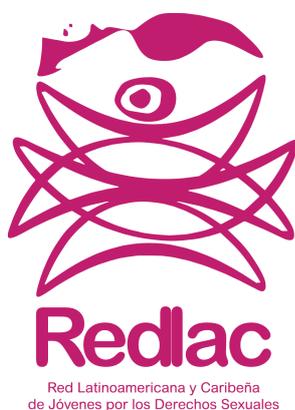


**Alternative Report on the implementation of the Convention on  
the Elimination of All Forms of Discrimination Against Women -  
CEDAW-**

**"The Situation of Young Women in Guatemala"**



## **I. Introduction:**

1. The Facultative Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which was adopted by the General Assembly on 15.10.1999 recognizes the competence of the Committee on the Elimination of Discrimination against Women (the Committee) to receive and consider communications submitted under article 2 of the annex, which establishes that communications may be submitted by persons or groups of persons who are under the jurisdiction of the State party and who claim to be victims of a violation by that State Part of any of the rights inclined at the convention, or on behalf of such persons or groups of persons.

2. Therefore, from the Asociación Red de Jóvenes para la Incidencia Política (Youth Association Network for Political Advocacy) INCIDEJOVEN as part of the RedLAC (Latin American and Caribbean Youth Network for Sexual Rights), together with the Guatemalan Association of Secular Humanists; NGO's whom work for the promotion and defense of sexual and reproductive rights and the pursuit of the respect for a Secular State in Guatemala. We present the following report to record compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Guatemala.

3. The following report emphasizes on the situation of adolescent and young women in Guatemala, prioritizing the State party's report, recommendations, list of issues and State response to the Committee on: discriminatory legislation and stereotypes, and cultural practices, education, health, violence against women, concluding the report with recommendations for these issues.

4. Guatemala is a country with a mostly young population, it is estimated that in 2015: 68% of Guatemalans were under thirty years of age and 33% were between 13 and 29 years of age. The young population represents an immense opportunity for the development of the country. Unfortunately the State of Guatemala does not invest adequately in its youth to guarantee its rights, its integral development and a decent future. Guatemala is one of the most violent countries in the world and the population most affected by endemic violence is the youth. It is clear that both men and women are deeply affected by violence that has implications in all aspects of their lives. Studies have shown that violence takes different forms and has different consequences and patterns for women than for men. Women, especially adolescent and young women, are at greater risk of suffering from sexual and gender-based violence (Inter-American Commission on Human Rights, 2015: 106) as well as psychological and economic violence. It is clear that these violent conditions in which they live also have serious consequences for their sexual and reproductive health.

5. Violence against women takes many forms, including domestic violence, sexual exploitation, and human trafficking and even femicide. The figures (numbers, ciphers) on impunity in these situations demonstrate that the State of Guatemala does not have an efficient and systematic response to address the violence suffered by women in the country, especially the adolescent and young women who are part of the groups that have been violated (infringed) in Guatemala. (Bookey and Musalo, 2013: 269).

6. The poor response by the State of Guatemala towards violence has been shown on several occasions, for example, the most recent tragedy that occurred on March 8, 2017 in the Virgen de la Asunción Safe Home, a center that is under the charge of the Government of Guatemala. The mismanagement and coordination that the State has with those state centers

resulted in the loss of 41 adolescents who died from a fire. This happened after a series of denunciations made by the same adolescents who suffered from vexations inside the secure home facilities. When they were locked up as punishment, a recurring form of "discipline" in the home, and in reaction to the State's apathy in front of their complaints, the adolescents made an internal demonstration that culminated in the burning of mats to demand their departure. Officials continued to ignore their demands, showing an indifferent attitude and an act of abuse of power, leaving the adolescents under their charge, to die calcined. It was until then that the various types of violence and humiliations suffered by the adolescents, especially sexual violence by those in charge of the center, were publicly exposed (Woltke and Rodríguez Pellecer, 2017).

