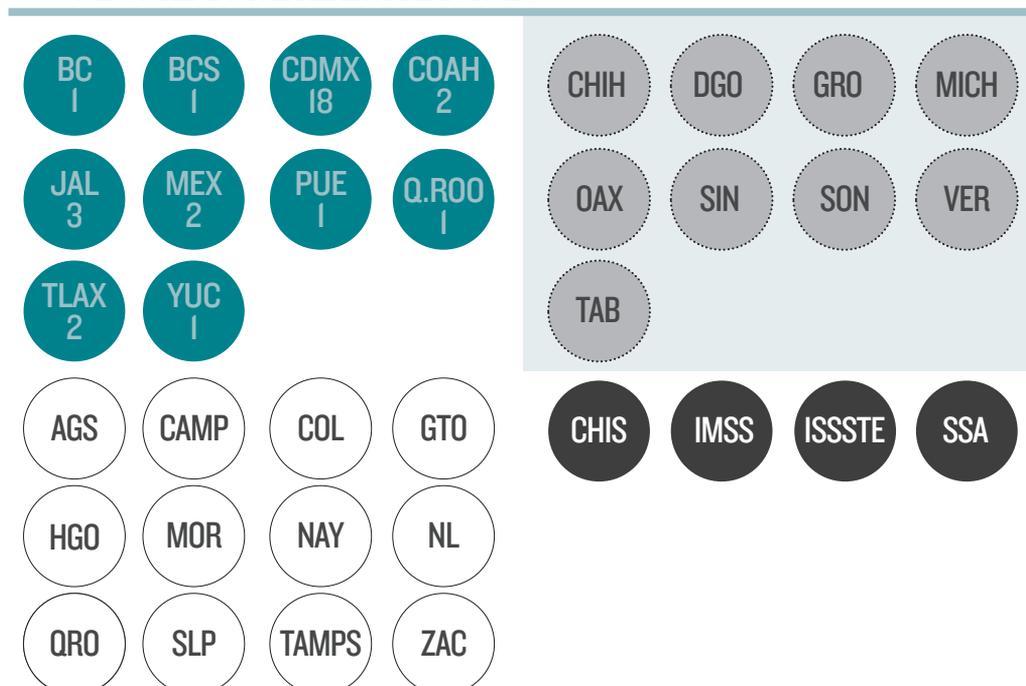
JANUARY 1, 2009 TO JUNE 30, 2016

● WITH CASES
 NO CASES
 NO ANSWER / INFORMATION INEXISTENT
 INSTITUTION DOES NOT PERFORM ABORTIONS FOR RAPE / NON-COMPETENCE

43 ABORTIONS AUTHORIZED BY THE PUBLIC PROSECUTOR'S OFFICES



32 ABORTION AUTHORIZATIONS ISSUED BY THE PUBLIC PROSECUTOR'S OFFICES REPORTED BY THE HEALTH MINISTRIES



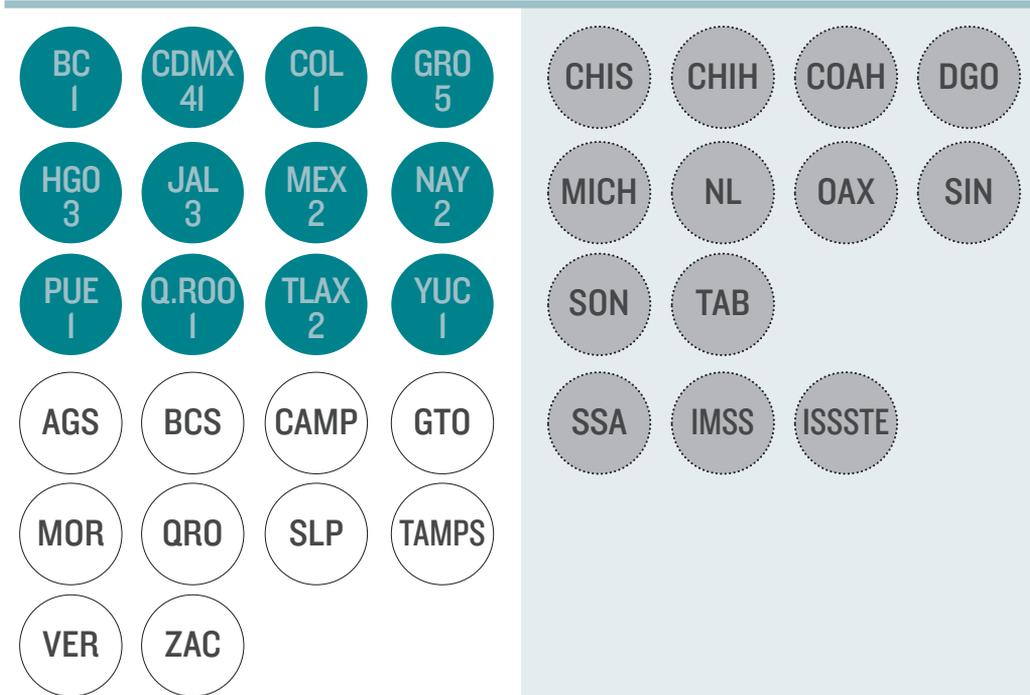
Source: GIRE developed the graphic based on data obtained through requests for public information.

ABORTION AUTHORIZATIONS AFTER RAPE

JANUARY 1, 2009 TO JUNE 30, 2016

WITH CASES
 NO CASES
 NO ANSWER / INFORMATION INEXISTENT

63 ABORTION AUTHORIZATIONS CARRIED OUT BY HEALTH MINISTRIES



Source: GIRE developed the graphic based on data obtained through requests for public information.

WHAT TO DO AFTER RAPE

1 Go to any public health facility. Remember that victims of crimes, such as rape, have the right to receive immediate emergency attention without conditions or requirements.

2 Public health providers' obligation to treat you immediately derives from the LGV, its Regulation in Matters of Health and the NOM 046.

3 If you are over 12 years old, you can request abortion services under oath, stating that the pregnancy is the result of a rape. Health personnel cannot request that you meet any additional requirements, such as filing a police report or obtaining authorization from the Public Prosecutor's Office or a judge.

4 ACCESS TO ABORTION AFTER RAPE IS LEGAL IN THE ENTIRE COUNTRY

Consult your state's penal code to see if there is a gestational time limit to access an abortion.

WHAT SHOULD HEALTH PROVIDERS DO?

- Evaluate the risks of sexually transmitted infections and, if appropriate, prescribe HIV/AIDS prophylaxis.
- Offer emergency contraception, immediately and up to a maximum of 120 hours after the assault occurred.
- Provide an abortion, if requested, in case of pregnancy after rape.

Crisis intervention and psychological care should be guaranteed to promote emotional stability.

Inform you of your right to report the crime, as well as about public, private and social institutions where you can request other services.

Health personnel are obliged to provide you with these services, in accordance LGV Regulation in Matters of Health, as well as the NOM 046.

YOUR RIGHT TO REPORT RAPE IS INDEPENDENT OF YOUR RIGHT TO ACCESS HEALTH SERVICES

1.7 ACCESS TO JUSTICE

AMPARO¹⁸

In 2015, Nadia, a 16-year-old adolescent from Jalisco, was raped and became pregnant. The crime was reported to the Public Prosecutor's Office. She visited a health center to request an abortion after rape in accordance with the LGV and the state regulations. The Ministry of Health, however, refused the request arguing that the Operations Manual "Comprehensive Model to Prevent and Address Domestic and Sexual Violence" required that the victim obtain authorization for an abortion from a criminal court judge.

After receiving this response, accompanied by GIRE and Ángela García, a lawyer with Radar 4TH, Nadia's parents filed an indirect amparo on her behalf. The document addressed the following:

- The official letter where the Jalisco Ministry of Health denied Nadia the legal abortion;
- Paragraph 6.4.2.7 of nom 046, in effect at the time, established the requirement of obtaining "authorization from the relevant authority" to receive an abortion service, a demand that exceeds the requirements stated in the criminal legislation and lacks objective and reasonable justification. Consequently, the requirement was deemed unconstitutional and in violation of women's human rights;
- The demand for the authorization for an abortion from a criminal court judge, as stated in the Operations Manual "Comprehensive Model to Prevent and Address Domestic and Sexual Violence" was deemed unconstitutional as it included additional requirements to the NOM 046.
- "...if the reason to perform the abortion is the crime of rape, authorities with relevant powers—the Office of the Public Prosecutor or the Attorney General—will participate in the process to determine the existence of the unlawful act;"¹⁹
- "...only a criminal court judge, having determined the existence of a crime, according to the legislation applicable in each state, will authorize a medical abortion."²⁰

The judge presiding over the amparo proceedings decided that the requirement in paragraph 6.4.2.7 OF NOM 046 was a reasonable and proportional measure. She also recognized, on one hand, that a victim of rape has the right to request an abortion; while on the other hand, she argued that the embryo has the right to life, allegedly recognized in international human rights treaties, thus disregarding the authorized interpretation of such right by the Inter-American Court of Human Rights, which does not recognize it.²¹

With regard to the reasonability and proportionality of the measure, the judge argued that, although the state criminal legislation does not stipulate that a criminal court judge has to grant the authorization to perform an abortion procedure and NOM 046 requires the authorization of a "competent

18. A form of legal stay created to protect human rights. It has no specific translation in English.

19. Operations Manual available in Spanish at <<http://www.gobernacion.gob.mx/work/models/SEGOB/Resource/689/1/imagenes/MODELOE.PDF>>, p. 51

20. *Ibid.*, p. 52

21. Inter-American Court of Human Rights, The case of Artavia Murillo et al (In Vitro Fertilization) v. Costa Rica. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 28, 2012. Series C. No. 257, paragraph 147. Available at <http://www.corteidh.or.cr/docs/caso/s/articulos/seriec_257_ing.pdf>

authority,” the NOM does not state that it has to be a criminal court judge. The court decided that the authorization was to be granted by a health authority and that the victim’s report that the pregnancy was the result of rape was not enough to authorize a legal abortion:

A mere assertion by a woman that she was a victim of rape is not enough to perform [the abortion]. It is necessary to assess the wording of her request and the specific conditions surrounding the requester to enable the health authority to determine that the pregnancy was indeed the result of rape.

Elaborating on her decision, the judge explained that otherwise any person would “indiscriminately” report having been a victim of rape to terminate a pregnancy without meeting any other requirement or submitting proof. This argument is built on the assumption that women who request abortion services lie. It also ignores the high prevalence of sexual violence against girls and women in Mexico, according to official figures, and its devastating physical and emotional effects

Here, the court reiterated that the health authority is suitable to determine whether the woman requesting an abortion after rape is a candidate to access the service. Nevertheless, regarding the suitability of the health authority, the court claims that it has the medical knowledge and resources to assess the victim’s health status and hence can decide whether or not to perform the procedure. The judge missed the fundamental distinction between the need to assess the victim’s health status to ensure that the abortion responds her specific health needs and the performance of an “evaluation” based on prejudice and the assumption that the victim may be lying to access the service. Therefore, the court left the decision of whether the woman was a victim of rape in the hands of the health providers.

On this note, it is relevant to mention what the Inter-American Court of Human Rights stated regarding the case of Ortega *et al.* v. Mexico:

...the Court finds it evident that rape is a special type of violence, which is generally characterized as taking place in the absence of persons other than the victim and the aggressor or aggressors. In view of the nature of this type of violence, one cannot await graphic or documentary evidence, thus the victim’s statement becomes the fundamental proof of that which occurred.²²

Thus, although the judge granted the amparo by ruling that the Manual was unconstitutional, regrettably, the ruling as a whole lacked a gender perspective. Moreover, although the court said that the decision had been based on international human rights treaties, it ignored the authorized interpretation of the rights recognized in those instruments.

Fortunately, in 2016, the NOM 046 was modified so that now, no authorization is necessary, with a sworn statement of the victim being sufficient to access a legal abortion after rape.

Given that the sentence only required the Ministry of Health to issue a new ruling without resolving the problem or the urgency of accessing the abortion, Nadia and her parents, accompanied by GIRE, filed an appeal. Because of the delay, Nadia had to look for other options outside of Jalisco to access a legal abortion.

At the close of this report, Nadia is still waiting for the Court’s resolution of the appeal, hoping for the recognition of the Jalisco Ministry of Health’s violation of her human rights by denying her access to abortion after rape.

22. Inter-American Court of Human Rights, The case of Fernández Ortega et al v. Mexico. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 30, 2010, paragraph 100. Available at <http://www.corteidh.or.cr/docs/casos/articulos/seriec_215_ing.pdf>

CASES OF ABORTION DENIAL AFTER RAPE LITIGATED BY GIRE

| FILE DETAILS | CASE | OBSTACLES TO ACCESS JUSTICE | STATUS |
|--|---|--|--|
| DURANGO Indirect <i>amparo</i> 2016 | The local Ministry of Health refused to provide abortion services to a rape victim because she was not enrolled in the National Registry of Victims. | The trial was dismissed because the reply of the local Ministry of Health was not deemed a refusal. Further, the decision invoked NOM 046 provisions that were no longer in effect. | An appeal is being compiled. |
| DURANGO Indirect <i>amparo</i> 2016 | The state health ministry demanded requirements that are not included in the law, when she requested a legal abortion. | The judge considered that her rights had not been violated, and denied the <i>amparo</i> . | An appeal was filed and a request was made to the Mexican Supreme Court for its review. This process is still pending. |
| HIDALGO Indirect <i>amparo</i> 2014 | The Public Prosecutor's Office refused to provide abortion services to a girl whose pregnancy resulted from rape, arguing that she did not meet the legal requirements. | The judge dismissed the trial because the <i>amparo</i> was initiated when the pregnancy had already been terminated. He decided that there was no substance for trial and disregarded the consequences of the health authority's acts. An appeal was filed. The girl's family, however, decided not to move forward and GIRE, as the legal representative, abandoned the appeal. | Closed. |
| HIDALGO Indirect <i>amparo</i> 2015 | The Public Prosecutor's Office refused to provide abortion services to a girl who had been raped, arguing that she did not meet the legal requirements in the local Penal Code. An <i>amparo</i> was filed. | The judge denied the <i>amparo</i> because he considered that the product of conception has the right to life, which would be undermined with the <i>amparo</i> . He used a discriminatory interpretation of the right to life that contravened the one in human rights treaties and judgments by such courts as the I/A Court H. R. | The appeal is being processed. |

| | | | |
|--|---|---|--|
| JALISCO Indirect <i>amparo</i> 2016 | A public hospital denied an abortion to a girl who had been raped. | Having being notified of the lawsuit, the hospital agreed to provide the service. The judge decided to dismiss the trial because in his opinion there was no substance for trial and disregarded the consequences of the health authority's actions. | Closed. |
| MORELOS Indirect <i>amparo</i> 2015 | A hospital denied abortion services to a girl who had been raped because its Bioethics Committee determined that she could carry the pregnancy to term. | The judge awarded an <i>amparo</i> for effects whereby he ordered the Bioethics Committee to issue a new opinion, as it deemed appropriate, but this time with the underlying foundation and motivation. Hence, the <i>amparo</i> would address issues other than the subject matter because the judge did not regard it as urgent. | The appeal is being processed. |
| OAXACA Indirect <i>amparo</i> 2016 | Local health services denied the legal abortion after rape because they were on strike. | A federal judge closed the case when she found out that the victim had already terminated her pregnancy. She considered there was no longer "material" for review. | An appeal was filed which will be reviewed by the Mexican Supreme Court. |
| PUEBLA Indirect <i>amparo</i> 2014 | The local Ministry of Health refused to provide abortion services to a girl who had been raped because, in accordance with a provision in NOM 046, then in effect, she did not have the judge's authorization despite the fact that the local Penal Code did not state that requirement. | The judge dismissed the trial because the girl terminated her pregnancy during the proceedings. He decided that there was no substance for trial and disregarded the consequences of the health authority's actions. | Closed. |
| STATE OF MEXICO Indirect <i>amparo</i> 2014 | The Public Prosecutor's Office refused to provide abortion services to a girl who had been raped because she did not meet the requirement of obtaining authorization within 12 weeks of pregnancy, as stipulated in the Criminal Procedures Code. An <i>amparo</i> was filed immediately. | The judge dismissed the <i>amparo</i> arguing that before initiating it, they should have appeared before a control judge. He did not consider that they were challenging the constitutionality of the law. The Collegial Court confirmed the dismissal. | Closed. |

GIRE has accompanied numerous cases of abortion after rape. Between November 2013 and November 2016, 15 *amparos* were initiated due to denial of abortion services. Of the *amparos* initiated by GIRE, no legal ruling has yet addressed the denial of services in a comprehensive manner. Further, most of them, due to procedural issues, have not even discussed the root cause of the existence of obstacles to receive an abortion after rape, which constitutes a violation of women's human rights.

