



May 20, 2017  
Washington, D.C.

**Secretariat of the Committee on the Elimination of Discrimination Against Women**  
OHCHR - Palais Wilson  
52, rue des Pâquis  
CH-1201 Geneva 10  
Switzerland

**Re: Supplementary Information on Costa Rica, Submitted for Consideration by the Pre-Sessional Working Group of the Committee for the Elimination of Discrimination against Women (the “Committee”) for the 67<sup>th</sup> Session**

Distinguished Members of the Committee:

We are two current students at American University Washington College of Law. This past semester, we took part in a human rights seminar through the university. Named Gender, Cultural Difference, and International Human Rights, the seminar focused on various different issues (i.e. forced sterilization, access to reproductive technology, sexual violence, etc.) facing legal practitioners who currently work in the international human rights community. Through one of the course’s guest speakers, we learned about CEDAW’s upcoming 67<sup>th</sup> Session. After also learning about the current state of women’s sexual and reproductive rights in the state of Costa Rica specifically, we felt compelled to write to the Committee and voice our concerns in preparation for the upcoming session.

In preparation for Costa Rica’s review by the Committee at the 67<sup>th</sup> Session, this letter highlights Costa Rica’s failure to comply with its obligations under the Convention on the Elimination of Discrimination Against Women (hereafter, “CEDAW”), to take all appropriate measures to eliminate discrimination against women in the field of healthcare (including family planning), reproductive rights and other human rights and fundamental freedoms by: (a) prohibiting the legal apprehension of abortion, (b) making it nearly impossible, despite government statutes indicating otherwise, for women to undergo an abortion in cases of rape or incest, endangerment of the mother’s life, or unviability of the fetus; (c) failing to fully implement and assist the legalization of assisted reproductive technology; and (d) failing to provide safe family planning, motherhood, and prenatal services.

This letter is presented as follows: first, we set out the legislative status of sexual and reproductive rights in Costa Rica, including the topics of abortion, contraceptive information and services, reproductive technology, and maternal health care and obstetric violence. In this initial section, we also discuss the effects of the current legislation, supporting our conclusions with narrative and statistical evidence. Second, we point to the ways Costa Rica has violated promises to protect women under CEDAW (and other treaty bodies). Third, we include a list of suggested questions for the Committee to ask the State party’s representatives. Fourth, we include a list of recommendations that we respectfully propose the Committee should make to Costa Rica in order to work towards the improvement of female sexual and reproductive rights under the current regime.

## I. Legislative Status Female Sexual & Reproductive Rights; Narrative and Statistical Effects of Current Legislation and Policies

### a. Right to Abortion

Articles 118 and 119 of the Costa Rican Penal Code states that abortion with or without consent is a violation of Costa Rican law, punishable by imprisonment. Depending on variables such as the consent of the mother and trimester of termination, the provider of an abortion is punishable by: i) six to ten years if the woman does not consent or the woman is less than fifteen years of age; ii) two to eight years if the fetus is beyond the second trimester; iii) one to three years when the woman consents to her abortion, or six months to two years if the fetus is less than six months.<sup>1</sup> A woman who consents to her own abortion is punishable by six months-3 years imprisonment.<sup>2</sup>

Article 121 of the Costa Rican Penal Code allows abortion to legally take place when it is completed in order to avoid a danger to the life or health of the mother, and there is no other way to mitigate it.<sup>3</sup> Thus, the only abortion method currently legal in Costa Rica is abortion to avoid a danger to the life or health of the mother. Though therapeutic abortion was legally recognized in Costa Rica over a decade ago, the state has failed to implement any legislation that provides guidelines or standards for the provision of safe abortions for pregnant women experiencing a risk to their life or health.<sup>4</sup> In 2016, the Human Rights Committee<sup>5</sup> expressed their concern with the only method legally available for abortion because “the procedure is not available in practice owing to the lack of protocols determining when the procedure should be carried out, thus prompting pregnant women to seek clandestine abortions which endanger their lives and health.”<sup>6</sup> The Human Rights Committee made a list of recommendations including amendment of the legislation to introduce additional methods for voluntary termination of pregnancy, such as when the pregnancy is the result of rape or incest or in cases of fatal fetal impairment.<sup>7</sup>

The CEDAW Committee recommended the State to consider the implementation of such guidelines at the conclusion of the 49<sup>th</sup> Session in 2011.<sup>8</sup> At that time, the state was in the process of considering Bill No. 16,887. Originally introduced in 2007, the bill included the addition of an entire chapter devoted to sexual and reproductive rights.<sup>9</sup> After being tabled, and further discussed on occasions in 2011 and 2012, the bill still failed to reach the stage of enactment to this date.<sup>10</sup> Because no law exists that provides clarification of standards and

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<sup>1</sup> Código Penal, Ley N° 4573, 4 de mayo de 1970, Artículo 118, Lex n° CR072, 15 de noviembre de 1971 (Costa Rica).

<sup>2</sup> *Id.* art. 119.

<sup>3</sup> *Id.* art. 121.

<sup>4</sup> CEDAW Committee, *Concluding Observations on the combined fifth and sixth periodic reports of Costa Rica*, p. 6, U.N. Doc. CEDAW/C/CRI/CO/5-6/Add.1 (2014).

<sup>5</sup> Human Rights Committee, *Concluding observations on the sixth periodic report of Costa Rica*, para. 17, U.N. Doc. CCPR/C/CRI/CO/6\* (2016).

<sup>6</sup> *Id.* para. 17.

<sup>7</sup> *Id.*

<sup>8</sup> CEDAW Committee, *Concluding Observations: Costa Rica*, para. 36(c), U.N. Doc. CEDAW/C/CRI/CO/5-6 (2011).

<sup>9</sup> The text of the bill proposed the right to decide freely on reproduction, to have access to safe, modern, effective and acceptable methods of pregnancy prevention, and to receive a comprehensive education in sexual health and reproductive health.