7. The public health system in Guatemala is one of the most deficient in its institutionality. The low financial investment in health evidences that it is not a priority for the State. One of the consequences is little or no quality in sexual and reproductive health, which can be measured by the rates of teenage pregnancies, the use of modern contraceptive methods and the total birth rate. In Guatemala, statistics show that in the first eight months of 2015 (January to August) there were 64,398 births in adolescent women between 15 and 19 years old (OSAR, 2015); As for the use of modern contraceptive methods, the country reports that only 44% of sexually active women use them (UN Women); and, according to the World Bank in 2014, the total birth rate in Guatemala was 3.2. This data shows that sexual and reproductive health is deficient, a fact that affects the life, rights and development of the country's adolescents and young people.

8. Despite the alarming number of registered pregnancies in adolescent women and girls in Guatemala, there are several problems in compiling statistics that make it difficult to estimate the true numbers. The data collected from the pregnancies are showing the births registered and does not take into account the pregnancies that, for one reason or another, end in an abortion. It is estimated that annually 65,000 illegal abortions are practiced in the country and about 20,000 women are hospitalized annually for complications related to abortion (Francome, 2015). It means that the problem of teenage pregnancies is wider than what the statistics show. And although abortion is penalized, it is clear that it is a common practice in society; although on the part of the politicians, the debate by the decriminalization is biased, and its obscuring women's right to decide.

9. According to a study by the University of Nottingham, education is the most efficient method to prevent teenage pregnancies, so it is important that adolescents stay within the educational system (Girma and Paton, 2015; 8). Guatemala stands out as one of the countries in Latin America with less educational coverage, according to data from 2014, 8 out of 10 in the group of adolescents between 14 and 17 years old, and 9 out of 10 in the age range of 18 to 19 years are not working or studying (Encuesta Nacional de Empleo e Ingresos, 2014) . The group of adolescents and young people who are not working or studying are in a vulnerable position to suffer various forms of violence. In the specific case of adolescent and young women in this condition, they also tend to face domestic , gender and sexual violence. These manifestations of violence together with the lack of opportunities and education, especially Integral Education in Sexuality, places them at greater risk of pregnancy and forced maternity.

10. Despite passing certain laws and the ratification of several international conventions and treaties designed to protect women, violence against women continues to be alarming and growing. Violence against women cannot be understood as a private phenomenon or outside

the structures of society and the State. While recognizing the progress made in preventing violence against women, the problem remains constant and steadily increasing, damaging adolescents and young women in particular. It is important to note that laws designed to protect women coexist with a wide range of discriminatory laws that, added to the social context that normalizes violence against women, results in high levels of impunity (Menjívar and Drysdale-Walsh 2013; 2). In recent years, the authorities' response to the situation of women, particularly adolescent women and young people, has been to design and propose legislation that recedes the little progress already made, such as the recent initiative No 5272 "Law for the Protection of Life and Family" presented in 2017.

11. Pierre Bourdieu explains symbolic violence as the process of internalizing inequalities, humiliations and hierarchies, ranging from racism and sexism to expressions of power among social classes. Cultural stereotypes and practices that violate women's rights in the context of Guatemala are so standardized that harmful acts become invisible and are no longer seen as violence. For women, adolescents and young people, symbolic violence is manifested in their daily lives, in the institutions of the State and is expressed, for example: in the attitudes of extreme control over their bodies, their social relations and their physical mobility, and devaluation of their suffering and of their lives in general (Menjívar and Drysdale-Walsh 2013; 6).

## **II. Discriminatory Legislation and Cultural Stereotypes and Practices (Article 2 and 5)**

12. In its 8th. and 9th. report to the CEDAW Committee, Guatemala has established that according to the Political Constitution of the Republic of Guatemala, equality and right is guaranteed to all human beings. Despite these guarantees to constitutional rights, and the specific recommendations to Guatemala by the Committee in 2009, the country still has discriminatory legislation against women.

13. In recent years, the political debate over the recognition of sexual and reproductive rights as human rights in Guatemala has generated diverse opinions. The main opposition players in these debates hold political and economic power within government institutions, churches and the conservative private sector.