Consequently, we must question the utility of the *amparo* to address these violations of women's human rights when they require access to a health service described as a medical emergency by the LGV: abortion in cases of rape.

The Mexican Supreme Court has not reviewed a single case that refers to standards that district judges or collegial courts can apply to resolve such trials, which means that every judge makes decisions at their own discretion, without any legal certainty for women.

Hence, rulings that are dismissed, *amparos that are rejected for lack of substance*, and denial of constitutional protection prevail. With the exception of one decision that thoroughly studies the problem and two *amparo* resolutions, the rest of the cases accompanied by GIRE did not even move past the stage of assessment of legality.

With regard to *amparos*, an analysis of procedural paths has identified two possible approaches to access constitutional justice and request a study of the obstacles to abortion after rape. The approaches relate to the sources of the obstacles: the norm that regulates access of rape victims to abortion and the subjective discretion of the authority that has to provide the service.

In the cases litigated by GIRE, there has been a two-to-nine month delay between the filing of the *amparo* and the ruling. For these cases, possible rulings could include the following:

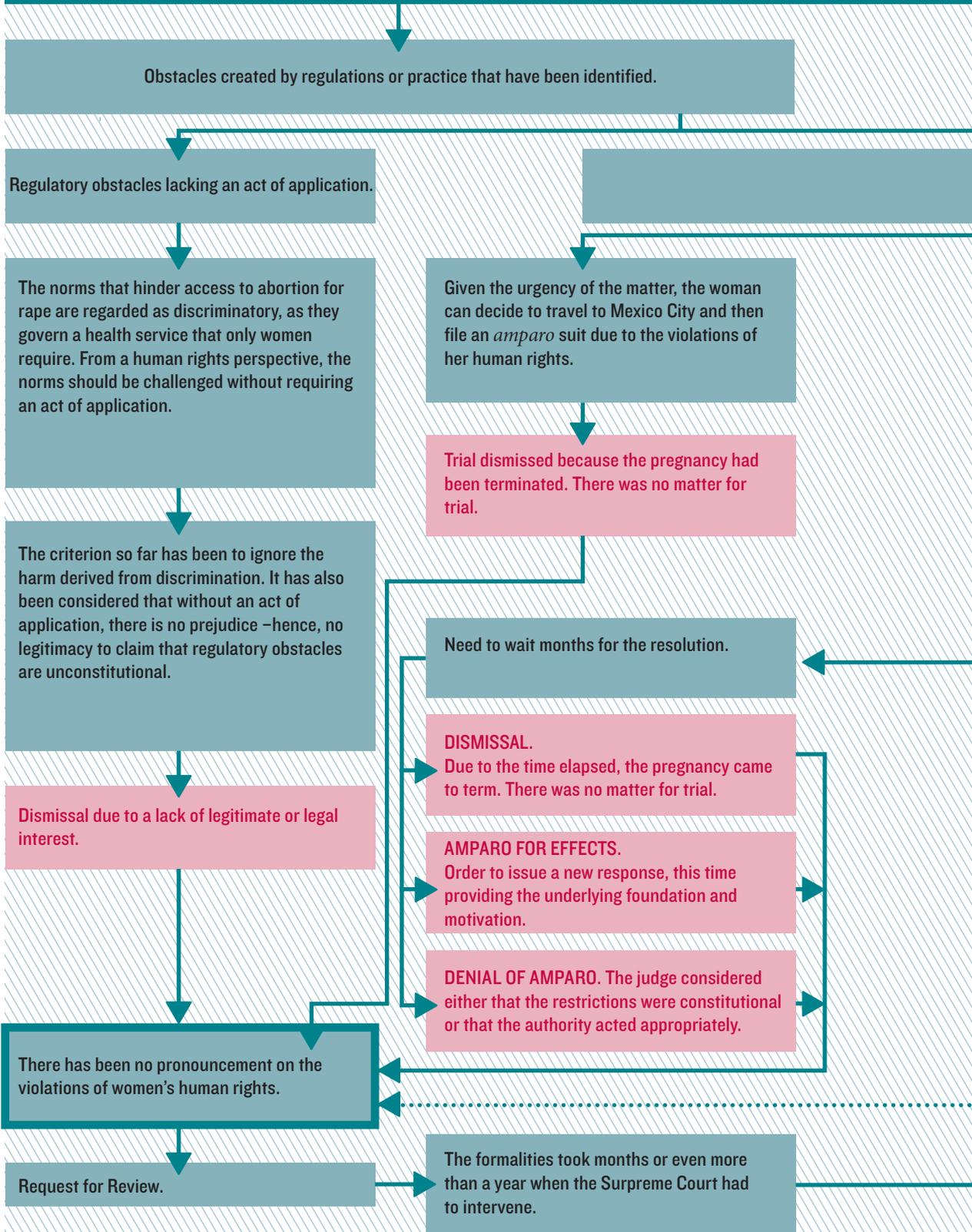
- **Dismissal.** The judge decides that because of the time elapsed and the term of the pregnancy at the time the woman or girl filed the *amparo*, the pregnancy would have come to term and thus the *amparo* would have been of no benefit.
- **Denial of *amparo*.** The judge deems that the restrictions to access abortion were constitutional in accordance with the right to life of the fetus.
- **Granting of an *amparo* for effects.** The judge considers that the authority did not take into account some elements when it responded to the abortion request and thus orders the issuance of a new response. This does not necessarily imply that the authority would provide the pregnancy termination because even after considering the elements that the judge points out, it could still refuse to provide the service.

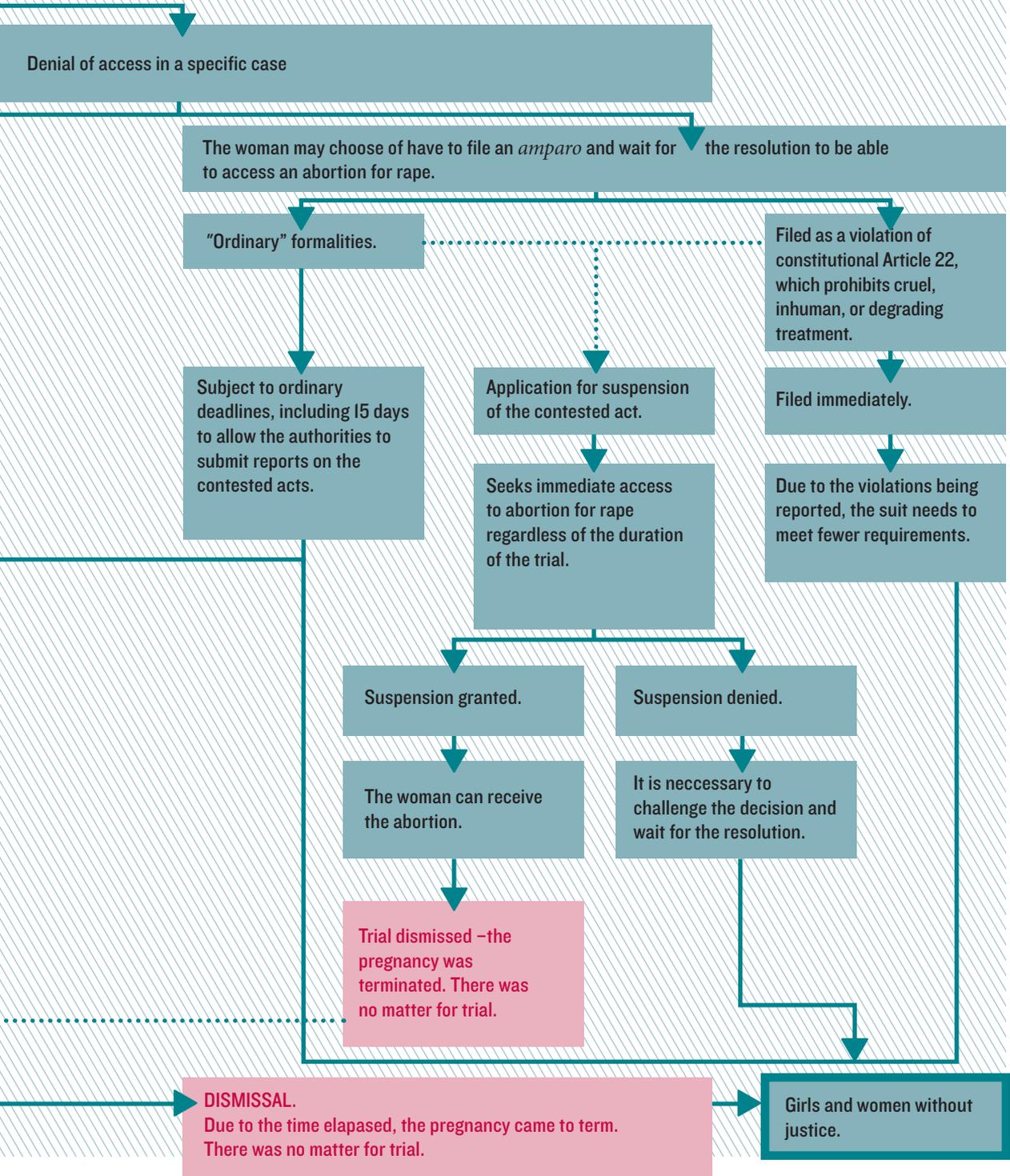
Nonetheless, there is still an unresolved issue. What happens if, during the trial, the woman decides to terminate the pregnancy because of excessive delays in the proceedings or a medical emergency that could harm her health or threaten her life?

The rulings and resolutions thus far have been inconsistent and none has fully addressed the real problem. In other words, to this day, no agency of the federal judicial branch, including the Supreme Court, has made a pronouncement on the obstacles to access legal abortion.

The established grounds to dismiss a case have been developed without considering their differential impact on abortion cases. It is time for legislators to take into account these effects and amend the *Amparo* Law or for constitutional judges, including Supreme Court Justices, to make a pronouncement on the need for a constitutional interpretation with a gender perspective. Until that happens, constitutional justice will continue to owe a debt to women and girls.

ABORTION AFTER RAPE





CITLALI, 13 YEARS OLD, SONORA, 2016

Requirements for abortion services in cases of rape, as per the Sonora Criminal Code:

Non-existent

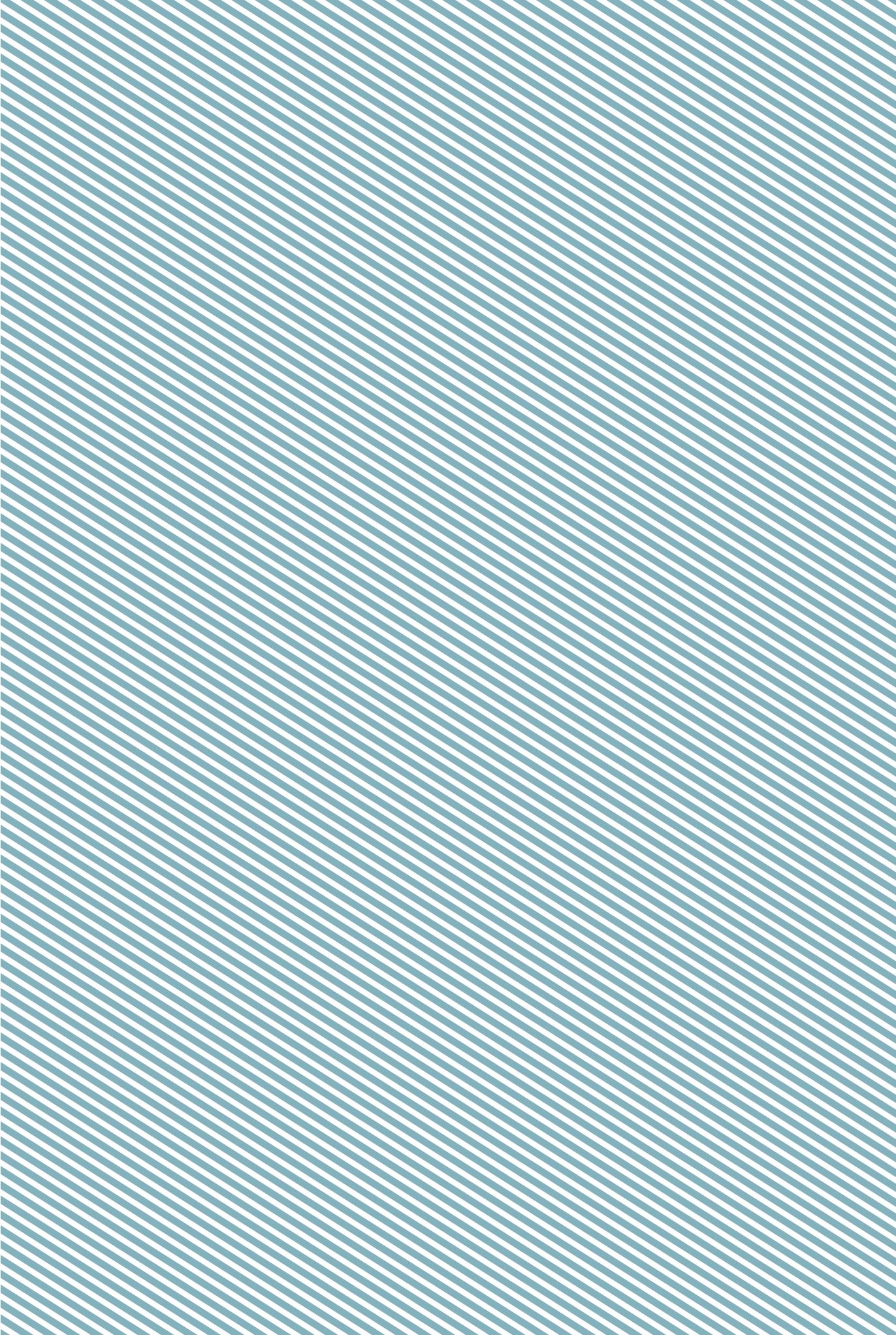
Citlali, a Huichol girl from Sonora, was raped in her own house by her father's co-worker. On the same day, Citlali and her father filed a report before the Public Prosecutor's Office. The girl, however, was denied the rights to which any rape victim is entitled, such as receiving information about her rights and having access to emergency contraception. Since the authorities did not provide her with emergency contraception pills, Citlali became pregnant.