<sup>10</sup> CEDAW Committee, *Concluding Observations on the combined fifth and sixth periodic reports of Costa Rica*, p. 6, U.N. Doc. CEDAW/C/CRI/CO/5-6/Add.1 (2014).

procedures to be implemented in providing therapeutic abortions, many physicians refuse to carry out the procedure. Some physicians fear government retribution for providing an abortion in circumstances that may not be deemed medically necessary, while others reference a personal religious or moral objection to the procedure.<sup>11</sup>

Furthermore, some physicians state that a pregnant woman must exhaust all alternatives before she is able to seek a medically necessary abortion procedure.<sup>12</sup> Qualifying medical circumstances must be extremely serious and irreversible.<sup>13</sup> As the guidelines remain unclear, the state and its actors continue to approach abortion as if the procedure remains banned in all circumstances.<sup>14</sup> Due to these restrictions to abortion, women are obliged to carry a pregnancy even in cases where it is known that the fetus will not survive outside the uterus.

*i. Effects of the lack of guidelines for medically necessary abortions:  
A.N. v. Costa Rica*

“A.N.” is the case of a woman whose health and well-being were negatively affected by Costa Rica’s refusal to provide explicit guidelines for the provision of abortion on the basis of medical necessity.<sup>15</sup> On August 23, 2013, in conjunction with The “Colectiva por el Derecho a Decidir” and the Center for Reproductive Rights, A.N. filed a petition before the IACHR to denounce serious violations of the human rights of women in Costa Rica.<sup>16</sup> She alleged violations perpetrated by the public health services, whose responsibility lies with the Costa Rican Social Security Fund, as well as violations committed by the justice system for refusing to authorize therapeutic abortions. The petition brought to IACHR described A.N.’s story; she was a young Costa Rican woman who discovered she was pregnant at the age of 26. During the course of her pregnancy, her fetus was diagnosed with a severe malformation. Because the fetus’s condition posed a threat to her life and health, A.N. sought to exercise her right to a therapeutic abortion. The Costa Rican government and A.N.’s medical practitioners denied her the right to an abortion, and her only choice was to carry out the pregnancy. A.N. was forced to give birth to a dead fetus. Because of her ordeal, A.N. suffered from anxiety and depression during her pregnancy and thereafter.<sup>17</sup>

*ii. Effects of the lack of guidelines for medically necessary abortions:  
Aurora v. Costa Rica*

In a similar vein, Costa Rica also failed to provide another citizen, “Aurora,” with a medically necessary abortion. In 2012, Aurora was 32 when she found out she was pregnant. Weeks later, Aurora started bleeding and experiencing complications with the pregnancy.<sup>18</sup>

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<sup>11</sup> “Costa Rican Women Try to Pull Legal Therapeutic Abortion Out of Limbo,” *Inter Press Service*, June 24, 2015, <http://www.ipsnews.net/2015/06/costa-rican-women-try-to-pull-legal-therapeutic-abortion-out-of-limbo/>.

<sup>12</sup> “El Dilema de Una Madre Y Su Bebé Sin Esperanza de Vivir,” *La Nación*, November 18, 2012, [http://www.nacion.com/nacional/comunidades/dilema-madre-bebe-esperanza-vivir\\_0\\_1306069522.html](http://www.nacion.com/nacional/comunidades/dilema-madre-bebe-esperanza-vivir_0_1306069522.html).

<sup>13</sup> *Ibid.*

<sup>14</sup> “Costa Rican Women Try to Pull Legal Therapeutic Abortion Out of Limbo | Inter Press Service,” *Inter Press Service*, June 24, 2015, <http://www.ipsnews.net/2015/06/costa-rican-women-try-to-pull-legal-therapeutic-abortion-out-of-limbo/>.

<sup>15</sup> “A.N. V COSTA RICA: Acceso a Servicios de Aborto Legal,” *Center for Reproductive Rights*, August 4, 2011, <https://www.reproductiverights.org/document/an-v-costa-rica-acceso-a-servicios-de-aborto-legal>.

<sup>16</sup> “Aurora Demanda Al Estado Costarricense Ante La CIDH,” *Colectiva Por El Derecho a Decidir*, accessed May 10, 2017, <http://www.colectiva-cr.com/node/195>.

<sup>17</sup> “El Dilema de Una Madre Y Su Bebé Sin Esperanza de Vivir,” *La Nación*, accessed May 10, 2017, [http://www.nacion.com/nacional/comunidades/dilema-madre-bebe-esperanza-vivir\\_0\\_1306069522.html](http://www.nacion.com/nacional/comunidades/dilema-madre-bebe-esperanza-vivir_0_1306069522.html)

<sup>18</sup> *Ibid.*

After undergoing diagnostic tests at a local Costa Rican hospital, her unborn child was diagnosed with Prune Belly syndrome. The diagnosis meant that Aurora's child would not survive birth.<sup>19</sup> Aurora requested a therapeutic abortion to terminate her pregnancy before it proceeded to the point of stillbirth (or death quickly after birth). Yet the physicians treating Aurora denied her the procedure several times over many months during the remainder of her pregnancy. Aurora suffered from stress that elevated her the blood pressure, and still struggles with nightmares and false contractions.<sup>20</sup>

### **b. Right to Contraceptive Information and Services**

Lack of accessibility to modern and affordable contraception methods has also been a longstanding issue in Costa Rica.<sup>21</sup> In particular, the State health system deprives women of access to emergency contraceptives.<sup>22</sup> This goal is completed by the government's failure to register the medication as a product within Costa Rica.<sup>23</sup> Lack of registration and regulation of emergency contraception prevents it from being available in either the public health system or the private market.<sup>24</sup> The CEDAW Committee previously recommended that Costa Rica adopt "measures aimed at making technologically advanced contraceptive methods accessible and available to women."<sup>25</sup> Despite these recommendations and the lack of laws that directly prohibit use of emergency contraception, there still exists a de facto prohibition that is completed through the government's failure to regulate or register the product.<sup>26</sup>

Costa Rica is one of the only states in the Central American region that does not provide women with open access to an emergency contraception product, even in the event of a sexual assault.<sup>27</sup> In 2011, several national institutions including the Ombudsman's Office, 911, INAMU, Red Cross, and the Judicial Branch, prepared and jointly approved the Protocol for the Care of Victims of Sexual Violence.<sup>28</sup> The protocol, meant to act as a stand-in for formal emergency contraception, established the use of the Yuzpe method as an emergency contraceptive for female victims of sexual violence. However, this protocol was never put into practice. The authorities and institutions do not provide the Yuzpe to any woman who is

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> "Anticoncepción de Emergencia En Costa Rica: ¿para Cuándo?," *La Nación*, June 10, 2011, [http://www.nacion.com/opinion/foros/Anticoncepcion-emergencia-Costa-Rica\\_0\\_1200679959.html](http://www.nacion.com/opinion/foros/Anticoncepcion-emergencia-Costa-Rica_0_1200679959.html).