14. Diverse civil society actors have expressed concern about the lack of guarantee of sexual rights and reproductive rights. These demands are based, among other things, on the current situation of the country's adolescents and young people who are victims of various manifestations of violence, mainly gender and sexual violence, which affects the development not only of their lives but of the country. The response to these demands have not been adequate, since the State authorities, mainly the Legislative System (?), has proposed initiatives of law that do not contribute to the development of the society, which results in a setback and a violation of the rights of women, especially of adolescents and young people. This is the case of the recent Initiative 5272, "Law for the Protection of Life and Family", presented in March 2017 by 23 deputies of the Congress of the Republic of Guatemala together with the Evangelical Coordinator of Guatemala. This initiative is based on four human rights violations related to: family, LGBTI community, abortion, sexual and reproductive rights defenders.

15. Bill 5272 proposes the "natural family" as the only recognized model of a family, where it refers strictly to the recognition of a family consisting of mother, father, son, daughter; without exceptions to other types of families. Despite families such as single-parent

households (mother and children, father and children, and / or other relatives or guardians in charge) represent a high percentage of families in Guatemala. According to the National Survey of Living Conditions (UNCOVI), single-parent households with female heads represent 15.4% of all households, including households composed of single women with relatives (1.6%), single women with children and relatives (5.2 %), and single woman with children (8.6%). While single-parent households with male headship accounted for less than five percent (ENCOVI, 2014). It is clear that these definitions, apart from being discriminatory towards a large part of the population, do not represent the reality of many of the families in Guatemala.

16. The aforementioned further discriminates against homoparental families because it legislates against the marriages and unions within the LGTBI community, The article 78 of the current Guatemalan Civil Code defines the institution of marriage as exclusively between a man and a women therefore the bill seeks to prohibit what is already prohibited. This type of discrimination violates that which has already been established in the national legal framework and does not comply with the international frameworks ratified and approved by the State of Guatemala on discrimination. This bill completely ignores the reality of the social cultural, linguistic and ethnic diversity in Guatemala. It further obscures the various gender identities and sexual orientations existing in the country. It is evident that this bill discriminates, stigmatizes, creates prejudice and restricts constitutional rights and freedoms, and if passed could generate hatred and violence in all of its manifestations.

17. Additionally, the mentioned bill seeks to raise the penalties for abortions. Chapter II of the bill refers to "protection of life"; this section contemplates raising the existing penalties applied to abortions. The bill seeks to: redefine the legal construct of abortion and the existing concept of therapeutic abortion, it also seeks to raise the clinical criteria to be qualified as such, redefining unpremeditated abortion (aborto preterintencional); the attempt of abortion and miscarriage, it additionally aggravates the penalties for each of them. Currently, in Guatemala, abortion is illegal under any circumstances, except for saving a woman's life, according to articles 133 to 139 of the Penal Code, articles that are intended to be modified through 5272 bill.

18. It also adds the legal construct of "abortion promotion" which seeks to prosecute and punish those who provide information or media related to abortion, in the public or private sphere, making it difficult for sexual and reproductive rights defenders to influence the political debate on the decriminalization of abortion.

19. This bill prevents a deeper and more scientific dialogue, presenting an alarming setback in internationally recognized human rights issues ratified by Guatemala, such as CEDAW, but is also against the principle of non-regression of fundamental rights. Proposing and / or approving an initiative of this magnitude will only complicate the situation of violence, hatred, divisiveness and repression towards women, families, girls, adolescents, people from the LGTBI community and human rights defenders who promote sexual and reproductive rights as inalienable and fundamental freedoms.

20. As analyzed by Menjívar y Drysdale-Walsh, Guatemala's legal framework includes several laws, which discriminate against women. Happens also that laws designed to protect women are interpreted by state agents who perpetuate gender stereotypes this situation has harmed women, especially adolescents and young women. The clearest example can be found in the Civil Code of Guatemala which contains different articles that promote stereotypes and

clear discrimination against women. It should be noted that this Code was created in 1964 and requires relevant changes to eliminate these legal stereotypes which are contributing to endure violence against women and impunity by agents and state institutions (Menjívar and Drysdale-Walsh, 2016; 7).