Her case was filed as aggravated rape but days later it was reclassified as consensual underage sexual activity. Thus, the authorities used this reclassification as the reason for denying Citlali access to the rights, including abortion, which the law establishes for all victims of a sexual assault that results in pregnancy. Although the Public Prosecutor's Office appealed the reclassification, weeks went by and Citlali's pregnancy advanced. But an important fact is that, despite the reclassification of the crime, being a victim of rape, Citlali had the right to access abortion services because the investigation of crimes by the State is separate from the process to which any victim of a crime or a human rights violation is entitled, as stated in the LGV.

The local health services determined that Citlali's was a high-risk pregnancy due to her young age. Nonetheless, the Sonora Hospital for Comprehensive Women's Care rejected her request for pregnancy termination on three occasions. In view of this, an *amparo* was filed and its resolution, at the closing of this report, is pending.

With the support of various organizations, including GIRE and ddeser, Citlali travelled to Mexico City to access the services that she had been denied and to which she was entitled.

Independently of the *amparo*, and primarily through pressure in the media, dialogue was established with the Sonora government to offer a set of reparations. To date, this process is still pending.



2 /

**LEGAL FOUNDATION FOR THE
PROVISION OF ABORTION AFTER
RAPE, ACCORDING TO THE
HIGHEST HUMAN RIGHTS
STANDARDS**

Under the framework of human rights treaties ratified by Mexico, the jurisprudence derived from them and other international criteria, denial and obstruction of abortion services for women and girls who have survived rape is a clear failure to fulfill the obligations acquired by the Mexican State regarding girls' and women's rights. There are several strong arguments in this regard that can be identified in international human rights law.

2.1 THE RIGHT TO EQUALITY AND NON-DISCRIMINATION

Specifically, the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) is the international instrument that recognizes the human rights of women, who have historically experienced inequality and discrimination. The CEDAW and the case law generated by its Committee, the body tasked with monitoring the Convention's compliance, have become the reference to understand the nature of the obligations and responsibilities of the States regarding the eradication of any sex and gender-based discrimination against women.

| | |
|---------------------|--|
| TREATY | The right to equality and non-discrimination is a cross-cutting principle of international human rights law. |
| CONSTITUTION | Articles 1° and 4°. |

CEDAW defines discrimination against women as

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.²³

The above definition is relevant because it considers the fact that discrimination against women can occur when a legal framework does not recognize their rights or when conditions are not conducive to their enjoyment and exercise.

According to CEDAW, a State fails to comply with its obligation of non-discrimination when its legal framework and public policies do not consider medical services that only women require. These include some reproductive health services.²⁴

One of the most relevant aspects of CEDAW is how it highlights, in Article 5, the impact that customs, stereotypes, religion, and traditions have on women's access and exercise of their rights. In addition, it establishes that States are under the obligation to take the necessary measures to eradicate those that translate into obstacles for the exercise and enjoyment of women's rights.

This obligation becomes especially relevant in the field of reproductive rights. Specifically, the underlying reason for lack of access to safe abortion services for women, even when the law prescribes it in cases of rape, includes a number of prejudices and ideas about motherhood as a mandatory and inevitable function of women. This allows health providers to favor their beliefs and personal morality over a woman's right that is recognized by the law and, in doing so, they clearly violate Article 5 of CEDAW.

The United Nations Working Group on the Issue of Discrimination Against Women in Law and in Practice has recently developed more arguments regarding women's right to non-discrimination in matters of health and safety.

Following the interpretation by the CEDAW Committee, the Working Group believes that to achieve gender equality in the field of health, it is essential to provide differentiated treatment to men and women. The reason is that, throughout their life, women have specific health needs and are vulnerable to distinctly different factors: "Women have specific biological functions, are exposed to health problems that affect only women, are victims of pervasive gender-based violence..."²⁵ The Group also highlights the humiliating treatment that women seeking health services receive, "sometimes expressly in the name of morality or religion, as a way of punishing what is considered 'immoral' behavior."²⁶

Furthermore, the Working Group recognizes, as has the CEDAW Committee, that States have to address the social, religious, and cultural factors that contribute to the alleged inferiority of women.²⁷ The Group acknowledges that under no circumstance the right to freedom of religion or belief will be an excuse to justify gender-based discrimination or hinder women's access to the highest possible level of health.²⁸

In addition, the Working Group discusses the relationship between the right to equality and to non-discrimination of women and their autonomous access to sexual and reproductive health services without coercion or violence.

Autonomy means that a woman seeking services in relation to her health, fertility or sexuality is entitled to be treated as an individual in her own right, the sole beneficiary of the service provided by the health-care practitioner and fully competent to make decisions concerning her own health. This is a matter of, among other things, a woman's right to equality before the law.²⁹

23. United Nations, Convention on the Elimination of All Forms of Discrimination against Women, Article 1. Available at <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>

24. United Nations, CEDAW Committee, General Recommendation No. 24. Women and health, 20th Session (1999), paragraph 11. Available at <<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>>

25. United Nations, Human Rights Council, Report of the Working Group on the Issue of Discrimination Against Women in Law and in Practice, paragraph 16. Available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/44.

26. *Ibid*, paragraph 17.

27. *Ibid*, paragraph 27.

28. *Ibid*, paragraph 94.

29. *Ibid*, paragraph 86.

L.C. V. PERU

A 13-year-old Peruvian girl, L.C. became pregnant after repeated episodes of sexual abuse. Depressed, she tried to take her own life by jumping off a building. Her suicide attempt seriously injured her spine and without immediate care, she was going to be permanently paralyzed. The attending physicians refused to perform the surgery that she needed because she was pregnant. In Peru, therapeutic abortion is legal but despite the requests for an abortion by L.C. and her mother, the authorities ignored the medical opinions that certified that her life and health were at risk if she carried the pregnancy to term. Although L.C. miscarried at a later date, it was too late for her. She was paraplegic.

In 2009, her case was brought before the CEDAW Committee, who concluded that the Peruvian State had violated her rights, specifically those protected by CEDAW Article 12 (access to medical care on a non-discriminatory basis) and Article 5 (regarding gender stereotypes that grant greater protection to the fetus than to the woman's life). The CEDAW Committee recommended that the Peruvian State decriminalize abortion when the pregnancy results from rape, ensure women's access to therapeutic abortion in the cases stipulated in the law, and guarantee that health facilities act according to the Committee's Recommendation No. 24 regarding women's health.

In 2012, the CEDAW Committee issued a number of recommendations for Mexico. These include the following:

- a) Harmonize federal and state legislation related to abortion to eliminate the obstacles faced by women seeking legal abortion and also to extend access to legal abortion, in light of the Constitutional Human Rights Reform and the Committee's General Recommendation No. 24 (1999);
- b) Inform medical care providers and social workers that the local constitutional amendments have not repealed the grounds for legal abortion and also inform them of their responsibilities;
- c) Ensure that in all states, women whose case falls under any of the legal grounds for abortion have access to safe health care services, and ensure the proper implementation of the Mexican Official Standard NOM-046-SSA2-2005, particularly access of women victims of rape to emergency contraception, abortion and treatment of sexually transmitted diseases and HIV/AIDS.³⁰

30. CEDAW Committee, Concluding observations of the Committee on the Elimination of Discrimination against Women-Mexico, 52nd Session (2012), paragraph 32, [CEDAW/C/MEX/CO/7-8]. Available at <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMEX%2fCO%2f7-8&Lang=en>

31. I/A Court H. R., González et al ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009, Series C. No. 205, paragraph 450. Available at <http://www.corteidh.or.cr/docs/casos/articulos/seriec_205_ing.pdf>

32. *Ibid*, paragraph 258.

33. GIRE, *Girls and Women without Justice*, Op. Cit., p. 69.

2.2 WOMEN’S RIGHT TO LIVE FREE FROM VIOLENCE

| | |
|--------------|-------------------------------------|
| TREATY | Convention of Belém do Pará, CEDAW. |
| CONSTITUTION | Articles 1° and 4°. |

The high prevalence of violence against women, specifically sexual violence, cannot be ignored when analyzing access to abortion in cases of rape. The persistence of the problem and the failure of the Mexican State to take the necessary measures to eradicate it have led to non-compliance with its human rights obligations as a State Party to a number of international and regional human rights treaties.

The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) defines violence against women in Article 1. It establishes that such violence shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.

In the case of *Cotton Field v. Mexico*, the I/A Court H. R. issued one of the six judgments where Mexico was declared responsible for human rights violations. Specifically, the Court addressed violations of women’s human rights resulting from Mexico’s failure to comply with its obligation to prevent, punish, and investigate cases of violence against women. Moreover, the Court observed that the State should adopt the necessary measures to act with due diligence in such cases.³¹

The foregoing reveals that States should adopt comprehensive measures to comply with due diligence in cases of violence against women. In particular, they should have an appropriate legal framework for protection that is enforced effectively, and prevention policies and practices that allow effective measures to be taken in response to the respective complaints. The prevention strategy should also be comprehensive; in other words, it should prevent the risk factors and, at the same time, strengthen the institutions that can provide an effective response in cases of violence against women. Furthermore, the State should adopt preventive measures in specific cases in which it is evident that certain women and girls may be victims of violence. This should take into account that, in cases of violence against women, the States also have the general obligation established in the American Convention, an obligation reinforced since the Convention of Belém do Pará came into force.³²

Comprehensive care—including access to legal abortion in cases of rape—for victims of sexual violence in Mexico is an essential component to ensure the right to a life free from violence.³³

Under the Universal System, the CEDAW Committee has stated that the protection of women's rights to non-discrimination also includes the protection of women against all forms of violence. In other words,

The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.³⁴

In addition to defining gender-based violence, the Committee establishes a series of specific obligations. These consist of appropriate and effective measures to eradicate it from the public and the private spheres. Regarding sexual violence and to ensure the effective application of the Convention, the Committee urges States to establish and ensure that their legal frameworks provide adequate protection to the victims, that protection and support services are available to them, and that judicial and other law enforcement officers receive training.

In like manner, the CEDAW Committee, in General Recommendation No. 19, "Violence against women", has established obligations for states parties. They should provide appropriate protection and support to victims of rape. Judicial and law enforcement officers and other public officials should receive training in the application of CEDAW. The States should ensure that measures are taken to prevent coercion concerning reproduction so that women are not forced to seek unsafe abortions due to a lack of abortion services at health institutions. Lastly, it recommends that the States ensure that services for victims of violence are accessible in rural areas.³⁵

34. United Nations, CEDAW Committee, General Recommendation No. 19. Violence against Women, 11th Session (1992), paragraph 19. Available at <<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>>

35. United Nations, CEDAW Committee, General Recommendation No. 19, *Op. Cit.*

2.3 THE RIGHT TO LIFE

| | |
|--------------|--|
| TREATY | International Covenant on Civil and Political Rights, American Convention on Human Rights, CEDAW, Convention on the Rights of the Child (CRC). |
| CONSTITUTION | Articles I and 29. |

The I/A Court H.R. has established that persons that are born are the holders of the right to life.³⁶ It has also stated that inherent in the right to life are both negative and positive obligations on the State. Thus, to guarantee the right to life, not only does the State need to make sure that no one is arbitrarily deprived of their life but also that the conditions necessary for the protection and preservation of life exist.³⁷ Moreover, the Mexican Supreme Court has ruled that a positive obligation on the State regarding the right to life includes legislative, executive, and judicial actions to ensure compliance.

Obstacles to access to a safe legal abortion after rape may lead women to seek an unsafe abortion and thus risk their life. In Mexico, there were 2,186 deaths from obstetric causes between 1990 and 2013;³⁸ in 2014, unsafe abortion was the fourth leading cause of maternal mortality, accounting for 9.2% of all maternal deaths.³⁹ Denial of a legal abortion for girls or adolescents who have been raped and impregnated entails a greater risk to their life. According to the WHO, compared to women aged 20 to 30, the risk of maternal and infant mortality is four times and 50% higher, respectively, among pregnant girls under 16.⁴⁰

Data from the WHO reveals that every year roughly 22 million unsafe abortions are performed worldwide and an estimated 47,000 women die from unsafe abortion complications. Hence, unsafe abortion is a leading cause of maternal mortality and morbidity.⁴¹

36. I/A Court H.R., The case of Artavia Murillo et al v. Costa Rica. Merits, Reparations, and Costs. Judgment of November 28, 2012. Series C. No. 257, paragraph 253. Available at <http://www.corteidh.or.cr/docs/casos/articulos/seriec_257_ing.pdf>

37. I/A Court H. R., The case of the 19 Merchants v. Colombia. Merits, Reparations, and Costs. Judgment of July 5, 2004. Series C. No. 109, paragraph 153. Available at <http://www.corteidh.or.cr/docs/casos/articulos/seriec_109_ing.pdf>

38. Schiavon, Raffaella. "Mortalidad Materna: un Problema de Salud Pública y de Derechos Humanos," In Derechos sexuales y reproductivos de las mujeres: Avances y retos a 20 años de las Conferencias Mundiales de El Cairo y Beijing. In press.

39. Freyermuth, Graciela et. al., Numeralia 2014: Mortalidad materna en México. Mexico, Centro de Investigaciones y Estudios Superiores en Antropología Social (CIESAS), Observatorio de Mortalidad Materna en México (OMM), 2016, page 12. Available at <http://www.omm.org.mx/images/stories/Documentos%20grandes/Numeralia_2014_Web.pdf>

40. WHO, "Adolescent pregnancy: a culturally complex issue," In Bulletin of the World Health Organization, Vol. 87, June 2009, pp. 405-484. Available at <<http://www.who.int/bulletin/volumes/87/6/09-020609/en/> [accessed on October 13, 2016]>

41. WHO, *Safe abortion, Op. Cit.*, p. 1.

2.4 THE RIGHT TO HEALTH

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|--------------|---|
| TREATY | International Covenant on Economic, Social and Cultural Rights (ICESCR), San Salvador Protocol, CEDAW, CRC. |
| CONSTITUTION | Article 4. |

The WHO establishes in the preamble of its Constitution that “health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.” The human right to health entails freedoms and rights, among which are the rights to control one’s health and body, including sexual and reproductive rights, and to be free from interference, for example, free from torture and from non-consensual medical treatment and experimentation. Thus, every State should have a system of health protection that gives everyone an equal opportunity to enjoy the highest attainable level of health.⁴²

The guarantee of the right to health depends on four elements, which are: *accessibility*, both physical and economic; *acceptability*, that is, health services are to comply with standards of medical ethics and be respectful of the culture of individuals and sensitive to gender and age; *quality*, that is, health facilities must meet medical and scientific standards; and *non-discrimination* or accessible to all.⁴³

Reproductive health is an element of the right to health. It is defined as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes.”⁴⁴

Health is much more than a physical aspect or manifestation. It comprises mental health, which relates to the emotional state and social environment of the individual. “There is no health without mental health. Good mental health means much more than the absence of mental impairment. Modern understanding of mental health includes good emotional and social well-being and healthy non-violent relations between individuals and groups.”⁴⁵

42. United Nations, Committee on Economic, Social, and Cultural Rights, General Comment No. 14 (2000): The Right to the Highest Attainable Standard of Health (Article 12, International Covenant on Economic, Social, and Cultural Rights) [E/C.12/2000/4], 22nd Session (2000), paragraph 8. Available at <<http://www.refworld.org/pdfid/4538838d0.pdf>>

43. *Ibid*, paragraph 12.