<sup>22</sup> "Costa Rica - International Consortium for Emergency Contraception (ICEC)," *International Consortium for Emergency Contraception (ICEC)*, accessed May 11, 2017, <http://www.cecinfo.org/country-by-country-information/status-availability-database/countries/costa-rica/>.

<sup>23</sup> Martín Hevia, "The Legal Status of Emergency Contraception in Latin America," *International Journal of Gynecology & Obstetrics* 116, no. 1 (January 2012): 89, doi:10.1016/j.ijgo.2011.10.008.

<sup>24</sup> [http://www.colectiva-cr.com/sites/default/files/Docs/AE/indice\\_clae.pdf](http://www.colectiva-cr.com/sites/default/files/Docs/AE/indice_clae.pdf), page 17.

<sup>25</sup> CEDAW Committee, *Concluding Observations: Costa Rica*, pg. 8, U.N. Doc. CEDAW/C/CRI/CO/5-6 (2011).

<sup>26</sup> Centro de Promocion y Defensa de los Derechos Sexuales y Reproductivos et al., "Informe Sobre El Acceso a La Anticoncepción de Emergencia En La Región. Análisis de Una Tendencia Jurisprudencial Restrictiva En Chile, Ecuador, Perú, Honduras Y Costa Rica.," Audiencia Pública: 149 Periodo de Sesiones de la Comisión Interamericana de Derechos Humanos, (October 29, 2013), 22, [http://www.derechosdelamujer.org/tl\\_files/documentos/derechos\\_sexuales/Informe-PAE\\_Cidh\\_2013.pdf](http://www.derechosdelamujer.org/tl_files/documentos/derechos_sexuales/Informe-PAE_Cidh_2013.pdf).

<sup>27</sup> "EC FOR RAPE SURVIVORS: A Human Rights and Public Health Imperative," (International Consortium for Emergency Conception and Sexual Violence Research Initiative, September 2013), 2, [http://www.cecinfo.org/custom-content/uploads/2014/03/ICEC\\_EC-For-Rape-Survivors\\_March-2014.pdf](http://www.cecinfo.org/custom-content/uploads/2014/03/ICEC_EC-For-Rape-Survivors_March-2014.pdf).

<sup>28</sup> Centro de Promocion y Defensa de los Derechos Sexuales y Reproductivos et al., "Informe Sobre El Acceso a La Anticoncepción de Emergencia En La Región. Análisis de Una Tendencia Jurisprudencial Restrictiva En Chile, Ecuador, Perú, Honduras Y Costa Rica."

a victim of sexual violence.<sup>29</sup> Most authorities believe that it is an abortive method and, therefore, a violation of predominant religious beliefs. This underlying belief that emergency contraception is contrary to the religious beliefs of many Costa Rican people prevents widespread access to the medication.

i. Limited access to emergency contraception and low rates of sexual health education

In 2016, Costa Rica released the results of the Second National Survey of Sexual Health and Reproductive Health.<sup>30</sup> The survey results revealed that out of all contraceptive methods present in the national community at that time, women possessed the least knowledge about emergency contraception.<sup>31</sup> More specifically, only 23.3% of unmarried women between the ages of 15 and 49 possessed an understanding of what emergency contraception was, and 74% of those women did not know how to obtain it.<sup>32</sup>

The Second National Survey of Sexual Health and Reproductive Health also revealed that only 2.7% of unmarried women between the ages of 15 and 49 took high dosages of birth control pills as a substitute for emergency contraception at some point in the past.<sup>33</sup> Currently, women in Costa Rica only have access to emergency contraception through this Yuzpe method. As stated above, the method is encouraged by civil society organizations to women who need an emergency contraceptive.<sup>34</sup> The method consists of the use of high dosage of over-the-counter birth control pills as an alternative to emergency contraception; this method has, unfortunately, more side effects than the Levonorgestrel pill.<sup>35</sup>

A report submitted by several NGO's to the Inter-American Commission on Human Rights (in preparation for the Commission's 149th Session) confirmed the former conclusions. The report stated that the lack of regulation in Costa Rica has the same practical effects as any other country with restrictions to emergency contraceptive methods.<sup>36</sup> The report concluded that the *de facto* prohibition led Costa Rican women to have severely limited access to emergency contraception. Limited access, in turn, led to higher rates of maternal mortality and illegal abortions. The report summed up the state's refusal to guarantee access to the product by saying, "Although in principle there would be no legal obstacle for the state health institutions to deliver the ECP, the reality is different."<sup>37</sup>

The survey also showed that the majority of men and women have access to sexual education within the family. 53.9% of the women between the ages of 15 and 19 said that the mother is the main source of sexual education, while professors were the main source of education to

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<sup>29</sup> *Id.*

<sup>30</sup> "EC FOR RAPE SURVIVORS: A Human Rights and Public Health Imperative," 2.

<sup>31</sup> Ministério de Salud et al., "II Encuesta Nacional de Salud Sexual Y Salud Reproductiva" (Costa Rica, 2016), 30, <http://ccp.ucr.ac.cr/documentos/portal/Informe-2daEncuesta-2015.pdf>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> "Ticas Tienen Acceso a Método Similar a La 'pastilla Del Día Después' | Crhoy.com," *CRHoy.com*, January 7, 2014, <http://www.crhoy.com/ticas-tienen-acceso-a-metodo-similar-a-la-pastilla-del-dia-despues/nacionales/>.

<sup>35</sup> International Consortium for Emergency Contraception, "ANTICONCEPCIÓN DE EMERGENCIA: USO DE PÍLDORAS ANTICONCEPTIVAS REGULARES COMO AE," 2015, 1, [http://www.cecinfo.org/custom-content/uploads/2015/02/Yuzpe\\_FactSheet\\_2015\\_Spanish.pdf](http://www.cecinfo.org/custom-content/uploads/2015/02/Yuzpe_FactSheet_2015_Spanish.pdf).