21. Guatemalan Civil Code understands the family as the basis of the society and describes its interests as separate and distinct from the interests of its individual members. The family is understood as an institution based on the principle of unity. This way of codifying the family obscures the relations of inequality within the family, naturalizing and formalizing symbolic violence. By treating the family as an inherently neutral unit with collective interests above the interests of individuals, the most vulnerable members of the family are clearly disadvantaged. Women and especially girls and adolescents are in a more vulnerable position of suffering various forms of violence. The fact that the law establishes gender differences and inequalities, not only reflects the attitudes of society towards women, but also normalizes the multiple forms of violence that women suffer in their homes and in society (Menjívar and Drysdale-Walsh, 2013).

22. Article 134 of the Guatemalan Civil Code establishes the economic dependence of women on men and reaffirms the social expectation that man is responsible for the management of the family money. It establishes the following; "If the husband is under the age of eighteen, he shall be assisted in the administration of his property and those of the conjugal estate, by the person exercising over him the parental authority or guardianship; but if the woman is of legal age, she will exercise the administration of the goods until the husband reaches the age of majority "(qv in Menjívar and Drysdale-Walsh 9).

23. Article 169 on divorce, also reflects the social expectations that differ in relation to men and women: "The woman will enjoy the pension until she remarries; and the blameless husband will have the same right, only when he is unable to dedicate himself to jobs that provide him with means of subsistence and does not contract a new marriage. "This article implies that women are always unable to dedicate themselves to work that provides them with means of subsistence, so they "deserve" a pension, while the expectation towards man is to be provider of the family. This makes women dependent on men, even symbolically establishing women as a belonging and as economic dependent of men, which at the same time implies a very strong control over them.

24. It is important to address that the article 169 of the Guatemalan Civil Code which was amended in 2007, by means of a judgment of unconstitutionality, eliminating a segment in the second paragraph, which established that the woman would enjoy the pension: "while observing good behavior" in obvious detriment of the condition of the woman. However, this situation, despite not being explicitly established in the Civil Code, is still in the social imaginary, keeping the woman's actions conditioned and keeping her economically dependent on the man.

25. The above mentioned, represents serious direct consequences for women and contributes to the formation of social practices and stereotypes that place women in a condition of men's property, and as the ones that must care for the house and children as their social mandate also forces them to assume economic dependence. Menjívar and Drysdale-Walsh found that these attitudes also affect how laws designed to protect women against violence are interpreted, written and implemented (mainly the Law Against Sexual Violence, Exploitation, and Human Trafficking Decree No. 9-2009 and the Law Against Femicide and Other Forms of Violence Against Women) Therefore, in a context where violence against

women is seen as normal, it is clear that many of the State agents responsible for protecting women and providing them fairly when their rights have been violated tend to evade the application of laws designed to protect women. Although the adoption of such laws represents a symbolic victory for women's rights defenders, experts have argued that it is unlikely to see a significant change in the status of women because those laws were passed without altering the way in which women are perceived by society, the normalized inequality between men and women and the authority of men that is still prevalent in social practices and laws (Drysdale-Walsh , 2016:13).

26. These attitudes, which are established even in the law, have serious consequences for adolescent and young women, who are in the most vulnerable position within the family.. They are often victims of different manifestations of violence, even within their homes, since their bodies are seen as a property of the men from the family. This violence together with the social mandate of motherhood puts them at risk of forced pregnancy and forced childbearing.