44. UNFPA, Report of the International Conference on Population and Development, Cairo, Egypt, September 5 to 13, 1994, paragraph 7.2. Available at <<http://www.un.org/popin/icpd/conference/offeng/poa.html>>

45. United Nations, Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Dainius Puras, [A/HRC/29/33], 29th Session (2015), paragraph 122(k). Available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_33_ENG.DOCX>

46. *Ibid*, paragraph 101.

47. United Nations, Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice, [A/HRC/32/44], 32nd Session (2016), paragraphs 26 and 35. Available at <http://www.ohchr.org/Documents/Issues/Women/WG/A_HRC_32_44_WithFootnotes.doc>

48. *Ibid*, paragraph 34.

In the above statement, the UN Special Rapporteur on the right to health emphasizes the relationship between violence and the human right to health, placing an emphasis on the protection against all forms of violence—considered a public health problem—and must be regarded as cross-sectional to all the elements that are key to the exercise of the right.⁴⁶ In particular, the UN Working Group on the Issue of Discrimination Against Women in Law and in Practice has pointed out that it is necessary to protect girls and women against gender-based violence because of its impact on their physical integrity and mental health.⁴⁷

The authorized interpretation of the right to health suggests that the State violates this right when it denies or hinders access to legal abortion, disregarding the ensuing harm to the mental and emotional health of girls and women who are victims of sexual violence and are forced to carry their pregnancies to term. The situation is worse when the victims are girls and adolescents because pregnancy and labor pose a greater threat to their physical and mental health and even their life.⁴⁸

The case law of the Committee on the Rights of the Child has expressly established that the States are to ensure that their health systems meet the reproductive health needs of adolescents, including safe abortion.⁴⁹ It also stipulates that adolescents will receive all available information on sexual and reproductive health so that they can make decisions freely and responsibly.⁵⁰ In particular, the Committee recommended in 2015 that Mexico:

Review and harmonize the federal and state legislations with a view to decriminalizing abortion and ensuring access to legal abortion at least in cases of rape, incest and danger to the life and health of the girl, and ensure that gaining access to legal abortion does not require special authorization from a judge or prosecutor.⁵¹

In 2014, Mexico accepted the recommendation that the UN Human Rights Council issued after the second evaluation of the Universal Periodic Review. The recommendation stated the following:

Strengthen sexual and reproductive health services to ensure that women who qualify for legal abortion services are able to access safe, timely, quality and free services in all Mexican states.⁵²

49. United Nations, Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), [CRC/C/GC/15], _ Session (2013), paragraph 55. Available at <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11>

50. *Ibid*, paragraph 65.

51. United Nations, Committee on the Rights of the Child, Concluding observations on the combined fourth and fifth periodic reports of Mexico [CRC/C/MEX/CO/4-5], 69th Session (2015), paragraph 50 (c). Available at <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fMEX%2fCO%2f4-5&Lang=en>

52. GIRE submitted a shadow report to the UN Human Rights Council on the situation of reproductive rights in Mexico. The report underscored that the State has to guarantee access to abortion in the cases stipulated in the law. United Nations, Human Rights Council, Summary prepared by the Office of the High Commissioner of Human Rights in accordance with paragraph 15(b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Human Rights Council resolution 16/21 [A/HRC/WG.6/17/MEX/3], 17th Session (2013), paragraphs 77 and 78. Available at <<https://documents-ddsny.un.org/doc/UNDOC/GEN/G13/160/14/PDF/G1316014.pdf?OpenElement>>

2.5 THE RIGHT TO PERSONAL INTEGRITY AND TO BE FREE FROM TORTURE OR MISTREATMENT

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|--------------|---|
| TREATY | International Covenant on Civil and Political Rights, American Convention on Human Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Inter-American Convention to Prevent and Punish Torture. |
| CONSTITUTION | Articles 20 (section B), 22, and 29. ⁵³ |

The right to personal integrity includes the protection and the preservation of the core dimensions of an individual. That is, the physical, psychological, and moral dimensions. The right to personal integrity includes both the right to protect one's body against an assault that causes destruction, physical pain, or harm to health, and the right to preserve unscathed the individual's mental and moral faculties.⁵⁴ The right to personal integrity entails the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment.

Traditionally, the prohibition of torture and ill treatment had been closely associated with such settings as imprisonment, detention, and interrogation. Today, however, there are universal and regional provisions regarding behaviors that may amount to mistreatment and even torture in the context of health services.

From the perspective of the right to personal integrity, the I/A Court H.R. has analyzed the lack of access to reproductive health procedures and the subsequent states of anguish and anxiety that it produces. The Court concludes, "Therefore, there is a connection between personal autonomy, reproductive freedom, and physical and mental integrity."⁵⁵

In addition, the Court has approached cases of rape from the standpoint of the right to personal integrity. In general terms, it considers that rape, together with torture, "pursues the objective of intimidating, degrading, humiliating, punishing or controlling the victim."⁵⁶

53. These articles do not expressly refer to the right to personal integrity. They mention, however, the contexts of criminal procedure. Article 1 of the Mexican Constitution states that all human rights standards will be construed in accordance with the human right treaties to which Mexico is a party, that is, according to the authorized interpretation by the bodies tasked with monitoring the application of the treaties.

54. Afanador, María Isabel, "El derecho a la integridad personal, elementos para su análisis," In *Convergencia: Revista de Ciencias Sociales*, vol. 9, No. 30, September-December, 2002, p. 148. Available at <<http://bit.ly/1Mnu1PC>>

55. I/A Court H.R., *The case of Artavia Murillo et al v. Costa Rica*, *Op. Cit.* paragraph 147.

56. *Ibid.*, paragraph 101.

Specifically, regarding rape, a paradigmatic form of violence against women, the Court observed that it is an extremely traumatic experience “that can have severe consequences and cause significant physical and psychological damage, leaving the victim ‘physically and emotionally humiliated,’ a situation that, unlike other traumatic experiences, is difficult to overcome with the passage of time. This reveals that severe suffering of the victim is inherent to rape.”⁵⁷

Juan E. Méndez, the Special Rapporteur on Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, has investigated behaviors in health care settings that may qualify as ill treatment or even torture.⁵⁸ Moreover, he has explained how international human rights law has increasingly recognized the depth of the physical and emotional suffering of women seeking medical services such as abortion.

Explicitly, he stresses, “Highly restrictive abortion laws that prohibit abortions even in cases of incest, rape or fetal impairment or to safeguard the life or health of the woman violate women’s right to be free from torture and ill-treatment.”⁵⁹ He also points out that even when abortion is legal, administrative obstacles, non-compliance with medical protocols, incompetence, and negative attitudes on the part of authorities hinder access of girls and women to this recognized right. Thus, according to the Rapporteur, denial of access to safe abortion and to time-sensitive medical assistance, and subjecting girls and women to humiliation at a moment when they are especially vulnerable is tantamount to torture and ill treatment.⁶⁰

Furthermore, the Special Rapporteur has recognized the severe and long-lasting mental and physical pain of victims of rape. He observed, “It is well established that rape and other forms of sexual violence can amount to torture and ill-treatment.”⁶¹ The Rapporteur goes on to stress that the State is responsible for the acts of private actors when they fail to exercise due diligence to prevent sexual violence, investigate and punish the offenders, or provide reparations to victims.⁶²

Additionally, the document observes that in many cases, denying women safe abortion services when their life is in danger, when the pregnancy is the result of rape, or when there is a serious fetal malformation that makes life outside the womb unviable may amount to torture or cruel, inhuman, and degrading treatment.⁶³

Hence, access to the legal termination of pregnancy in cases of rape is clearly compatible with the legal framework of the right to personal integrity, and to be free from torture or mistreatment.

57. I/A Court H.R., The case of Rosendo Cantú et al v. Mexico. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 31, 2010, paragraph 117. Available at <http://www.corteidh.or.cr/docs/casos/articulos/seriec_216_ing.pdf>

58. *Ibid*, paragraph 114.

59. United Nations, Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Méndez, [A/HRC/22/53], 22nd Session (2013), paragraph 15. Available at <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf>

60. United Nations, Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Méndez, [A/HRC/31/57], 31st Session (2016), paragraph 43. Available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A_HRC_31_57_E.doc>

61. *Ibid*, paragraph 44.

62. *Ibid*, paragraph 51.

63. *Ibid*, paragraph 43.

2.6 THE RIGHT TO A PRIVATE LIFE (REPRODUCTIVE AUTONOMY)

| | |
|--------------|--|
| TREATY | American Convention on Human Rights, International Covenant on Civil and Political Rights. |
| CONSTITUTION | Articles 4 and 16. |

The right to privacy or private life entails an obligation on the State to protect individuals against any arbitrary and abusive interference with their life from public officials and institutions.

The I/A Court H.R. has indicated that the right to privacy includes the liberty of people “to do and not do all that is lawfully permitted. In other words, every person has the right to organize, in keeping with the law, his or her individual and social life according to his or her own choices and beliefs.”⁶⁴ Such is the scope and significance of this liberty, which the Court defines as a basic human right—evident throughout the American Convention—as it is inherent in the attributes of the person.⁶⁵

Further, the Court explains that this right encompasses a series of factors associated with the ability of the individual to develop their own personality and aspirations and determine their identity. The concept of private life comprises aspects of physical and social identity, including the right to personal autonomy. The Court also observes, “The effective exercise of the right to private life is decisive for the possibility of exercising personal autonomy on the future course of relevant events for a person’s quality of life [...] Based on the foregoing, the Court considers that the decision of whether or not to become a parent is part of the right to private life.”⁶⁶

In particular, the Court has pointed out that the right to private life is related to (i) reproductive autonomy, and (ii) access to reproductive health services, which includes the right to have access to the medical technology necessary to exercise this right.⁶⁷

64. I/A Court H.R., *Artavia Murillo et al. (“In Vitro Fertilization”) v. Costa Rica*. Preliminary objections, merits, reparations and costs. Judgment of November 28, 2012, paragraph 142. Available at: www.corteidh.or.cr/docs/casos/articulos/seriec_257_ing.pdf

65. *Ibidem*.

66. *Ibid*, paragraph 143.

67. *Ibid*, paragraph 146.

Within the universal human rights protection system, the Committee on the Rights of the Child has interpreted the rights of children to health and a private life. It considers that children, in accordance with their evolving capacities, have the right to receive confidential counseling and therapy without parental consent, where this is assessed by health professionals who believe this to be in the child's best interests. It also establishes unequivocally, "States should review and consider allowing children to consent to certain medical treatments and interventions without the permission of a parent, caregiver, or guardian, such as HIV testing and sexual and reproductive health services, including education and guidance on sexual health, contraception and safe abortion."⁶⁸

Given the high rates of adolescent pregnancy globally and the risks of associated mortality and morbidity, the Committee has established that the States should ensure that public health systems meet the sexual and reproductive health needs of adolescents. This includes providing "family planning and safe abortion services. States should work to ensure that girls can make autonomous and informed decisions on their reproductive health."⁶⁹

Within the framework of International Safe Abortion Day, a group of United Nations experts called on States to repeal restrictive abortion laws and policies. The experts argued that these policies "do not meet the international human rights law requirements and have discriminatory and public health impacts [...] These laws and policies violate women's human right to health and negate their autonomy in decision-making about their own bodies."⁷⁰

Before the publication of the LGV, in some states in Mexico it was mandatory for victims of rape seeking abortion services to file a report and/or obtain authorization from a Public Prosecutor's Office or a judge. These requirements were a legal barrier to an emergency medical service and an unjustified invasion of women's privacy. They also failed to consider that the violent environments where victims of sexual assault often find themselves complicate the reporting of an incident.⁷¹

Today, women aged 12 and older no longer have to satisfy the above requirements to legally terminate a pregnancy resulting from rape. Nonetheless, health providers often deny or hinder access to this lawful service, violating women's right to privacy. It is, therefore, urgent to harmonize the local penal codes that still establish the above requirements with women's human rights standards (e.g., the LGV and NOM 046). Although health providers are under the obligation to apply the norm that imposes fewer requirements on women, they may create confusion or may be purposefully used to deny women legal abortion services.

68. United Nations, Committee on the Rights of the Child, General Comment No. 15, Op. Cit., paragraph 31. Available at <<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsqIkirKQZLK2M58RF%2F5F0vHC-Is1B9k1r3x0aA7FYrehlNUfw4dHmlOxmFtmhaiMOKLtSgrVtnef30M4IcqLIV6ws0g0EYTKvfl%2FYQkkgEvQ%2F>>

69. *Ibid*, paragraph 55.

70. Office of the United Nations High Commissioner for Human Rights, "Unsafe abortion is still killing tens of thousands of women around the world—UN rights experts warn," Available at <<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=20600&LangID=E>>

71. GIRE, Girls and Women without Justice. Reproductive Rights in Mexico, Mexico, Grupo de Información en Reproducción Elegida, 2015, p. 72. Available at <<http://informe2015.gire.org.mx/en/#/Home>>

FRIDA, 18 YEARS OLD, BAJA CALIFORNIA SUR, 2016

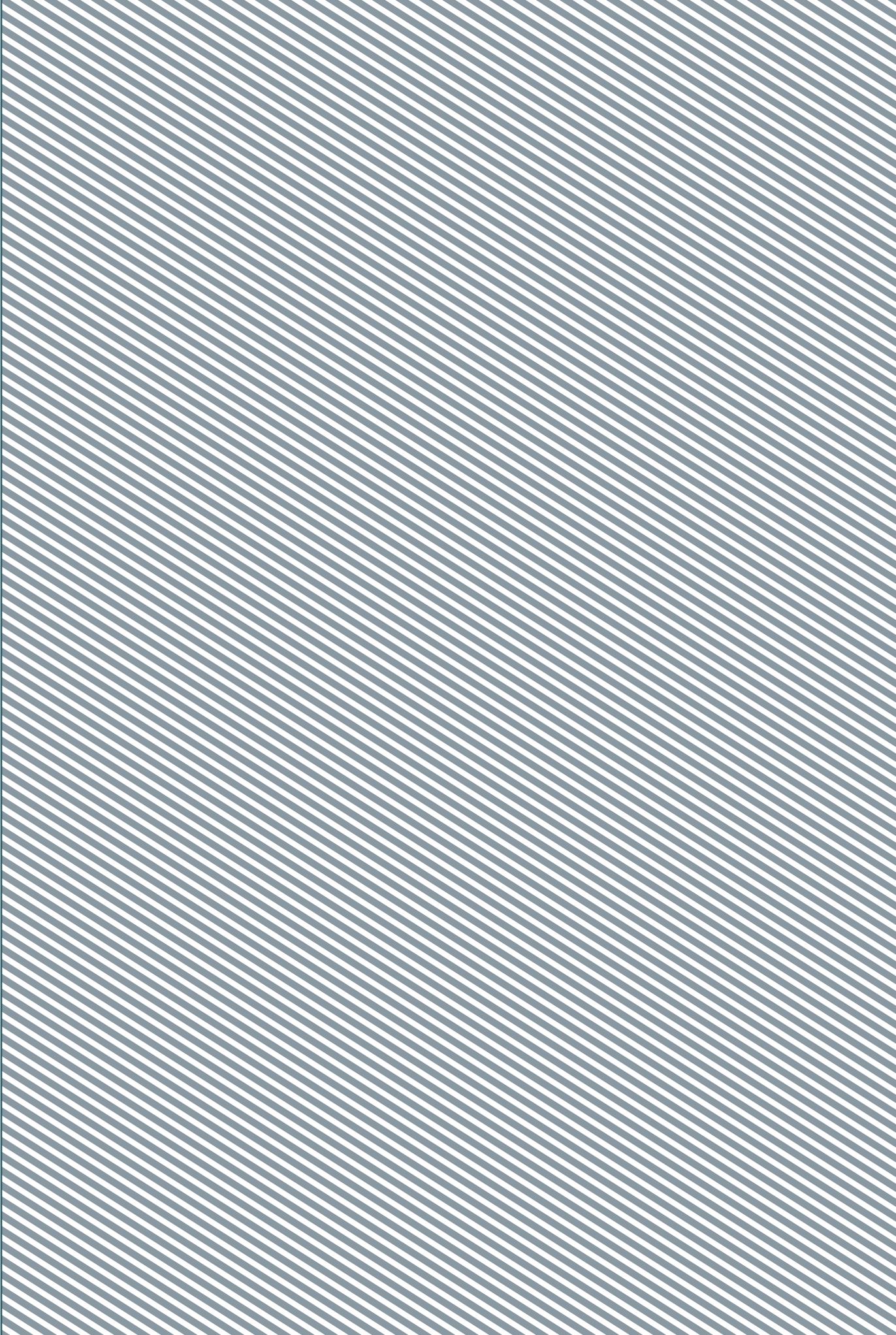
Legal abortion requirements in cases of rape in the Penal Code of Baja California Sur:

“...the Public Prosecutor’s Office should authorize the procedure as per the victim’s request. If the woman does not report the rape or the artificial insemination and the abortion is performed, and proof of this circumstance is produced during the criminal proceedings, the abortion will carry no legal penalty.” Article 156.