<sup>36</sup> Centro de Promocion y Defensa de los Derechos Sexuales y Reproductivos et al., "Informe Sobre El Acceso a La Anticoncepción de Emergencia En La Región. Análisis de Una Tendencia Jurisprudencial Restrictiva En Chile, Ecuador, Perú, Honduras Y Costa Rica," 16.

<sup>37</sup> *Id.* at 17.

about 24.1% of the women. Also, the survey shows that more than 80% of men and women agree that sexual education should begin in primary school; there is a consensus among those consulted that it should start around age 10.<sup>38</sup>

Limited sexual education and difficulty obtaining certain types of contraception contribute to negative impacts on the sexual and reproductive rights of Costa Rican women. For example, the Second National Survey of Sexual Health and Reproductive Health stated that 49.8% of pregnancies in women between the ages of 15 and 49 were not desired.<sup>39</sup> It also stated that, “Although sexual relations with persons under the age of 15 is a crime...2,450 births between 2009 and 2013 occurred in females between the ages of 10 and 14.” Overall, teenage births account for 20.3% of total births.<sup>40</sup> These statistics confirm that restrictions on contraception and low formalized sexual education rates lead to a higher rate of teenage motherhood and unwanted pregnancies amongst young Costa Rican women.

### c. Right to Reproductive Technology

Throughout the early 21<sup>st</sup> century, Costa Rica was distinguished for maintaining a ban on in vitro fertilization (hereinafter, IVF).<sup>41</sup> Costa Rica allowed the practice of in vitro fertilization for five years between 1995 and 2000. The Constitutional Chamber later declared the technique unconstitutional in Judgment No. 2000-02306, dated March 15, 2000.<sup>42</sup> The Constitutional Chamber asserted that regulation of the right to life and dignity of the human being (carried out in the Executive Decree allowing in vitro fertilization) was beyond the scope of the executive branch’s power under the Costa Rican Constitution.<sup>43</sup>

In 2011, the Inter-American Commission on Human Rights brought the case of *Artavia Murillo et al. (“IN VITRO FERTILIZATION”) v. Costa Rica* before the Inter-American Court of Human Rights (hereinafter, Inter-American Court, “the court”). The IACHR submitted the case to the Inter-American Court in response to Costa Rica’s failure to adopt the Commission’s recommendations regarding in vitro fertilization. The victims, Grettel Artavia Murillo and Miguel Mejia Carballo, were a married couple with longstanding difficulties conceiving due to Mr. Mejia Carballo’s 1985 work-related accident that left him permanently paraplegic.<sup>44</sup> Following many unsuccessful attempts to conceive through artificial insemination, the couple learned from their physician that in vitro fertilization was the only remaining method to employ in their quest to start a family. The couple joined with eight other plaintiffs alleging similar complaints.<sup>45</sup>

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<sup>38</sup> Ministério de Salud et al., “II Encuesta Nacional de Salud Sexual Y Salud Reproductiva,” 28.

<sup>39</sup> *Id.* at 24.

<sup>40</sup> CEDAW Committee, *Concluding Observations: Costa Rica*, p.6, U.N. Doc. CEDAW/C/CRI/CO/5-6 (2011).

<sup>41</sup> International Human Rights Clinic Loyola Law School Los Angeles and Associazione Luca Coscioni per la libertà di ricerca scientifica, “NGO Report on Costa Rica’s Implementation of the International Covenant on Economic, Social and Cultural Rights,” Submitted to the UN Committee on Economic, Social and Cultural Rights for consideration in the formulation of the List of Issues during the 57th PreSessional Working Group (7-11 March 2016), (January 31, 2016), 7, [http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/CRI/INT\\_CESCR\\_ICO\\_CRI\\_22872\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/CRI/INT_CESCR_ICO_CRI_22872_E.pdf).

<sup>42</sup> I/A Court H.R., *Artavia Murillo et al. (“In Vitro Fertilization”) v Costa Rica*, Judgment of November 28, 2012, para. 72, Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_257\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_257_ing.pdf)

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at para. 84.

<sup>45</sup> *Id.* at para 86

The Court ruled that Costa Rica's ban on in vitro fertilization violated Articles 5, 7, 11, 17, and 24 of the American Convention on Human Rights (hereinafter, American Convention). The court concluded that Costa Rica's IVF ban infringed upon multiple privacy rights, including individual reproductive rights, family planning rights, and the right to physical and mental dignity.<sup>46</sup> The court's decision stated that the state must: (1) annul the prohibition of the practice of IVF; (2) regulate the aspects that it considers necessary for the implementation of IVF; (3) include the availability of IVF within the infertility treatments and programs offered by its health care services; (4) provide training on reproductive disability rights; and (5) pay the pecuniary and non-pecuniary damages to the families.<sup>47</sup>

The Court also developed an interpretation of the term "conception" used by Article 4 (1) of the Convention,<sup>48</sup> announcing that conception occurs at the point of "implantation" of the embryo in the woman's uterus. The argument used by the Court was that the embryo only has chances of development if it is implanted inside the woman's body. The Court ruled that the embryo "has a potential development of a 'human being',"<sup>49</sup> but it is not viable unless implanted in the uterus.<sup>50</sup> After the Court's decision, the Executive branch of the Costa Rican government recognized the right to in vitro fertilization and embryo transfer in September 2015 by issuing Executive Decree No. 39210-MP-S. The decree authorized IVF as a legal technique of assisted reproduction.<sup>51</sup> However, in October 2015, the Constitutional Court declared the Decree unconstitutional again based on reasoning that human rights must be regulated by the legislature rather than the executive.<sup>52</sup>

On February 26, 2016, the Inter-American Court issued findings stating that Costa Rica complied with its obligations to publish the Judgment and award damages to appropriate victims. Nevertheless, the Court found that the State failed to comply with its obligation to annul the prohibition on IVF and ordered the State to adhere to Decree No. 39210-MP-S. The Court stated that "executive decree 39210-MP-S, dated September 11, 2015, shall remain in force, without prejudice to the legislative body issuing any subsequent regulation in accordance with the standards indicated in the judgment."<sup>53</sup> The court's conclusions indicate that the executive branch must comply in permitting the decree to apply to all institutions and persons.<sup>54</sup> The court also ordered the state to continue providing psychological assistance to the victims involved in the *Artavia Murillo* case.<sup>55</sup>

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<sup>46</sup>*Id.* at para. 314.