27. It is clear that Guatemala's legal framework contains discriminatory aspects that affect attitudes towards women and normalizes violence against women by society. These legal stereotypes and law initiatives that violate their rights clearly violate the CEDAW Convention in its Articles 2 and 5, as well as the General Recommendation No. 28: "States Parties must address all aspects of its legal obligations under the Convention to respect, protect, and enforce women's right to non-discrimination and the enjoyment of equality. The obligation to respect requires States to refrain from elaborating laws, policies, norms, programs, administrative procedures and institutional structures that directly or indirectly deprive women of the enjoyment of their civil, political, economic, social, and cultural rights. equality with man. "

28. In its response to the Committee's list of issues from July 2017, the State of Guatemala reported a "less victimization, more empowerment" communication campaign intended to provide women with information about participation, prevention, women's rights, elimination of attitudes of victimization, strengthening attitudes of empowerment and socializing accompaniment guides for women. However, it is important to emphasize that a single campaign over a period of 9 years after the recommendations of the CEDAW Committee is not enough. It is evident that the State has little political will to generate profound and meaningful changes for society in terms of reducing stereotypes and cultural practices which include the institutional authorities' perspective on women. Especially if women, girls, adolescents and young people are victims of some kind of violence, the current answer to their attention is not to protect them but to re-victimize them and see them as useless.

### **III. Education**

29. It is evident that the difficulties affecting the lives of the young people in Guatemala are manifestations of the low inversion in the youth by the State, as shown by, for example, the statistics published in the Política de la Juventud 2012-2020 (Youth Policy 2012-2020): in the year 2011, the direct inversion in adolescents and children represented 18, 6 percent of the National Budget and 3, 8 percent of the Gross Domestic Product (GDP). Therefore, the State invested a mere 4,03 Quetzals (around USD 0,50) in each young person per day (24), this undoubtedly contributes to the conditions of extreme poverty, in which 14,52 percent of the youth live in: without access to the basic service, provided by the State (22).

30. It has been estimated that 1, 8 million children and adolescents, between the ages of ten and nineteen, are outside of the educational system and those who do receive education, are subject to low quality education due to a limited budget, lack of human resources and deficient infrastructure. Although in Guatemala the illiteracy rate among the population over 25 years of age has reduced in this decade, it is important to highlight that 12 in each 100 young people between the ages of 15 and 24 years, cannot read or write (Política Nacional de la Juventud 2012-2020, 2012; 23-24). In particular, girls and adolescent women and indigenous communities are especially affected by the high levels of illiteracy (22).

31. In 2014, MINEDUC (The Ministry of Education) Gross Education Rate was 63, 57 percent in preschool (5 to 7 year olds), 98, 75 percent in elementary school (8 to 12 year olds), and 68,43 percent in middle school (13 to 15 year olds). In the same year the school abandonment rate in elementary school was 3, 56 percent in elementary school, 4, 12 percent in middle school and 1, 46 percent in high school. Furthermore, statistics from the National Survey reveal that currently eight in every ten adolescent women between 14 and 17 years of age and nine in ten women between the ages of 18 and 29 neither work nor study (Encuesta Nacional de Empleo e Ingresos 1-2015).

32. In 2015, the Ombudsman commented that the right to education is one of the rights that in Guatemala is the most frequently violated, mainly due to the lack of coverage and the increase in school abandonment. Besides the insufficient inversion in education by the State, the little investment that there is, is disproportionately tilted towards elementary education. In 2014 the State invested 71 percent of its educational budget in the elementary school level, 15 percent in the preschool level, 9 percent in the middle school level, 4 percent in the high school level and a mere 2 percent in extracurricular education. This type of investing in the youth results in higher levels of school abandonment as can be observed in the number of the average years of schooling, which in Guatemala is 4, 8 years. Hence, the majority of the population does not reach a level of education higher than elementary school. The scarce and disproportionate investment in middle school and high school levels adversely affects the development of the future plans of the youth, limiting their economic options as well as their options in the labor market, which in turn upholds the cycle of poverty and violence. In this context, many adolescent women come to perceive motherhood as their only social mandate.