Frida, an indigenous 18-year-old agricultural worker, was kidnapped and raped after having been harassed for six months. Frida could not flee nor ask for help because the perpetrator threatened her. A week after the incident, however, she managed to contact her family using a mobile phone and was eventually released.

Having been raped repeatedly, far from receiving assistance from the authorities, Frida’s attempt to access justice and terminate her pregnancy was thwarted. She had to travel to La Paz, the state capital, after three agencies had refused to receive her report, arguing that the case did not fall within their jurisdiction. The La Paz Public Prosecutor’s Office took her statement without a translator or an interpreter and forced her to sign a document whose contents were not disclosed to her. Despite the fact that abortion is a right recognized by law and that she had requested it, she was told, “Abortion is a crime because it is an attack against a child.” She never received information about her rights, prophylactic medication, or emergency contraception.

The local health services ignored Frida’s request for an abortion and, at the Baja California Sur Women’s Institute, a woman lawyer recommended that Frida do nothing to terminate her pregnancy because “she knew that indigenous women use herbal teas to have abortions.” The lawyer also warned Frida that if she decided to have an abortion, she would end up in prison. Nevertheless, with the support of Fondo María, she traveled to Mexico City to undergo the procedure.



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**CASES REGISTERED,
DOCUMENTED AND
ACCOMPANIED BY GIRE**

The following are the cases of legal abortion after rape that GIRE is aware of since 2001. During this time, GIRE has directly documented ten cases and registered 19 additional cases. As of 2011, GIRE has accompanied 27 women and girls (as young as ten years old) with various measures to secure justice.

ACCOMPANIMENT⁷²

ADRIANA / DURANGO, 2012

Twenty-six-year-old Adriana was kidnapped and raped by her ex-partner, who had abused her for years during their relationship. The Public Prosecutor's Office rescued her from the kidnapping and arrested the aggressor. However, they did not provide information on emergency contraception or her right to legally terminate a pregnancy resulting from rape. Upon learning that she was pregnant as a result of the assault, Adriana requested an abortion from the Public Prosecutor, with the support of GIRE. In response, she faced several obstacles, such as a lack of objective and up-to-date information from the medical examiner, requests for several medical tests to confirm the pregnancy, and unjustified delays in the authorization of the abortion. When the Public Prosecutor finally issued the abortion authorization, ten days passed before she could access the procedure because the public health services did not have trained medical personnel available. During that time, Adriana received death threats from her ex-partner, but did not receive any protection from the Public Prosecutor. Months later, after numerous death threats against her and her family and pressure from her ex-partner's lawyer, Adriana retracted the accusations so that he could "go free." Instead of investigating the threats and granting protective measures for Adriana and her family, the Durango Public Prosecutor's Office accused her of emitting false statements and for illegal abortion, as well as requesting compensation for the damages caused.

As a result, Adriana was detained for a period of time. In prison, she received conjugal visits from her attacker leading to a second pregnancy, which she continued while still in detention. During this time, Adriana lost custody of the child she had with a previous partner. Adriana lived in a state of severe psychological distress while facing a legal process without the necessary protective measures. The authorities, far from guaranteeing her human rights, re-victimized her while engaging in institutional violence.

MONICA / OAXACA, 2012

Monica is an indigenous Mazatec and does not speak Spanish. She lives in a community far from the state capital in Oaxaca. When she was only 12 years old, she became pregnant as a result of a rape committed by an acquaintance. When reporting the crime with the Public Prosecutor's Office, she requested a legal abortion in accordance with state criminal law. GIRE accompanied Monica, providing legal guidance to the Public Prosecutor's Office regarding its obligation to guarantee her reproductive rights, as well as promote and ensure accompaniment during the medical procedure by trained personnel. Despite the Public Prosecutor's Office's authorization of the procedure, Monica faced various barriers during the process, including a lack of economic resources to travel and secure lodging in the city of Oaxaca where the hospital was located.

72. The cases classified as *acompaniment* are those in which GIRE helped the victim or their family in accessing their rights or in their search for justice. This includes, though not exclusively, legal actions such as *amparos* or complaints before human rights protection organisms.

In addition, there were no interpreters during the criminal proceedings or before, during or after the abortion, which represents a violation of her right to non-discrimination, among others.

LOURDES / MORELOS, 2012

Lourdes was 13 years old when she became pregnant as a result of a rape committed by a family member. Accompanied by her mother, she reported the crime to the Public Prosecutor's Office and requested a legal abortion, even though the authorities had not informed her of this right. Faced with the lack of response from the authorities, GIRE submitted a letter addressed to the Morelos Public Prosecutor requesting information regarding the authorization of the legal abortion. In response, the Public Prosecutor's Office affirmed that the state's criminal law did not establish the express faculty for it to authorize abortion services after rape. It also noted that, since there was no state protocol on how to act for cases of termination of pregnancy due to rape, they could not respond to the request. Given the lack of recognition by the authorities of their obligations and to ensure the pregnancy did not exceed 12 weeks of gestation, Lourdes was transferred with private resources to Mexico City to terminate her pregnancy.

ESMERALDA / SONORA, 2012

Esmeralda became pregnant as a result of a rape committed by her stepfather when she was 12 years old. After she reported the crime to the Public Prosecutor, she requested a legal abortion. The authority, however, rejected the request on the grounds that the abortion could affect her health. Esmeralda's aunt contacted GIRE, and the organization began preparation of a letter requesting the legal abortion. Before submitting the letter, however, Esmeralda had a miscarriage while playing. Subsequently, the Sonora Public Prosecutor informed GIRE that because state criminal law did not expressly establish the Public Prosecutor's authority to approve a legal abortion after a rape, they had sent the request to a judge responsible for criminal procedures, who never responded.

CLAUDIA / VERACRUZ, 2012

In 2012, Claudia, who was 17 years old at the time, went to the Public Prosecutor's Office to file a report against her stepfather who had sexually abused her repeatedly since she was 14 years old. Claudia had kept the abuse a secret because her stepfather threatened that he would hurt her mother and sister if she said anything. However, after her period was late, Claudia overcame her fear and told her mother everything. Following the complaint, her stepfather was held without possibility of bail for the crime of aggravated pedophilia.

Claudia's mother contacted GIRE and, together, we submitted a letter requesting a legal abortion due to rape when Claudia was five weeks pregnant. Two weeks later, the abortion was authorized, and carried out at the Tarimoya General Hospital in Veracruz.

MARCELA / GUERRERO, 2013

Marcela is originally from Guerrero. In 2013, at 32 years old, she moved to Mexico City in search of employment. There, she was the victim of rape. Traumatized by what happened, she returned to Guerrero where, after a few weeks, she realized she was pregnant. Marcela then went to the hospital to request a legal abortion, but did not receive medical attention. A short time later, she moved to the State of Mexico, where she again requested a legal abortion. At that time, she was about 16 weeks pregnant, exceeding the time limit for access to abortion that is established by the state's Penal Code. GIRE provided legal support to file a report and request authorization for the abortion in Mexico City. After three days of negotiations with the Public Prosecutor's Office, authorization was obtained for the abortion, with accompaniment and support provided by the Network for Reproductive and Sexual Rights in Mexico (ddeser).

MIRANDA / STATE OF MEXICO, 2014

In May 2014, when Miranda was 20 years old, she went to the Public Prosecutor to report that her father had raped her. At the time, she was 14 weeks pregnant. Because she exceeded the gestational limit established in the State of Mexico's Penal Code for accessing a legal abortion after rape, she travelled to Mexico City for the service. However, because the events occurred and were reported in the State of Mexico, the abortion could not be performed under the rape indication. GIRE carried out legal action so that Miranda could access the service in Mexico City on the grounds of serious risk to her health.

ELSA / MEXICO CITY, 2014

Elsa is a resident of Mexico City. In March 2014, when she was only 12 years old, she went with her mother to the Public Prosecutor's Office to report that her father had raped her. The next day, she learned that she was 13 weeks pregnant and decided to terminate the pregnancy. The Public Prosecutor, however, classified the crime as corruption of minors and not as rape. This became a major obstacle in securing the termination because, according to the Public Prosecutor, he could not issue an authorization for the abortion under this crime. Finally, with GIRE's accompaniment, Elsa was granted a legal abortion due to the health risk the pregnancy represented at her young age.

JUDIT / MEXICO CITY, 2014

Judit was 13 years old, lived in Mexico City and was in her second year of middle school. In August 2014, she went to the doctor with her mother because she was vomiting and feeling unwell. Initially, she was diagnosed with pharyngitis. As it did not improve, she returned to the doctor, who indicated that her symptoms corresponded to a psychological pregnancy. On October 28, Judit's mother received a call from her daughter's school informing her that Judit was vomiting again. She took Judit to the doctor where they were informed of Judit's 18-week pregnancy. In result, Judit told her mother that she had been raped by her grandfather. Together, they went to the Public Prosecutor's Office to file a police report and request a legal abortion, but were informed by the authorities that, because of the advanced stage of pregnancy, her request would not be accepted, even though the time limit to access a legal abortion after rape in Mexico City is 20 weeks. Judit and her mother went to various public health clinics but were denied the service because she did not have authorization from the Public Prosecutor's Office.

At this point, Judit and her mother reached out to GIRE and together submitted a letter to the Mexico City Public Prosecutor's Office and the Specialized Prosecutor's Office for Sex Crimes requesting a legal abortion based on the General Law for Victims. After days of mistreatment, lack of medical care and other obstacles to access the service, Judit finally terminated her pregnancy at a private clinic.

AZUCENA / SONORA, 2014

Azucena was 12 years old and lived in Cananea, Sonora when she was raped by a family member who threatened to hurt her mother if she said anything. Months later, after telling her mother that she felt sick, Azucena found out she was eight weeks pregnant. They then filed a report with the Public Prosecutor's Office.

Azucena sought information on the options available for dealing with an unwanted pregnancy and decided to terminate. GIRE and a member of the National Lawyers Network for Reproductive Choice (Radar 4th) accompanied Azucena, submitting a request for a legal abortion to the state's Ministry of Health, based on the Sonora Penal Code, the General Law for Victims and the General Health Law in Matter of Provision of Medical Services.

In response to the request, the authorities provided the necessary service in a timely manner. Azucena was transported from Cananea to the city of Hermosillo, where the pregnancy was terminated at the Women's Hospital in October 2014. In less than a week, Azucena successfully accessed the legal abortion service she requested.

This case sets an important precedent for state authorities by showing that, based on current law, access to a legal abortion should be guaranteed after rape, without the need to establish prerequisites, such as filing a criminal report or obtaining previous authorization.

ROSA / STATE OF MEXICO, 2014

Rosa, 14 years old, was raped during almost a year by her father, who threatened to hurt her mother if she said anything. Rosa's mother, noticing changes in her behavior and her loss of interest in school and socializing, asked Rosa if something was happening. Rosa's mother also asked her godmother to take her to the doctor where they found out that Rosa was pregnant. After telling her mother about the abuse, they went together to the Public Prosecutor's Office to report the crime. Her pregnancy, however, exceeded the 12-week limit established by the Penal Procedures Code of the State of Mexico.

With GIRE's accompaniment, Rosa and her mother filed an *amparo* challenging the established time limit. However, the judge considered that they should first request the service and then wait for it to be denied, in accordance with the law, to be able to rule on the matter. This represented a long-wait period and GIRE already knew she would be denied access to the abortion of this high-risk pregnancy. With the support of ddeser and GIRE, Rosa travelled to Mexico City, where it was determined that the pregnancy implied a serious risk to her health due to her young age and she was allowed to terminate it. Although her assailant remains free, Rosa has been able to overcome her fear of leaving home thanks to the psychological therapy provided by GIRE and the support of the school she attended. Thus, she was able to resume her studies and finish middle school. Currently, she is in high school.

CARMEN / HIDALGO, 2014

Carmen was raped at age 13 by her stepfather, who threatened to hurt her mother if she said anything. After Carmen began to feel unwell, she went with her mother to the doctor, who informed her that she was pregnant. Carmen told her mother about the sexual abuse and together, they went to file a police report. The Public Prosecutor's Office did not inform them of her right to legally terminate a pregnancy as a result of rape. Despite this, Carmen returned weeks later to request a legal abortion, but was notified her that her request could not proceed because her pregnancy exceeded the 90-day limit established in the Hidalgo Penal Code.

GIRE accompanied Carmen and her family to present an *amparo* against the Public Prosecutor's Office and Article 158 of the state's Penal Code that establishes a time limit for accessing legal abortion, arguing that this limit is unconstitutional and violates the right to health and privacy of girls and women. The *amparo*, however, was dismissed due to a "lack of material", given that Carmen had already terminated her pregnancy in Mexico City. In response, GIRE filed an appeal and because of the case's importance, the Mexican Supreme Court exercised its faculty to review select cases from a lower court's docket. In May 2015, a year had passed since filing the *amparo*. The slow progress of the criminal justice system and the State's lack of interest in cases like Carmen's made it difficult for Carmen to regain a sense of normalcy. For this reason, Carmen and her family desisted from all legal procedures that prevented them from leaving the events behind them. GIRE, as their legal representative, closed the case before the Supreme Court.

MARTA / YUCATAN, 2015

Marta, diagnosed with epilepsy and schizophrenia, lives in Temozon, Yucatan. She was raped by a man from her community when she was 31 years old. When she discovered she was pregnant as a result of the rape, she twice tried to commit suicide. Her mother confronted Marta, and she told her about the rape. An ultrasound revealed that Marta was 6.6 weeks pregnant. They went to the Agustin O'Horan General Hospital to request a legal abortion where they were denied the service, being told the procedure is only allowed with a judge's authorization.

With the accompaniment of GIRE, Psychology, Sexology and Education Care Center (UNASSE), Humanitarian Services in Sexual and Reproductive Health and a Radar 4th lawyer, Amelia Ojeda, and based on the Yucatan Penal Code, the General Law for Victims and the General Health Law, the state Ministry of Health was sent another request for the legal abortion.

In response, the Ministry of Health, through the Department of Attention to Violence and the General Directorate of the Agustin O'Horan General Hospital, provided Marta with attention in a timely manner. At the beginning of July 2015, the legal abortion was performed. Therefore, within ten days, Marta was able to access a legal abortion.