<sup>47</sup>*Id.* at para. 381.

<sup>48</sup> "Art. 4 (1) Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life." See American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, *entered into force* July 18, 1978, *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992).

<sup>49</sup> *Supra* note 40, at para. 186.

<sup>50</sup> *Id.*

<sup>51</sup> Decreto Ejecutivo. Norma para Establecimientos de Salud que realizan la Técnica de Reproducción Asistida de Fecundación In Vitro y Transferencia Embrionaria (FIV) N° 39616-S, de 11 de Mayo de 2016, (31 de Mayo de 2016).

<sup>52</sup> I/A Court H.R., *Caso Artavia Murillo y Otros ("Fecundación In Vitro") Vs. Costa Rica*, Supervisión de Cumplimiento de Sentencia, de 26 de Febrero de 2016, para. 14.

<sup>53</sup> *Id.* at para. 36.

<sup>54</sup> "Corte IDH Ordena Poner En Vigencia Decreto Que Regula FIV En Costa Rica," *La Nación*, March 1, 2016, [http://www.nacion.com/nacional/salud-publica/Corte-Interamericana-FIV-Costa-Rica\\_0\\_1545845487.html](http://www.nacion.com/nacional/salud-publica/Corte-Interamericana-FIV-Costa-Rica_0_1545845487.html).

<sup>55</sup> I/A Court H.R., *Caso Artavia Murillo y Otros ("Fecundación In Vitro") Vs. Costa Rica*, Supervisión de Cumplimiento de Sentencia, de 26 de Febrero de 2016, para. 36.

i. Executive policies constitute a de facto limitation of in vitro fertilization

Though the Executive branch eventually decided to respect the decision of the Inter-American Court, IVF is still under a great deal of juridical insecurity. There are also concerns that access to IVF technology continues to be obstructed by excessive restrictions.<sup>56</sup> The Human Rights Committee expressed this concern by stating, “The State party should do all it can to pursue its stated intention to eliminate the ban on in vitro fertilization and to prevent excessive restrictions from being placed on the exercise of the rights set out in Articles 17 and 23 of the Covenant by persons who wish to avail themselves of that technology.”<sup>57</sup>

In March 2016, more than three years after the decision of the Inter-American Court, the Executive Branch issued the Technical Standard that regulated the Health Establishments that perform the Technique of Assisted Reproduction of In Vitro Fertilization and Embryo Transfer. Notwithstanding, the implementation of the Executive Decree is not complete. Until today, the Unit of Reproductive Medicine of High Complexity, where in vitro fertilization treatments are supposed to occur, is not in operation.<sup>58</sup> In 2016, only one private clinic had received the authorization to execute IVF.<sup>59</sup> However, there are not guidelines stating how the clinic is supposed execute the IVF procedures, thus limiting the access to and applicability of IVF to the Costa Rican people.

d. Right to Maternal Health Care and Prevention of Obstetric Violence

Paragraph 1, art 12 of the Convention on the Elimination of All Forms of Discrimination Against Women states: “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on the basis of equality of men and women, access to health care services, including those related to family planning.” Costa Rican women often face disrespectful and abusive treatment during the maternal care and childbirth process. In 2015, the IACHR contemplated the obstetric violence problem.<sup>60</sup> The Defensoria de los Habitantes in Costa Rica conducted an investigation and identified several examples of violations that women suffer in Costa Rica:

- (1) failure to attend obstetric emergencies in a timely and effective manner;
- (2) forcing the woman to give birth in the supine position and with the legs raised, negating the necessary means for the realization of the vertical birth;
- (3) creating obstacles to the child's early attachment to his mother, without justified medical cause, denying her the possibility of carrying or breastfeeding immediately at birth;

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<sup>56</sup> Human Rights Committee, *Concluding observations on the sixth periodic report of Costa Rica*, para. 20, U.N. Doc. CCPR/C/CRI/CO/6 (2016)

<sup>57</sup> *Ibid.*

<sup>58</sup> “Edificio Para Aplicar FIV Costará €3.615 Millones,” *La Nación*, January 25, 2017, [http://www.nacion.com/nacional/salud-publica/Edificio-FIV-costara-millones\\_0\\_1611838837.html](http://www.nacion.com/nacional/salud-publica/Edificio-FIV-costara-millones_0_1611838837.html).

<sup>59</sup> “Centro Fecundar Recibe Autorización Del Ministerio de Salud Para Aplicar FIV En Costa Rica,” *La Nación*, May 31, 2016, [http://www.nacion.com/nacional/salud-publica/Centro-Fecundar-Costa-Rica-FIV\\_0\\_1564043665.html](http://www.nacion.com/nacional/salud-publica/Centro-Fecundar-Costa-Rica-FIV_0_1564043665.html).

<sup>60</sup> “CIDH Cuestiona Al País Por Violencia Obstétrica,” *La Nación*, October 24, 2015, [http://www.nacion.com/nacional/salud-publica/CIDH-interesada-violencia-obstetrica\\_0\\_1520047996.html](http://www.nacion.com/nacional/salud-publica/CIDH-interesada-violencia-obstetrica_0_1520047996.html).



- (4) altering the natural process of low-risk childbirth through the use of acceleration techniques, without obtaining the voluntary, express and informed consent of the woman;
- (5) practicing the delivery via cesarean section, preventing conditions for natural childbirth, without obtaining the voluntary, express and informed consent of the woman;
- (6) failing to allow the woman be accompanied by a person of their confidence and choice before, during and after childbirth<sup>61</sup>

In addition to this investigation, the Special Standing Committee on Women of the Legislative Assembly of the Republic of Costa Rica conducted another investigation about obstetric violence. The report from that study elucidates that most births in Costa Rica take place in a public hospital. In 2014, 93% of infants were born in public hospitals.<sup>62</sup> In January through August of the following year, Costa Rican public hospitals received 1,248 complaints related to obstetrics, but they were unable to verify how many specifically referred to obstetric violence.<sup>63</sup> Similarly, another survey conducted by the University of Costa Rica indicated that only 5% of laboring mothers choose the position in which they give birth.<sup>64</sup> The survey also stated that six out of ten women who give birth in the country's hospitals (especially in public hospitals) face the whole process of childbirth alone, without a companion that allows them to reduce the stress load while hospitalized.<sup>65</sup>