33. The most salient factors contributing to school abandonment in Guatemala include bullying, sexual violence, forced pregnancies and the conditions of poverty in which a large proportion of the youth live in. A study realized by the Dirección General de Calidad Educativa (The General Direction of Educational Quality) –DIGEDUCA- on bullying in elementary schools, found that 34 percent of the participants had experiences bullying in their educational institutes. Boys tended to be more affected by bullying (Sistematización de la Estrategia de Educación Integral en Sexualidad 2010-2011; 40), however girls and adolescent women are more vulnerable to suffer from sexual violence and harassment. As a response to the alarming statistics on the violence to which the youth is exposed to, in 2010 the Ministry of Education- MINEDUC- prepared a strategy of Estrategia de Educación Integral en Sexualidad y Prevención de la Violencia (Comprehensive Sexuality Education and Prevention of Violence) -EIS/PV- The systematization of the strategy reveals that the Ministry found a severe lack of knowledge of the guidelines on how to identify, attend to, and refer cases of violence in educational institutions within the personnel of the Ministry and the personnel of educational institutions. Based on these findings the Protocolo de Identificación, Atención y Referencia de Casos de Violencia dentro del Sistema Educativo (The Protocol to Identify, Attend to, and to Refer Cases of Violence in Educational Institutions) was created. The protocol seeks to provide clear guides of action for the educational institutes, the teachers, and students and to define various forms of violence, as defined by law.

34. The Protocol to Identify, Attend to, and to Refer Cases of Violence in Educational Institutions was prepared in the framework of the strategy to promote Comprehensive Sexuality Education (CSE) and the prevention of violence, with the objective to create a systematic and long-term response to the various forms of violence that the boys, girls and adolescents of Guatemala experience in their homes, communities and in their educational institutions. (Estrategia de EIS y Prevención de la Violencia –sistematización 2010-2011, 2012).

35. Despite the Protocol being prepared in the framework of prevention of violence and the promotion of Comprehensive Sexuality Education (CSE), it does not make any specific references to sexual and reproductive rights and it does not mention the importance of providing CSE to students. Various studies have found that Comprehensive Sexuality Education, when implemented adequately, has the potential to reduce stereotypes and harmful attitudes and cultural practices, increase the modern contraceptive use and to reduce the normalization of violence against women.

36. In the framework of the XVIII International AIDS Conference in 2008, the first Meeting of Ministers of Education and Health in Latin-American and the Caribbean was held and during which, the Ministerial Declaration of “Preventing with Education, 2008-2015 ” was signed. Through the signing of the declaration the States commit to include Comprehensive Sexuality Education in all educational levels and to open and promote friendly spaces for the youth and adolescents. The commitments included in the declaration were monitored by the Mesoamerican Coalition for Comprehensive Sexuality Education –CSE- and the aspects evaluated were: the incorporation of CSE in the National Curriculum, the creation and promotion of materials for students and teachers, and the inclusion of all the themes of CSE in those materials. The provision of contraceptive methods and the friendly spaces for the youth and adolescents by the Ministries of Health and Education were further monitored and evaluated.

37. The goals of the declaration were a 75 percent reduction in the amount of public schools that have not institutionalized CSE and a 50 percent reduction of the population of adolescents and young people who do not benefit from the health services designed to attend to sexual and reproductive health necessities by the year 2015. The evaluation of the implementation of the declaration in Guatemala revealed that the country merely achieved moderate advances due to budget difficulties, a relatively low coverage of implementation and the lack of including all of the themes related to sexual and reproductive rights of adolescents. The little advances made in the thematic following the signing of the declaration demonstrate a low level of political will by the State to achieve meaningful change in the situation of the adolescents and the youth of Guatemala.

38. In the immediate years following the signing of the declaration, Guatemala achieved moderate progress in the themes related to CSE and sexual and reproductive health. The advancements achieved included the designing and printing of educational materials, teacher training in the pilot projects in various departments of the country and inter institutional cooperation in the framework of the strategy of Comprehensive Sexuality Education (CSE) and the Prevention of Violence and the National Policy for the Promotion and Comprehensive Development of Women PNPDIM (Estrategia de Educación Integral en Sexualidad y Prevención de la Violencia y la Política Nacional de Promoción y Desarrollo Integral de la Mujer PNPDIM). Unfortunately, following the change in government from 2012 onwards, the advancements made in earlier years, have come to a halt.