PALOMA / TABASCO, 2015

Paloma became pregnant after being raped when she was only ten years old. After filing a police report, she went with her mother to a hospital to request a legal abortion but was denied. Paloma remained in the Regional Women's Hospital of Tabasco "under observation" by the Bioethics Committee, while the Tabasco Public Prosecutor tried to impede her access to a legal abortion by reclassifying the crime as pedophilia. At the same time, Paloma's health began to deteriorate: she could not walk; she was swollen with severe pain and emotional distress. The Prosecutor's Office and state health services relayed contradictory information regarding access to abortion to Paloma's parents, without taking into consideration that it was a young girl who was sexually assaulted and forced to continue with a pregnancy.

Finally, the Hospital's Bioethics Committee concluded that "[she] is not unhealthy, but only experiencing the normal discomforts of any pregnancy, exacerbated because she is only ten years old", that the fetus was viable and that, as in other cases of girls as young as nine years old that "give birth without problems", in their opinion, Paloma was not in danger.

Paloma and her family, accompanied by GIRE and Catholics for the Right to Decide (CDD), decided to file an *amparo* before a federal judge, arguing that the delay in terminating her pregnancy as a result of a rape constituted cruel, inhuman and degrading treatment equivalent to torture and that the judge should order the abortion to guarantee Paloma's health and physical integrity.

When the hospital was notified of the *amparo*, it immediately granted the abortion. Paloma did not have any complications from the procedure.

LUCÍA / PUEBLA/MEXICO CITY, 2015

Lucia was 14 years old when she was the victim of sexual abuse by her stepfather for several months, ultimately resulting in pregnancy. Accompanied by her mother, she filed a police report and requested a legal abortion in Puebla, where she lives. Both the Public Prosecutor and the Cholula General Hospital denied her access to a legal abortion, arguing that her pregnancy, at 13 weeks gestation according to an ultrasound, was one week over the limit set by the state's Penal Code. In addition, in accordance with the then-in effect Norm 046, the abortion required authorization from the Public Prosecutor's Office.

After this setback, GIRE assisted Lucia and her mother in filing an *amparo*. Nonetheless, since the court's resolution was delayed and the pregnancy advanced, they decided to seek legal abortion services in Mexico City, with the accompaniment of GIRE and ddeser.

Upon learning that Lucia had successfully terminated her pregnancy, the judge reviewing the *amparo* closed the case on the grounds that there was no material. However, the psychological effects that Lucia suffered were difficult to overcome, and the lack of support from the authorities did not help. Her case is a clear example of how time limits established in some penal codes for access to abortion after rape are a significant barrier in guaranteeing the human rights of girls and women who are victims of violence in Mexico.

CARLOTA / HIDALGO, 2015

In 2015, Carlota was 16 years old, in her second semester of high school, when her neighbor raped her. When she discovered that she was pregnant, she decided, together with her mother, to go to the Women's Justice Center of Pachuca to file a police report, since she did not want to continue the pregnancy. There, they performed the corresponding gynecological and psychological tests. However, she was denied her request to interrupt the pregnancy, with the argument that the psychological test did not prove sexual assault.

Carlota sought out GIRE for legal accompaniment. An *amparo* was filed in April 2015 against the Hidalgo Penal Code's requirements for accessing legal abortion services after rape, the actions of the Public Prosecutor, and the opinion developed by the expert psychologist who reviewed her case.

Alarmingly, the federal judge refused to review the *amparo*, on grounds that the federal Constitution protects life from conception. Based on Supreme Court jurisprudence and with the support of GIRE, Carlota and her mother challenged this decision.

Due to its importance and the arguments used, the Mexican Supreme Court decided to exercise its faculty to review select cases from lower courts' dockets. At the close of this report, Carlota is awaiting a ruling recognizing that her human rights were violated.

NADIA / JALISCO, 2015

In 2015, Nadia became pregnant as a result of a rape when she was 16 years old and went to the Public Prosecutor to report the crime. Later, she requested a legal abortion from the hospital, in accordance with the General Law for Victims and the Jalisco Law of Attention to Victims. However, the Jalisco Ministry of Health denied her request, arguing that the hospital's "Integrated Model for the Prevention and Care of Family and Sexual Violence" established authorization from a judge as a prerequisite to access abortion.

Faced with this setback, but accompanied by GIRE and RADAR 4th lawyer, Angela Garcia, Nadia and her family filed an *amparo*. In response, a judge recognized, on the one hand, that victims of rape have the right to request legal abortion, but, on the other hand, she also argued the "the embryo's right to life."

The judge also argued that neither the state penal legislation nor the Norm 046 in effect at the time established that a judge should authorize legal abortion but rather, the health authority must do so. Nonetheless, in order to access legal abortion, the judge argued that the woman's testimony confirming that the pregnancy was the consequence of sexual assault was not enough.

Therefore, although the *amparo* was granted, the lack of a gender perspective in the ruling is regrettable. Nadia and her parents, accompanied by GIRE, filed an appeal against this resolution because it did not solve the problem, much less the need for access to immediate legal abortion services.

At the close of this report, Nadia is still waiting for her appeal to be resolved by a District Court that recognizes that the Jalisco Ministry of Health violated her rights by denying her access to legal abortion after rape. Meanwhile, Nadia was forced to seek options outside Jalisco to legally terminate her pregnancy.

MARIMAR / MORELOS, 2015

Marimar was raped by her sister's employer in November 2015 when she was 17 years old. After filing a report with the Public Prosecutor's Office, they informed her of her right to terminate her pregnancy because it was a result of rape, but they did not provide information regarding the procedure or refer her to any health institution to access the service. At the beginning of 2016, an ultrasound revealed that the fetus had an anomaly, at which time she was recommended to a hospital.

The hospital requested the documents from the Public Prosecutor Office that accredited the report of rape, but Marimar's mother did not have them with her. The next day, she returned with the documents, but they were not received. On January 18, they informed the family that they would perform an abortion that same day. However, a few hours later, the head of gynecology said they could not do anything if they did not have authorization from the Public Prosecutor. Marimar's mother went to obtain the authorization, but the Public Prosecutor refused to give it to her because they told her that, according to the state's Penal Code, an authorization is not necessary to carry out the procedure.

Finally, on January 28, Marimar was discharged from the hospital. They gave her a document with the Hospital's Bioethics Committee's decision, which resolved that the minor should continue with the pregnancy. With GIRE's accompaniment, Marimar and her mother filed an *amparo* for the cruel and inhuman treatment comparable to torture to which she was subjected in the hospital. As a result, a federal judge asked the Committee to issue a new resolution duly founded and reasoned, but did not rule on the legal abortion request. In response to this resolution, Marimar filed an appeal.

The District Court that received the appeal determined that this case is of special relevance and requested that the Supreme Court review it. The petition was accepted by the Supreme Court and Marimar is awaiting a resolution. GIRE also accompanied Marimar to file a complaint with the Morelos Human Rights Commission, which is still pending resolution.

FERNANDA / OAXACA, 2016

In 2016, Fernanda, at 17 years old, was raped by an acquaintance and became pregnant. She went to the Civil Hospital of Oaxaca requesting a legal abortion. However, the gynecologist who treated her told her that abortion was a crime in Oaxaca and referred her to a lawyer to file a police report. Fernanda then went to the Public Prosecutor's Office for Sexual Rights to present a report and, since then, has been harassed by Office staff, who does not believe she was raped. Later, when she was six week pregnant, Fernanda submitted another request for a legal abortion to a public hospital, but did not receive a response; she only received acknowledgment of receipt, claiming that since the hospital was on strike, they were only attending emergencies.

In response, Fernanda, accompanied by GIRE, filed an *amparo* for the violation of her right to physical integrity, as well as the cruel and inhuman treatment comparable to torture to which she was subjected for the denial of service. In addition, the *amparo* also cited the poor implementation of health policy in the state, which does not ensure the provision of emergency medical services in cases of strikes by Ministry of Health employees.

The federal judge reviewing the case stay summoned Fernanda and asked her about her pregnancy, which was terminated in Mexico City with private funds due to the lack of response from state authorities. Upon learning that she had carried out the procedure, the judge decided to close the file because of a lack of material, after which GIRE helped her file an appeal.

The District Court reviewing the appeal determined the events surrounding Fernanda’s case are of special relevance and therefore requested that the Supreme Court exercise its faculty to review select cases on lower courts’ dockets. The request was accepted by the Court. At the close of this report, Fernanda is still awaiting a ruling.

PATRICIA / JALISCO, 2016

In January 2016, Patricia, 16 years old, went to the Public Prosecutor’s Office along with her mother to report the sexual assault she suffered, as well as to request a legal termination of the pregnancy that resulted from the rape. On February 5, 2016, the Public Prosecutor that attended Patricia filed a request before the state’s Ministry of Health to provide the medical service. However, when they went to the Ministry of Health, the head of the Legal Department told them to return a week later. After voicing their concern about the time limit, they were told not to worry, since the legal deadline to terminate a pregnancy in Jalisco was up to 20 weeks. A week later, she was given misoprostol, and asked for “absolute discretion.”

Because the medical abortion failed, Patricia requested a Manual Vacuum Aspiration (MVA). However, the hospital replied that the Jalisco did not have the “baby-crushers” that existed in Mexico City and that the doctors at the hospital did not want to offer the service because they “had a conscience.” Patricia and her mother preferred to go home.

With GIRE’s accompaniment, Patricia and her mother filed an *amparo* against the hospital for endangering Patricia’s health, physical integrity and life. In response, a federal judge reviewing the case ordered the hospital to carry out the procedure. Patricia was then admitted to the hospital again, where she was forced to give birth, without analgesics and accompanied only by a psychologist from the Prosecutor’s Office, because her mother was not allowed to enter. After the abortion, Patricia bled for a month and a half and her mother had to pay for private medical visits because they did not want to return to the hospital. The Hospital informed the Court that the interruption had been carried out and, as in many other cases, the Judge closed the file, as if terminating the pregnancy resolved all the violence that Patricia suffered from hospital staff.

Along with the *amparo*, Patricia and her mother —always accompanied by GIRE— filed a complaint with the Jalisco Human Rights Commission (CEDH). This institution, without interviewing Paulina, but based on testimonies from hospital staff, determined that there were irregularities in the medical care, but that individual responsibilities or human rights violations could not be established because there was insufficient evidence and closed the file.

Patricia filed an appeal with the National Human Rights Commission (CNDH) against this decision. In September 2017, the local Commission agreed to reopen the file. Almost two years after the events, Patricia and her mother are still awaiting a response from authorities.

RENATA / DURANGO, 2016

In 2016, Renata was a 21-year-old university student when she was raped. When her period was late, she decided to undergo an ultrasound, where it was confirmed that she was four weeks pregnant. That same day, Renata contacted a RADAR 4th lawyer in her state to request support in terminating her pregnancy. With GIRE's accompaniment, she requested a legal abortion before the Durango Ministry of Health, based on the General Law for Victims and the Norm 046.

The next day, she received a call from Ministry of Health staff, who told her that they had obtained a van to transport her to Mexico City for the abortion. Renata rejected this offer, because it was not what she had requested and she knew her right to terminate a pregnancy after rape in the state. The Ministry of Health agreed to carry out the abortion, but they did not give her any response in writing.

Subsequently via telephone, she was asked to submit a new request for the service addressed to the Durango Women and Children's Hospital, where she needed to state under oath that the pregnancy was a result of rape and that she understood the penalties that would apply if she were to report falsely. Renata, advised by GIRE, rejected this request for being contrary to the content of Norm 046 and for imposing additional requirements than those established in the law. The Ministry of Health responded that she would have to make a declaration before the State Commission for Comprehensive Assistance to Victims, another requirement that is not contemplated in the law.

Together with GIRE, Renata presented an *amparo*, arguing the unconstitutionality of the Durango Penal Code, which indicates the need for authorization from the Public Prosecutor for access to abortion after rape, contrary to the provisions of the Norm 046.

The judge reviewing the case considered that Renata's rights had not been violated and denied the *amparo*. Therefore, an appeal was filed which, due to the seriousness of what happened to Renata, was sent to the Supreme Court requesting it exercise its faculty to review select cases on a lower court's docket. The Court's decision is still pending.

KARINA / DURANGO, 2016

In mid-2016, Karina was the victim of rape committed by her stepfather. She was 13 years old and, as a result of the assault, became pregnant. Karina and her mother went to the Public Prosecutor for the Protection of Children and Adolescents at Durango's National System for Integral Family Development (DIF) to report the assault and request a legal abortion. However, instead of giving them an answer, they were told to return on three different occasions for psychological and gynecological assessment. In addition, the authorities mistreated Karina's mother, suggesting that she protected the assailant. Through an acquaintance, they were able to contact Julieta Hernandez, RADAR 4th lawyer, for legal advice regarding the termination of the pregnancy, and consequently, legal accompaniment from GIRE.

GIRE accompanied Karina to present a request to the Durango Ministry of Health for access to legal abortion services in accordance with Norm 046 and the General Law for Victims. However, the Ministry of Health denied this request, stating that she must first be registered with the National Registry of Victims as a requirement.

On November 29, GIRE, on behalf of Karina, filed an *amparo* against the Durango Ministry of Health's response. Given the procedural delay, Karina was forced to leave Durango to access the abortion.

Later, the federal judge reviewing the *amparo* wanted to know if Karina had carried out the abortion. Given the irrelevance of this information in ruling on the violations of human rights that Karina suffered, GIRE filed a complaint, which is currently being reviewed by a District Court.

BERENICE / PUEBLA-MEXICO CITY, 2016

Berenice was 15 years old when she became pregnant as a result of being raped by her uncle in Teziutlan, Puebla. She went with her mother to report the crime with Public Prosecutor's Office in Mexico City, where they told her that it was possible to terminate the pregnancy, but that she had to file a complaint in the state where the rape occurred. They then went to the Public Prosecutor's Office in Teziutlan, where the authorities denied the request arguing that abortion after is illegal and that they would be committing a crime.

After this refusal, Berenice and her mother returned to Mexico City to request a legal abortion at a public hospital. They were denied the procedure because, despite being within the established time limit, health officials argued that the fetus "was very large." Faced with this new refusal, they were forced to seek private services where the procedure was finally performed according to the law. Berenice, accompanied by GIRE, filed a complaint with the Puebla Human Rights Commission at the end of 2016. At the close of this report, said complaint remains pending.

CITLALI / SONORA, 2016

When Citlali was 13 years old, she was raped in her home by her father's co-worker. The same day, she reported the rape at the local Public Prosecutor's Office. They carried out medical and psychological tests and took statements from her two younger brothers, who witnessed the rape. However, Citlali was not given emergency contraception, nor was she provided with information regarding her right to legal abortion if she became pregnant.

Almost two months later, she went to the local health center where she was informed that she was pregnant. Citlali and her father requested a legal abortion, which was denied on three occasions, even though she was diagnosed as a high-risk pregnancy due to her age. The denials were based on a judge's reclassification of the assault to "sexual coercion" rather than rape, implying that consent had been given. Citlali and her father, accompanied by GIRE, filed an *amparo* against the denial of access to legal abortion by the Integral Women's Hospital.

After coverage of the case in the media, GIRE reached an agreement with the Sonora government to provide certain measures of reparation in favor of Citlali. This process continues.

MINERVA / HIDALGO, 2016

One afternoon in 2016, when Minerva was 18 years old, she was approached on the street by an acquaintance who asked to speak with her for a moment. After refusing, the aggressor (in complicity with a friend) pushed her into an alley and raped her. He told her he was going to keep an eye on her and threatened to hurt her mother if she said anything. Minerva soon discovered she was pregnant. This affected her significantly and she stopped eating. Her mother noticed something was wrong and insisted on knowing the truth, which is when Minerva told her what happened.