In 2015, those who have born witness to obstetric violence in Costa Rica testified about their experiences before the 156th session of the Inter-American Commission on Human Rights (IACHR). Following heightened publicity of a few extreme cases, the commission held a hearing in order to provide a more in-depth look at the presence of obstetric violence in the country. The women who testified reported that these cases of obstetric violence violated their freedom to choose what happens to their own bodies, and denounced the harsh reality of obstetric violence in the hospitals in Costa Rica.<sup>66</sup>

## **II. Costa Rica's Failure to Implement Human Rights Promises is a Violation Under CEDAW**

### **a. Costa Rica's Failure to Guarantee Access to Legal Abortion**

In 2012, Costa Rica followed up to CEDAW's concluding observations about the fifth and sixth periodic reports of Costa Rica. The state asserted that the "Technical Treatment Guide for Therapeutic Abortion" was completed, and would act as a protocol for the practice of therapeutic abortion. However, it still awaited official approval by the appropriate

<sup>61</sup> Defensoría de los Habitantes, "Iberoamérica Se Une Ante Violencia Obstétrica Que Sufren Las Mujeres," May 23, 2016, [http://www.dhr.go.cr/actualidad/ultimas\\_noticias/01\\_violencia\\_obstetrica.pdf](http://www.dhr.go.cr/actualidad/ultimas_noticias/01_violencia_obstetrica.pdf).

<sup>62</sup> Comisión Permanente Especial de la Mujer, "Investigación Sobre La Violencia Obstétrica Que Sufren Las Mujeres En Los Hospitales de Nuestro País - N° 19659" (Asamblea Legislativa de la República de Costa Rica, Abril 2016), 14, [http://www.asamblea.go.cr/sil\\_access/ver\\_dictamen.aspx?Id\\_Dictamen=13916](http://www.asamblea.go.cr/sil_access/ver_dictamen.aspx?Id_Dictamen=13916).

<sup>63</sup> Rebecca Levine, "Victimas de Violencia Obstétrica En Costa Rica," *Human Rights Brief*, accessed May 11, 2017, <http://hrbrief.org/hearings/victimas-de-violencia-obstetrica-en-costa-rica/>.

<sup>64</sup> Comisión Permanente Especial de la Mujer, "Investigación Sobre La Violencia Obstétrica Que Sufren Las Mujeres En Los Hospitales de Nuestro País - N° 19659," 18.

<sup>65</sup> *Ibid.*

<sup>66</sup> "CIDH Cuestiona Al País Por Violencia Obstétrica."

institutional authorities at that time.<sup>67</sup> As stated previously, CEDAW has repeatedly stated concern about the inaccessibility of legal abortion because of the “lack of clear medical guidelines outlining when and how a legal abortion can be conducted.”<sup>68</sup> The State’s 2015 consideration report once again attempted to allay these concerns by asserting that, “the CCSS as a whole, and in consultation with various State entities and non-governmental organizations, has prepared a draft protocol for integrated therapeutic abortion care...this has not yet been approved by health authorities.”<sup>69</sup>

According to the World Health Organization (hereinafter, WHO), health is defined as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” The denial of access to abortion in Costa Rica conflicts with the WHO definition of health by subjecting women to physical and emotional pain and suffering. Due to the lack of guidelines for the execution of legal abortions, Costa Rica has repeatedly violated its own domestic law providing for therapeutic abortion. In the process, the state also created serious obstacles to women by depriving them of access to safe health through abortion when their health or life is at stake.

In CEDAW’s 2014 *Concluding Observations*, the committee directed Costa Rica to, “elaborate clear medical guidelines on access to legal abortion and widely disseminate them among health professionals and the public at large and...consider reviewing the law relating to abortion, with a view to identifying other circumstances under which abortion could be permitted, such as abortions in cases of pregnancies resulting from rape or incest.” In the time since CEDAW’s declaration, the Costa Rican Legislative assembly failed to promulgate any regulations or guidelines concerning the implementation of therapeutic abortion, or any changes in the existing law pertaining to rape and incest.<sup>70</sup> A recent scandal brought the legislation into the public spotlight in Costa Rica when a father sexually abused his 13-year-old daughter, and the abuse resulted in pregnancy. The young girl’s circumstances showed the faults in Costa Rica’s legislation, as she was deprived of the right to an abortion despite the trauma and abuse that caused her pregnancy.<sup>71</sup>

CEDAW’s General Recommendation 24 declares that States should, “prioritize the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance...when possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo an abortion.”<sup>72</sup> Additionally, according to the General Recommendation No. 33 on women’s access to criminal justice, laws are important in ensuring that women are guaranteed the ability to exercise their human rights. Thus, states must ensure that criminal codes and criminal laws do not discriminate against women by “criminalizing forms of behaviour that are not criminalized or punished as harshly if they are

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<sup>67</sup> CEDAW Committee, *Concluding Observations on the combined fifth and sixth periodic reports of Costa Rica*, p. 8, U.N. Doc. CEDAW/C/CRI/CO/5-6/Add.1 (2014).

<sup>68</sup> CEDAW Committee, *Concluding Observations: Costa Rica*, p. 7, U.N. Doc. CEDAW/C/CRI/CO/5-6 (2011).

<sup>69</sup> CEDAW Committee, *Consideration of reports submitted by States parties under article 18 of the Convention*, page 27, U.N. Doc. CEDAW/C/CRI/7 (2015).

<sup>70</sup> CEDAW Committee, *Consideration of reports submitted by States parties under article 18 of the Convention*, page 27, U.N. Doc. CEDAW/C/CRI/7 (2015).

<sup>71</sup> “En Costa Rica Se Aviva El Debate Sobre El Aborto Mientras Se Combate La Violencia Sexual,” *CNNEspañol.com*, March 7, 2017, <http://cnnespanol.cnn.com/2017/03/07/en-costa-rica-se-aviva-el-debate-sobre-el-aborto-mientras-se-combate-la-violencia-sexual/>.