Accompanied by GIRE, Minerva requested a legal abortion from the state Ministry of Health, under oath to tell the truth that her pregnancy was the result of a rape, as stipulated in Norm 046. The request was authorized.

At the same time, Minerva reported the rape to the Public Prosecutor. GIRE also provided psychological treatment, and the professional's opinion was included in her case file. The purpose behind this action was to ensure that the case would not be closed, as occurs frequently in Hidalgo.

NANCY / HIDALGO, 2016

At age 24, Nancy worked as a cashier in a supermarket. Her boss sexually assaulted her, taking advantage of a time when Nancy was carrying out inventory during the night. He threatened to harm her family and fire her if she told anyone what happened. Nancy became pregnant as a result of this rape and decided to report the crime. This caused the aggressor and his wife to threaten Nancy, even at her home. Nancy also reported these threats, but the Public Prosecutor ignored them. In addition, Nancy presented a document to inform the company of the situation, but they refused to take action against the aggressor.

With GIRE's accompaniment, Nancy filed a request for a legal abortion with the Hidalgo Ministry of Health under oath to tell the truth that the pregnancy was the result of a rape. Her request was authorized and Nancy received the service. However, this resulted in the Public Prosecutor's Office closing the investigation of her case due to a supposed lack of material.

FRIDA / BAJA CALIFORNIA SUR, 2016

Frida is an indigenous Mixtec woman who works as an agricultural day laborer. In 2016, when she was 18 years old, she was the victim of kidnapping and rape. Her attacker had harassed her for six months and, when she was kidnapped, he held her incommunicado for a week through threats, until she managed to communicate with her family on a cell phone and was released.

As a result of being raped repeatedly, Frida became pregnant. The day she managed to escape, Frida went with her parents to report the crimes in the municipality where they live. There, they were told that the report had to be made where the events occurred. For security reasons, they opted to go directly to the state capital. They arrived at the Justice Center in La Paz at night, where they waited eight hours to be attended. Afterward, it took three weeks for the Maternal and Child Hospital to perform a blood test and two or three days later she was told she was pregnant. At the Justice Center they asked her what she wanted to do, but they told her that abortion was a crime and that she must think about it carefully because "otherwise, she would be charged with a crime."

In fact, the public prosecutor attending her case recommended that she should not do anything to terminate her pregnancy, because “she knew that indigenous women drink herbal teas to abort” and that if she aborted, she would go to jail. Given this situation, Frida, with the support of Fondo Maria, traveled to Mexico City for a legal abortion.

GIRE prepared a legal brief with arguments to defend Frida, in the event she faced criminalization as threatened. Also, legal accompaniment was offered to file an *amparo* with the state human rights commission for the denial of legal abortion services from the various public institutions where Frida sought help. Frida decided not to continue with the process however.

DOCUMENTED⁷³

XIMENA / HIDALGO, 2012

In October 2011, Ximena was 13 years old when she was raped by a community member who was already known for attacking young women with no reprisal from the authorities. In February of the following year, she presented abdominal pain and her mother took her to the doctor for a checkup, where she learned she was four months pregnant. It was not until then that Ximena spoke about the rape, since her assailant had threatened to kill her and her family if she told anyone. When she went to the Public Prosecutor’s Office to report the crime, they took her statement, but informed her that she no longer had the right to terminate the pregnancy, since Hidalgo law indicates that legal abortion can only take place during the first three months of pregnancy. At the Yolotepec Health Center, they were told that Ximena’s pregnancy was high risk due to her age however, if she wanted to abort, she would have to do it with another doctor. Even though both Ximena and her mother wanted the abortion, it was not carried out.

MAGDALENA / STATE OF MEXICO, 2013

Magdalena has a disability and in 2013, at 15 years old, she was sexually abused by a neighbor. Her mother filed a police report as soon as she found out, but Magdalena was already 14 weeks pregnant, exceeding the time-limit established by state law for legal abortion in effect at that time. As such, she was not provided with a legal abortion and was forced to carry the pregnancy to term. After filing the police report, Magdalena’s family was continually harassed by the rapist’s family. Meanwhile, the Public Prosecutor took three months to file an arrest warrant against her assailant, arguing that they did not have the necessary evidence to submit a strong case.

ISADORA / HIDALGO, 2013

Isadora lives in Tulancingo, Hidalgo. At age 14, she was raped by her stepfather and became pregnant. Despite going to the Public Prosecutor’s Office together with her mother to file a police report and being less than 12 weeks pregnant, she did not receive the authorization required by the Public Prosecutor’s Office to legally terminate her pregnancy in Hidalgo. Thus, she was forced to travel to Mexico City to undergo a legal abortion.

73. In cases classified as *documented*, at least one face-to-face interview was carried out with the victim or her family members. In cases where legal action had already been initiated, files were reviewed, with the aim of obtaining more information about the case, but GIRE did not undergo any action.

ANGELES / MEXICO CITY, 2013

In June 2013, Angeles went to the Mexico City Women's Institute (Inmujeres CDMX), requesting consultation with a psychologist to whom she reported that she had been raped. The psychologist informed her that she could report the event to the police, but Angeles preferred not to do so. All she wanted was to terminate the pregnancy, which, according to her count, did not exceed seven weeks of gestation.

From Inmujeres, they referred her to the Beatriz Velasco de Aleman Health Center to carry out the abortion. However, upon arriving, some people approached her and told her that she had not arrived in time to obtain an appointment, but that they would provide her with the required information. She was taken by taxi to a private doctor's office where she underwent an ultrasound and was told that she was 11.5 weeks pregnant and that she could not longer have a legal abortion. Later, they showed her anti-abortion films, confiscated her cell phone and documents and told her that they would take care of all her needs during pregnancy if she stayed there. A week later, they took her to an ultrasound, which revealed that she was only nine weeks pregnant. Angeles expressed her desire to leave the house and terminate her pregnancy. She requested support from Inmujeres again and was given access to a legal and safe abortion.

ANDREA / STATE OF MEXICO, 2015

Andrea's parents separated because her father physically assaulted her. Four years after the separation, when Andrea visited her father, he sexually assaulted her. Andrea did not say anything because her father threatened her. After the visit, Andrea's mother noticed that her daughter acted very differently. But it was not until two months later that Andrea began to feel sick and decided to tell her mother what happened. They went together to file a police report with the Public Prosecutor.

From there, they were referred to the Ecatepec General Hospital, where the doctor confirmed that she was approximately ten weeks pregnant. However, she was denied legal abortion resulting from rape on the grounds that "there was no evidence of violence." Andrea and her mother sought other alternatives so she could terminate her pregnancy. They were forced to travel to Mexico City to carry out the procedure in a public clinic. There, hospital officials admitted she had the right to terminate her pregnancy, but proceeded to intimidate and coerce Andrea into changing her mind, claiming that she could lose her uterus and never have children if she had an abortion. Finally, Andrea carried out the service in a private clinic in Mexico City and received psychological attention at the Ecatepec General Hospital.

KAREN / OAXACA, 2016

Karen lives with her mother in a rented room and was 13 years old when she was raped three times by the man who owns the room. Karen had just begun to menstruate a short time before and, although she was aware of the dates, she knew that the first months are usually irregular. When she and her mother discovered the pregnancy, Karen was already 11 weeks pregnant. Together, they went to the Public Prosecutor's Office, who requested evidence of the rape and referred them to the General Hospital to request the abortion as stipulated by Norm 046. However, the hospital refused to perform the abortion because the pregnancy exceeded 12 weeks. The abortion was finally carried out with the support of ddeser in Mexico City, where the time limit to access an abortion after rape is 20 weeks.

MELISA / OAXACA, 2016

Melisa and her mother went to the doctor after several months of missed periods. When they learned of her pregnancy, Melisa's mother asked her if her stepfather was responsible and she confirmed, with difficulty, that yes, he had raped her. Melisa was 12 years old.

Together, they went to file a report with the Public Prosecutor and request a legal abortion. This was denied on the grounds that the pregnancy exceeded the time limit of three months gestation established in the state Penal Code. Therefore, they decided to travel to Mexico City where, with support from ddeser, Melisa was able to access an abortion.

PIA / MEXICO CITY, 2017

In the spring of 2017, outside a subway station, a stranger raped Pia. After the assault, she requested a rapid HIV test, but not emergency contraception, because she had inserted a subdermal contraceptive implant a few months earlier. Due to the implant, Pia did not have regular periods, so its absence did not worry her. However, two months later, she felt discomfort and decided to take a home pregnancy test. This was negative, but the discomfort continued, so she opted to go to her public health clinic. A doctor performed an ultrasound and confirmed that she was pregnant.

Pia called the ILETTEL hotline —a service provided by the Mexico City Ministry of Health— and they referred her to GIRE. In a telephone call, she indicated that she wanted an abortion, but that she did not want to report the crime so as not to “go through all of that again”. She said that the ILETTEL operator explained the procedure established in Norm 046 and the requirement of taking an oath to tell the truth, and requested the name of an organization that could give her help her. GIRE sent her to an allied organization.

ESTELA / CHIAPAS, 2017

Estela is 23 years old, originally from El Salvador. She has a nine-year-old son and arrived as a refugee in Mexico, fleeing the mafia after having been raped. When she arrived in Chiapas she received prophylaxis, a medical evaluation of sexually transmitted infections and HIV, in accordance with the provisions of Norm 046 for victims of sexual violence. They confirmed that she was not pregnant. However, a few months later, she was raped at her home in Tapachula by a stranger. The fear of losing the possibility of permanent residency silenced her. But when she found out she was pregnant, she told the organization that is working on her asylum request. They referred her to the Tapachula Hospital where she requested an abortion. There, she faced mistreatment and discrimination and finally was denied the abortion, under the argument that the Chiapas Penal Code establishes a 90-day time limit for the procedure. At that time, she was 16 weeks pregnant. Through Lilia Iniguez, a Radar 4th lawyer, GIRE learned of the case.

TANIA / CHIHUAHUA, 2017

Tania, 15 years old, arrived at Casa Amiga, a non-profit organization that offers services to victims of rape, in March 2017 to seek orientation after being raped by her grandfather and uncle at the beginning of the year. There, they performed a pregnancy test that came back positive. She filed a police report against her grandfather and uncle, whom she had not wanted to report because they had threatened her. Tania decided that she did not want to continue with the pregnancy and sought a legal abortion. Though she faced many obstacles that delayed the process, she finally managed to access the service. Casa Amiga is currently helping her with the criminal process.

REGISTERED⁷⁴

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|-----------------|--------------|-----------------|------|
| ARELY | 12 YEARS OLD | SINALOA | 2001 |
| NIDIA | 12 YEARS OLD | STATE OF MEXICO | 2007 |
| LUPITA | 13 YEARS OLD | CHIHUAHUA | 2007 |
| ROBERTA | 17 YEARS OLD | CHIHUAHUA | 2007 |
| VERONICA | 15 YEARS OLD | MORELOS | 2010 |
| FELIPA | 12 YEARS OLD | PUEBLA | 2012 |
| ROSAURA | 13 YEARS OLD | OAXACA | 2013 |
| BERENICE | 14 YEARS OLD | BAJA CALIFORNIA | 2013 |
| SANDRA | — | JALISCO | 2014 |
| MYRTA | — | GUERRERO | 2014 |
| TRINIDAD | — | GUERRERO | 2014 |
| MATILDE | 16 YEARS OLD | TLAXCALA | 2015 |
| ALICIA | 13 YEARS OLD | JALISCO | 2016 |
| LLUVIA | 13 YEARS OLD | OAXACA | 2016 |
| CONSUELO | 17 YEARS OLD | STATE OF MEXICO | 2016 |
| JOSEFINA | — | STATE OF MEXICO | 2016 |
| LUISA | 10 YEARS OLD | SAN LUIS POTOSI | 2017 |
| CELIA | 12 YEARS OLD | YUCATAN | 2017 |
| ISABEL | 21 YEARS OLD | STATE OF MEXICO | 2017 |

74. For the cases classified as a *registered*, it was not possible to directly contact the victim or her family members. GIRE registered them from various sources such as press releases, information provided by authorities or members of civil society organizations throughout Mexico.

The background is a solid green color with a diagonal line running from the top-left corner towards the bottom-right corner. The line is slightly darker than the background, creating a subtle gradient effect.

4 / CONCLUSIONS

Access to safe and legal abortion is essential to the exercise of women's human rights.

In cases of rape, this access is still restricted in Mexico despite being recognized in national and international legal frameworks. Girls and women often face obstacles to exercise their human rights because medical staff is unaware of the legal framework according to which they are to conduct their professional practice. They usually believe that providing a girl or a woman who is a victim of rape with abortion services is a crime and, thus, they deny or hinder their provision. This behavior, however, not only re-victimizes girls or women but also violates their human rights.

Further, knowing that they are under the legal obligation to provide safe abortion services in cases of rape without imposing any requirements, some health providers put their religious or moral beliefs before the human rights of girls and women, thus infringing the law. In the cases that GIRE has supported, both health and law enforcement authorities have subjected the victims to ill treatment—victimizing them again. They believe that they have the power to punish and humiliate the women who, in their opinion, disobey the gender imperative that women have to be mothers above all.

Health, judicial, and law enforcement officers should urgently apply current regulations regarding access to legal abortion services in cases of rape to guarantee women's human rights to life, health, a private life, personal integrity, equality and non-discrimination, and a life free from violence.

5 /

RECOMMENDATIONS

LAWS AND POLICIES

TO THE STATE LEGISLATURES OF AGUASCALIENTES, BAJA CALIFORNIA, CAMPECHE, CHIAPAS, CHIHUAHUA, COAHUILA, COLIMA, HIDALGO, MICHOACÁN, OAXACA, QUINTANA ROO, AND VERACRUZ: Reform penal codes to remove the requirement of complying with a gestational age limit to access abortion services in cases of rape, in accordance with the General Law of Victims.

TO THE STATE LEGISLATURES OF AGUASCALIENTES, BAJA CALIFORNIA, BAJA CALIFORNIA SUR, CAMPECHE, COLIMA, DURANGO, GUERRERO, HIDALGO, AND QUINTANA ROO: Reform penal codes to eliminate the requirement of obtaining the authorization to access abortion services in cases of rape, in accordance with the General Law of Victims.

TO THE STATE LEGISLATURES OF AGUASCALIENTES, BAJA CALIFORNIA, BAJA CALIFORNIA SUR, CAMPECHE, COLIMA, DURANGO, GUERRERO, HIDALGO, QUINTANA ROO, SAN LUIS POTOSÍ, AND TABASCO: Reform penal codes to remove the requirement of filing a report to access abortion services in cases of rape, in accordance with the General Law of Victims.

TO THE FEDERAL MINISTRY OF HEALTH: Reform the Comprehensive Model to Prevent and Address Domestic and Sexual Violence manual to remove the requirements of filing a report and obtaining the authorization from a criminal court judge to access legal abortion services in cases of rape.

TO THE MEXICO CITY MINISTRY OF HEALTH: Reform the General Organization and Operation Guidelines for Health Services related to the legal termination of pregnancy in Mexico City to eliminate the requirement of complying with the 20-week gestational age limit to access legal abortion services.

TO THE EXECUTIVE BRANCHES OF BAJA CALIFORNIA, CHIAPAS, CHIHUAHUA, MEXICO CITY, GUERRERO, JALISCO, STATE OF MEXICO, MICHOACÁN, OAXACA, PUEBLA, AND VERACRUZ: Reform the administrative rules that establish requirements such as complying with a gestational age limit, filing a report, and/or obtaining an authorization to access legal abortion services in cases of rape.

IMPLEMENTATION OF LAW AND POLICY

TO THE FEDERAL MINISTRY OF HEALTH, THE IMSS, THE ISSSTE, AND STATE MINISTRIES OF HEALTH AND PUBLIC PROSECUTOR'S OFFICES: Implement the General Law of Victims, the Regulations of the General Health Law in Matters of the Provision of Medical Services, and the NOM 046-SSA2-2005 on Domestic and Sexual Violence and Violence against Women to guarantee immediate access to abortion in cases of rape, without imposing such requirements as filing reports, obtaining authorizations, or complying with gestational age limits.

TO THE FEDERAL MINISTRY OF HEALTH, THE IMSS, THE ISSSTE, AND STATE MINISTRIES OF HEALTH: Ensure that health providers receive appropriate training in the legal framework that establishes their obligation to provide immediate care to victims of sexual violence and in the use of techniques to perform safe abortions, in accordance with scientific evidence and technological advances.

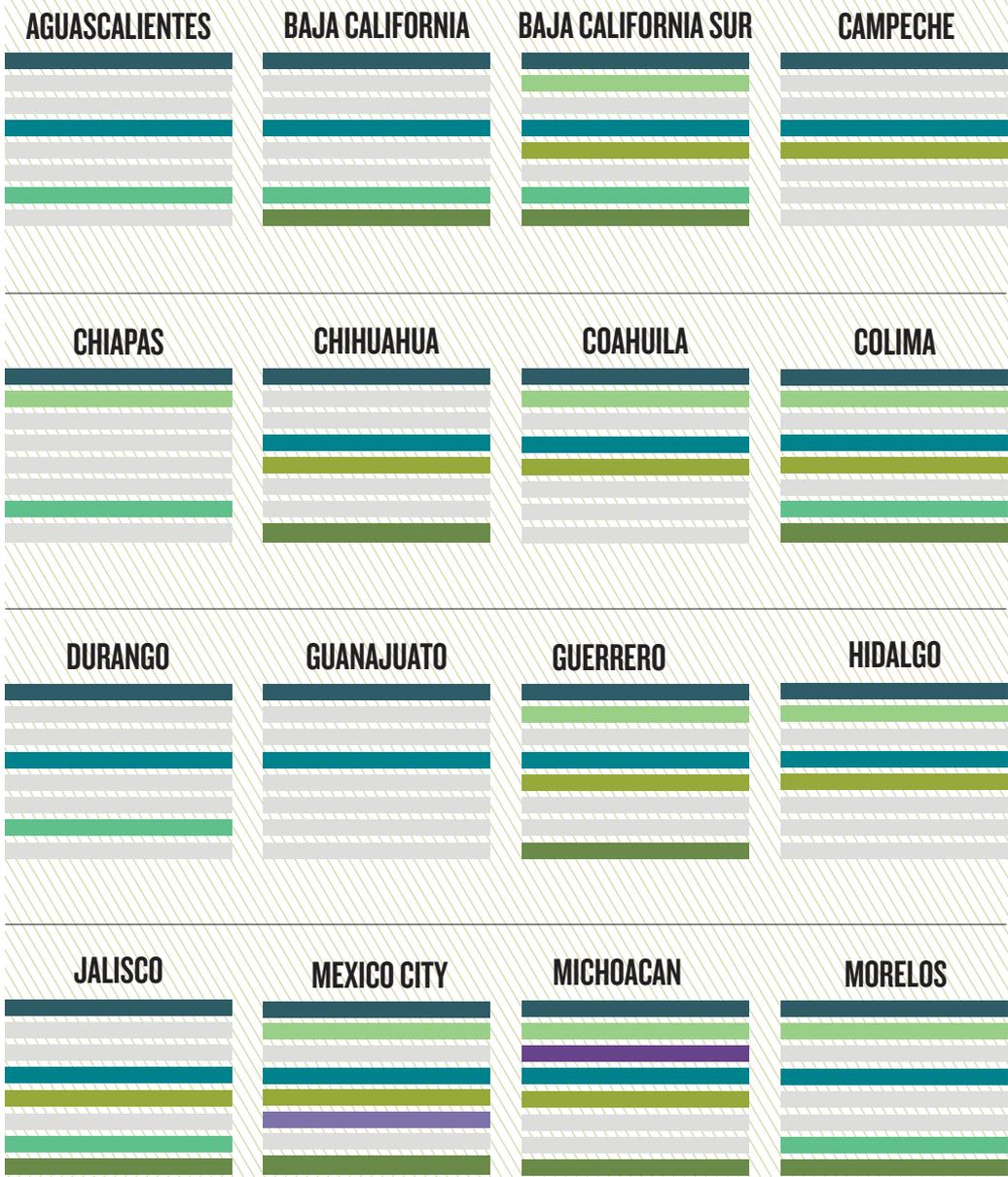
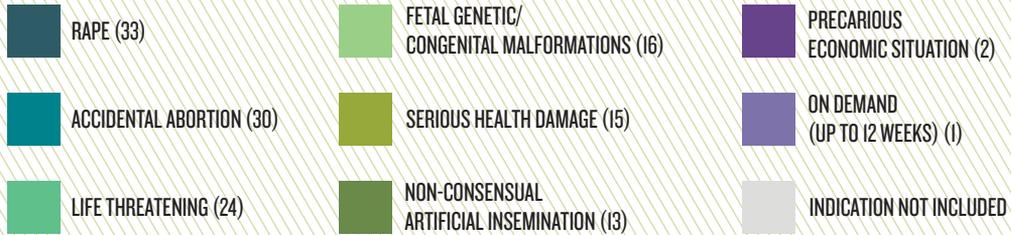
ACCESS TO JUSTICE

TO THE FEDERAL JUDICIAL BRANCH: Ensure that victims of sexual violence have access to their rights, specifically legal abortion, in accordance with national and international human rights standards.

TO THE COURTS OF JUSTICE AND THE NATIONAL AND STATE HUMAN RIGHTS COMMISSIONS: Ensure that the victims of human rights violations receive full reparation when access to legal abortion is denied.

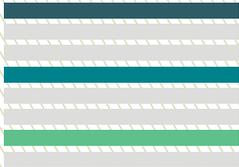
6 /
ANNEX

INDICATIONS FOR ABORTION ACCORDING TO THE PENAL CODE



Source: GIRE, December 2016.

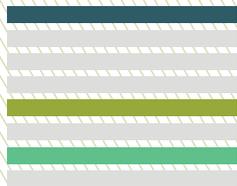
FEDERAL PENAL CODE



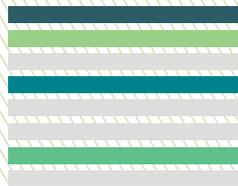
NAYARIT



NUEVO LEON



OAXACA



PUEBLA



QUERETARO



QUINTANA ROO



SAN LUIS POTOSI



SINALOA



SONORA



STATE OF MEXICO



TABASCO



TAMAULIPAS



TLAXCALA



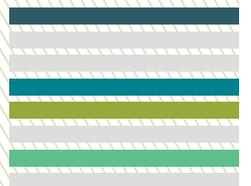
VERACRUZ



YUCATAN



ZACATECAS



I. INDICATIONS FOR LEGAL ABORTION ACCORDING TO THE PENAL CODE, BY STATE

| PENAL CODE | INDICATIONS | | | |
|--|---|---|----------------|---------------------|
| | RESULT OF A CRIME | THERAPEUTIC REASONS | SOCIAL REASONS | LACK OF INTENT |
| AGUASCALIENTES Arts. 103 and 106 | Rape (Exculpatory) | Life threatening | | Accidental abortion |
| BAJA CALIFORNIA Art. 136 | Rape (Exculpatory) Non-consensual artificial insemination | Life threatening | | Accidental abortion |
| BAJA CALIFORNIA SUR Art. 156 | Rape (Exculpatory) Non-consensual artificial insemination | Life threatening Serious health damage Fetal genetic/ congenital malformations | | Accidental abortion |
| CAMPECHE Art. 159 | Rape (Exculpatory) | Risk of serious health damage | | Accidental abortion |
| CHIAPAS Art. 181 | Rape (Abortion is not punishable) | Life threatening Genetic/congenital malformations | | |
| CHIHUAHUA Art. 146 | Rape (Exculpatory) Non-consensual artificial insemination | Risk of serious health damage | | Accidental abortion |

| | | | | |
|---|--|---|--|---------------------|
| COAHUILA DE ZARAGOZA Art. 199 | Rape (Abortion is not punishable) | Risk of serious health damage Serious genetic/ congenital malformations | | Accidental abortion |
| COLIMA Art.141 | Rape (Abortion is not punishable) Unduly performed assisted reproductive treatment | Life threatening Serious health damage Genetic/congenital malformations | | Accidental abortion |
| DURANGO Art. 150 | Rape (Exculpatory) | Life threatening | | Accidental abortion |
| GUANAJUATO Art. 163 | Rape (Abortion is not punishable) | | | Accidental abortion |
| GUERRERO Art. 159 | Rape (Exculpatory) Non-consensual artificial insemination | Risk of serious health damage Genetic/congenital malformations | | Accidental abortion |
| HIDALGO Art. 158 | Rape (Abortion is not punishable) | Risk of serious health damage Genetic/congenital malformations | | Accidental abortion |
| JALISCO Art. 229 | Rape (Abortion is not punishable) | Life threatening Serious health damage | | Accidental abortion |
| MEXICO CITY Art. 148 | Rape (Exculpatory) Non-consensual artificial insemination | Risk of serious health damage Genetic/congenital malformations | | Accidental abortion |

| | | | | |
|-------------------------------------|---|---|----------------------------------|---------------------|
| MICHOACAN Art. 146 | Rape (Exculpatory) Non-consensual artificial insemination Non-consensual assisted procreation | Risk of serious health damage Serious malformation | Precarious economic situation | Accidental abortion |
| MORELOS Art. 119 | Rape (Abortion is not punishable) Non-consensual artificial insemination | Life threatening Genetic/congenital malformations | | Accidental abortion |
| NAYARIT Arts. 371 and 372 | Rape (Abortion is not punishable) | Life threatening Serious health damage | | Accidental abortion |
| NUEVO LEON Art. 331 | Rape (Abortion is not punishable) | Life threatening Serious health damage | | |
| OAXACA Art. 316 | Rape (Abortion is not punishable) | Life threatening Genetic/congenital malformations | | Accidental abortion |
| PUEBLA Art. 343 | Rape (Abortion is not punishable) | Life threatening Genetic/congenital malformations | | Accidental abortion |
| QUERETARO Art. 142 | Rape (Abortion is not punishable) | | | Accidental abortion |
| QUINTANA ROO Art. 97 | Rape (Abortion is not punishable) | Life threatening Genetic/congenital malformations | | Accidental abortion |

| | | | | |
|------------------------------------|---|---|--|---------------------|
| SAN LUIS POTOSI Art. 150 | Rape (Exculpatory) | Life threatening Non-consensual artificial insemination | | Accidental abortion |
| SINALOA Art. 158 | Rape (Abortion is not punishable) | Life threatening | | Accidental abortion |
| SONORA Arts. 269 and 270 | Rape (Abortion is not punishable) | Life threatening | | Accidental abortion |
| STATE OF MEXICO Art. 251 | Rape (Abortion is not punishable) | Life threatening Genetic/congenital malformations | | Accidental abortion |
| TABASCO Art.136 | (Abortion is not punishable) Non-consensual artificial insemination | Life threatening | | |
| TAMAULIPAS Art. 361 | (Abortion is not punishable) | Life threatening Serious health damage | | Accidental abortion |
| TLAXCALA Art. 243 | Rape (Exculpatory) Non-consensual artificial insemination | Life threatening Serious health damage Genetic/congenital malformations | | Accidental abortion |
| VERACRUZ Art. 154 | Rape (Abortion is not punishable) Non-consensual artificial insemination | Life threatening Genetic/congenital malformations | | Accidental abortion |

| | | | | |
|--|--------------------------------------|--|---|---------------------|
| YUCATAN Art. 393 | Rape (Abortion is not punishable) | Life threatening Genetic/congenital malformations | Serious economic situation, provided the woman already has three children or more | Accidental abortion |
| ZACATECAS Arts. 312 and 313 | Rape (Abortion is not punishable) | Life threatening Serious health damage | | Accidental abortion |
| FEDERAL PENAL CODE Arts. 333 and 334 | Rape (Abortion is not punishable) | Life threatening | | Accidental abortion |

II. NUMBER OF SEXUAL VIOLENCE CASES REPORTED TO PUBLIC PROSECUTORS OFFICES (JANUARY I, 2009 TO JUNE 30, 2016)

| STATE | TOTAL | MINORS | WOMEN WITH DISABILITIES |
|----------------------------|------------------------|------------------------|-------------------------|
| AGUASCALIENTES | 601 | Inexistent information | Inexistent information |
| BAJA CALIFORNIA | Inexistent information | Inexistent information | Inexistent information |
| BAJA CALIFORNIA SUR | 4,771 | 149 | Inexistent information |
| CAMPECHE | 218 | Inexistent information | Inexistent information |
| CHIAPAS | 1,905 | Non-competence | Non-competence |
| CHIHUAHUA | 9,676 | 1,026 | 84 |
| COAHUILA | 4,566 | 18 | 1 |
| COLIMA | 22,886 | No answer | No answer |
| DURANGO | No answer | No answer | No answer |

| STATE | TOTAL | MINORS | WOMEN WITH DISABILITIES |
|-----------------|----------------|------------------------|-------------------------|
| GUANAJUATO | 55,900 | 3,611 | 221 |
| GUERRERO | 6,481 | 544 | 131 |
| HIDALGO | 4,591 | 823 | Inexistent information |
| JALISCO | 21,616 | 6,054 | Inexistent information |
| MEXICO CITY | 13,927 | Inexistent information | Inexistent information |
| MICHOACAN | 153,920 | 27,592 | 298 |
| MORELOS | 127 | 36 | 0 |
| NAYARIT | 5,651 | 575 | Inexistent information |
| NUEVO LEON | 4,247 | 123 | Inexistent information |
| OAXACA | No answer | No answer | No answer |
| PUEBLA | 1,415 | 0 | Inexistent information |
| QUERETARO | 1,377 | 535 | 11 |
| QUINTANA ROO | 979 | 116 | 5 |
| SAN LUIS POTOSI | 38,327 | 4,550 | Inexistent information |
| SINALOA | No answer | No answer | No answer |
| SONORA | No answer | No answer | No answer |
| STATE OF MEXICO | 3,371 | 880 | Inexistent information |
| TABASCO | 3,957 | 627 | 166 |
| TAMAULIPAS | 22,858 | Inexistent information | Inexistent information |
| TLAXCALA | 260 | 29 | Inexistent information |
| VERACRUZ | 24,523 | 1,895 | 120 |
| YUCATAN | 17,815 | 86 | Inexistent information |
| ZACATECAS | 13,669 | 1 | 1 |
| TOTAL | 433,983 | 49,270 | 1,038 |

III. ACCESS TO EMERGENCY CONTRACEPTION FOR RAPE VICTIMS (JANUARY I, 2009 TO JUNE 30, 2016)

HEALTH MINISTRIES' RESPONSES
 NON-COMPETENCE
 INEXISTENT INFORMATION
 NO ANSWER



Violence without End

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