<sup>72</sup> CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess., 1999), U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008), [hereinafter CEDAW Committee, *Gen. Recommendation No. 24*].

performed by men...and criminalizing forms of behaviour that can be performed only by women, such as abortion.”<sup>73</sup> Costa Rica still maintains a Criminal Code that punishes women with prison time in cases of abortion. The Recommendation urges states to act with due diligence in order to prevent the existence of crimes that disproportionately or solely affect women, such as abortion.<sup>74</sup>

It is the state party’s duty to ensure, on a basis of equality between men and women, that all people have access to health-care services, information and education. Further, states have a responsibility to respect, protect and fulfill a woman’s right to proper health care. The Costa Rican government’s failure to provide specific guidelines for the completion of medically necessary abortions constitutes a direct violation of these obligations. Costa Rica must put in place a system that ensures medical guidelines and effective judicial action for those seeking therapeutic abortion.<sup>75</sup>

**b. Costa Rica’s Failure to Guarantee Access to Emergency Contraceptives and Sexual Education**

CEDAW previously found that a policy banning modern forms of contraception in the Philippines was a direct violation of the CEDAW. The Convention states that women must have the right to decide, “freely and responsibly on the number and spacing of their children and to have access to the information, education, and means to enable them to exercise these rights.”<sup>76</sup> Because emergency contraception qualifies as a type of “modern contraception” similar to that indicated in the case of the Philippines, Costa Rica’s de facto ban on the product and refusal to make it available for distribution constitutes a violation of the Convention.

Emergency contraception is also a vital tool in preventing unwanted pregnancy following a sexual assault. According to statistics from the Gender Observatory of the Judiciary, in 2015 the judiciary prosecuted 6,811 cases of sexual violence, 2,623 of those being cases against minors and civil incapacitates.<sup>77</sup> Earlier statistics reported that, in a single Costa Rican shelter, 95% of the pregnancies among girls aged 15 years or less occurred because of incest.<sup>78</sup> These statistics display that, because sexual assault is a continuing issue in Costa Rica, emergency contraception must be available following an assault in order to mitigate the chances of pregnancy.<sup>79</sup>

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<sup>73</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No.33 women’s access to justice*, para. 47, U.N. CEDAW/C/GC/33 (2015) [hereinafter CEDAW Committee, *Gen. Recommendation No. 33*].

<sup>74</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No.33 women’s access to justice*, para. 51, U.N. CEDAW/C/GC/33 (2015) [hereinafter CEDAW Committee, *Gen. Recommendation No. 33*].

<sup>75</sup> CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, p.3 (20th Sess., 1999), U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008), [hereinafter CEDAW Committee, *Gen. Recommendation No. 24*].

<sup>76</sup> Convention for the Elimination of All Forms of Discrimination Against Women (18 Dec. 1979), art. 16., <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

<sup>77</sup> “Delitos Sexuales – Observatorio de Género,” *Observatorio de Violencia de Género Contra Las Mujeres Y Acceso a La Justicia | Poder Judicial*, accessed May 14, 2017, <http://www.poder-judicial.go.cr/observatoriodegenero/soy-especialista-y-busco/estadisticas/delitos-sexuales/>.

<sup>78</sup> M. Bruyn, *Violence, Pregnancy and Abortion; Issues of Women’s Rights and Public Health* (Chapel Hill, NC, 2003), p. 12.

<sup>79</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, 1999, A/54/38/Rev.1, par.

Not only does international human rights law indicate that women must have access to emergency contraception, but it also states that they should also have access to educational tools relating to emergency contraception and other sexual and reproductive information. CEDAW general recommendation no. 21 states that, under Articles 16(1)(e) and 10(h) of the Convention, in order to make informed decisions about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services.<sup>80</sup> Likewise, CEDAW general recommendation no. 3 directs all states to, “effectively adopt education and public information programmes which will help eliminate current prejudices and current practices that hinder the full operation of the principle of social equality of women.”<sup>81</sup> Costa Rica’s lack of educational accessibility to materials regarding women’s reproductive choices, contraception, and family planning is a violation of the preceding recommendations.

### **c. Costa Rica’s Failure to Guarantee Access to IVF**

Over 186 million couples across the globe face infertility difficulties every day. For those who are unable to conceive, the suffering extends beyond the mere absence of a child. In some cultures, infertility brings shame to women, and causes them to be the subject of stigma and violence from their spouse or their large society. In order to prevent such hardships, women deserve to take every opportunity possible in order to conceive.<sup>82</sup> States are obligated to take all measures necessary in order to prevent the discrimination of women based on their barrenness.<sup>83</sup>

Article 11 of the American Convention on Human Rights guarantees a right to privacy, stating that, “no one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.”<sup>84</sup> Article 17 of the convention describes the rights of the family, including the right to raise a family. Finally, Article 24 of the convention provides for the right to equal protection, declaring that, “all persons are equal before the law...consequently, they are entitled, without discrimination, to equal protection of the law.”<sup>85</sup> Costa Rica’s failure to fully implement the laws pertaining to in vitro fertilization is a direct violation of the rights memorialized in the American Convention on Human Rights. Specifically, the state’s inaction constitutes, “arbitrary interference in the right to private life and the right to found a family.”<sup>86</sup> In order to mitigate these violations, the state must take action by creating

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<sup>80</sup> CEDAW Committee, *General Recommendation No. 21: Equality in Marriage and Family Relations*, (13th Sess., 1994), U.N. Doc. A/49/38.

<sup>81</sup> CEDAW Committee, *General Recommendation No. 3: Education and Public Information Campaigns*, (6th Sess., 1987), U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II).

<sup>82</sup> Department of Reproductive Health and Research, World Health Organization, *Progress in Reproductive Health Research*, (No. 63, 2003), U.N. Doc. UNDP/UNFPA/WHO/World Bank Special Programme of Research.

<sup>83</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, 1999, A/54/38/Rev.1, par. 13.

<sup>84</sup> Organization of American States (OAS), *American Convention on Human Rights, "Pact of San Jose"*, Costa Rica, 22 November 1969, accessed 11 May 2017, <http://www.cidh.org/Basicos/English/Basic3.American%20Convention.htm>.

<sup>85</sup> *Id.*

<sup>86</sup> I/A Court H.R., *Artavia Murillo et al. ("In Vitro Fertilization") v Costa Rica*, Judgment of November 28, 2012, para. 2, Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_257\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_257_ing.pdf).

additional access to in vitro procedures and providing clear guidelines for physicians to implement in conducting such procedures.

**d. *Costa Rica's Failure to Provide Adequate Maternal Health Care and Prevent Obstetric Violence***

CEDAW general recommendation no. 24 discusses the provisions of Article 12 of the Convention, which establish that states shall take all appropriate measures to eliminate discrimination against women in the field of health care. The recommendation expounds on this idea:

“States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health-care services, including those related to family planning...States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”<sup>87</sup>

The recommendation then continues by describing the reporting methods that each state must follow in order to comply with Article 12. Reports produced by the state should include a discussion of the methods employed by the state in ensuring that women receive appropriate services during the pregnancy, confinement, and post-natal period.<sup>88</sup>

The Costa Rican Department of Social Security took an attempt at ensuring better maternal care by issuing the “Guide for the Integral Care of Women, Girls and Children in the Prenatal, Childbirth and Postpartum Period.” Despite this initiative, CEDAW still concluded that the policy was insufficient in correcting faulty institutional practices and ensuring the effective protection of women's reproductive rights. The guide, for instance, did not contain any complaint mechanism, nor did it establish penalties for officials who engaged in obstetric violence behaviors. Because the state failed to implement a successful strategy to address the maternal healthcare barriers facing most of the female Costa Rican population, CEDAW thus concluded that the state did not consider women a priority care population. CEDAW also based its conclusion on the Department of Social Security's lack of attention to overall comprehensive health care for Costa Rican women.<sup>89</sup> In order to alleviate these failures, Costa Rica must implement a stronger program for the prevention of obstetric violence, and guarantee a safe medical environment for women in all stages of life.

### **III. Questions for Costa Rica**

1. Please report on the legislation and policies the state adopted in order to improve women's equality in reproductive health care and family planning services. Please also report whether there is widespread distribution of information about these

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<sup>87</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, 1999, A/54/38/Rev.1, par. 8.

<sup>88</sup> *Id.* at para. 12.

<sup>89</sup> Comisión Permanente Especial de la Mujer, “Investigación Sobre La Violencia Obstétrica Que Sufren Las Mujeres En Los Hospitales de Nuestro País - N° 19659.” 25.

services. If such legislation and policies exist, have they been successful in providing women with real access to reproductive health services?

2. Please report about the efforts the state made to improve access to modern contraception for all women, particularly emergency contraception. This report should include the measures taken to ensure its affordability, and an explanation of why the state does not include emergency contraceptives in its public health system.
3. Please report on the reasons that the Protocol for the Care of Victims of Sexual Violence was not implemented to date. Explain how the government ensures that victims of sexual violence receive adequate health care, including access to pregnancy tests and STI tests. Describe any additional measures the state plans to undertake in order to provide victims of sexual violence with access to emergency contraception.
4. Please report on any actions the state took to provide women with access to safe and legal abortion. Explain the status of access to abortions, particularly access for women with a serious medical condition or a pregnancy resulting from rape. Explain why is the Technical Treatment Guide for Therapeutic Abortion is not in force, and provide an update on the status of bill No. 16,887.
5. Please report on the state's plan to remedy the lack of unified, human rights based sexuality education in primary and secondary schools. Describe any measures the state plans to take in order to decrease the rates of pregnancy in adolescents, and provide information about any existing initiatives or programs meant to teach adolescents about sexuality and reproductive rights.
6. Please report on any measures the government took to ensure that women seeking reproductive health services receive proper assistance and care. This explanation should include any action undertaken to promote the acceptability of reproductive health services in Costa Rica society.
7. Please report on how the state intends to eradicate gender stereotyping in its health care system. Describe any training or other measures the state has adopted to sensitize health care personnel to the concept of women as rational and competent decision-makers in reproductive health decisions.
8. Please report on any measures the state took to ensure access to IVF procedures, including the number of clinics authorized to execute IVF, and whether the procedure was provided to all people seeking such assistance.

#### **IV. Recommendations**

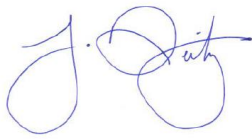
We respectfully request that the Committee address the following recommendations to the Costa Rican government:

1. Ensure the access to legal abortion by developing a protocol to therapeutic abortion when the life or health of the woman is at stake, according to the highest human rights standards, and strike the statute criminalizing abortion procedures, especially in cases where pregnancy results from rape or incest.

2. Ensure the removal of all barriers to women's access to health services, sexual education and information in the area of sexual and reproductive health.
3. Ensure women's access to advanced technology contraceptives, including emergency contraceptives, especially in the event of sexual assault.

We appreciate this Committee's longstanding commitment to reproductive rights and to the eradication of discrimination in the provision of women's health care. If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

Respectfully,



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## **Annex: Excerpt from the 1970 Costa Rica Penal Code<sup>90</sup>**

### **ARTICLE 118: Abortion with or without consent**

Whoever causes the death of a fetus shall be punished: 1) with imprisonment from three to ten years, if done without her consent or if she is younger than fifteen years old. This punishment will be from two to eight years, if the fetus had reached six months of intrauterine life; 2) with imprisonment from one to three years, if done with the woman's consent. This penalty will be from six months to two years if the fetus had not reached six months of intrauterine life. In the above cases the respective penalty is increased if the fact results in the death of women.

### **ARTICLE 119: Procured abortion**

The woman who consents upon or causes her own abortion will be punished with imprisonment from one to three years. This penalty will be from six months to two years if the fetus had not reached six months of intrauterine life.

### **ARTICLE 120: Abortion honoris causa**

If the abortion was made to hide the shame of a woman, either by herself or by third parties with the consent of the former, the penalty is three months to two years in prison.

### **ARTICLE 121: Abortion unpunished**

It is not punishable the abortion performed with her consent with medical or obstetric authorization, when it has not been possible to intervene before, if it has been done in order to avoid danger to the life or health of the mother and this could not be avoided by other means.

### **ARTICLE 122: Culpable Abortion**

It shall be punished with sixty to one hundred twenty days fine, whoever causes an abortion.

### **ARTICLE 381**

Ten to sixty days fine will be imposed to whom: ...3) commits an action or produces violent emotions to a woman during pregnancy, when the pregnancy is evident...4) Do commerce of or preach procedures, instruments, drugs or substances to induce abortion. (As amended by Article 2 of Law No. 8250 of May 2, 2002).

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<sup>90</sup> Código Penal, Ley N° 4573, 4 de mayo de 1970, Lex n° CR072, 15 de noviembre de 1971 (Costa Rica).