39. In its 8<sup>th</sup> and 9<sup>th</sup> report on the implementation of the CEDAW, Guatemala describes the creation of the National Strategy of Comprehensive Sexuality Education and the National Plan of Prevention of Pregnancies in Adolescents-PLANEA- under the responsibility of National Youth Council. Together, these policies establish the interinstitutional commitments and mechanisms in order to prevent pregnancies in adolescents. Currently sexual and reproductive rights are not recognized as human rights and the provision of CSE is not included in the National Curriculum, despite the obligations to provide it, as established in the Law of Social Development, Decree 42-2001. Moreover, the educational system has not been assigned resources to train teachers, which would be imperative in order to implement CSE appropriately.

40. It is worrying that the PLANEA is considered an achievement by the State, when its implementation, at best, can be said to have been incomplete. Furthermore, in its report in 2016, The National Youth Council reports the trainings conducted with students on the topics of violence and sexually transmitted diseases and infections as advancements. Yet, it is evident that the thematic has not been addressed in a profound and systematic manner, that would include addressing all the themes of CSE, and implementing it in all educational levels.

41. The Protocol to Identify, Attend to, and to Refer Cases of Violence in Educational Institutions was prepared in the framework of the strategy to promote Comprehensive Sexuality Education (CSE), despite some of its limitations can be considered a valuable tool to address the issue of the contexts of violence in which the children and youth of the country live in. The Protocol is written in an easily understandable manner and it provides clear instructions on how to attend to cases of violence in the educational system. Additionally, the protocol defines various forms of violence and how to detect them. However, the Protocol does not emphasize the sexual and reproductive rights of the adolescents in a sufficient manner and does not take into consideration the new forms of violence, such as “Sexting”, “Grooming”, and “Cyberbullying” etc. that have emerged through the diffusion of the Internet. These new behaviors tend to place, especially girls and adolescent women, at risk of suffering from multiple forms of violence. Furthermore, the Protocol does not address the prevention of symbolic violence that manifests in the norms, social expectations, and harmful cultural practices towards women and which contribute to the physical violence that the women, adolescent women and girls in Guatemala suffer from.

#### **IV. Health (Article 12)**

42. As established in the Article 2 of the the Convention on the Elimination of All Forms of Discrimination against Women, 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. However, the high levels of teenage and child pregnancies in Guatemala reveal that Guatemala is not complying with its obligations to guarantee women, in particular adolescent women and girls, the access to quality health services. In the year 2009, there were 41,429 births by teenage and child mothers were reported (Gabinete de Juventud) and the according to the VI Encuesta Nacional de Materno Infantil, one in every five adolescent women between the ages of 15 and 19 were, or had once been pregnant and 6 percent of girls below the age of 14 were or had once been pregnant (ENSMI, 2015: 17). In 2015, from January to August, 64,398 adolescent girls (15-19 years old) had reportedly given birth (Observatorio en Salud Reproductiva OSAR, 2015). These figures demonstrate that the problem is alarming and the amount of teenage pregnancies in Guatemala appears to be increasing rather than decreasing, as shown in recent statistics; in 2017, from January to March, 8,185 births by teenage mothers between the ages of 14 and 17 years of age were reported (OSAR, 2017).

43. According to the report of the General Assembly of the United Nations, the principle factors that place adolescents at risk of an undesired or unplanned pregnancy are; the lack of comprehensive sexuality education (CSE), the persistence of discriminatory social practices, such as child marriages, high levels of sexual violence or exploitation, as well as the lack health services that have been adapted to the specific needs of the youth and the absence of modern contraceptive methods (CLADEM, 2016). Other factors include poverty, the lack of opportunities, gender inequality and the persistence of poverty.

44. It is important to highlight the links between child pregnancies and sexual violence. However, many of the pregnancies can also be understood in the context of the lack of access to health services that have been especially designed to address the needs of adolescents and the poor availability of modern contraceptive methods. According to the Guttmacher Institute (2014), 55 percent of adolescent women in Guatemala, between 15 and 19 years of age, that are sexually active, have never been married and do not wish to have a child in the next two years, have an “unsatisfied need for contraception”. Moreover, some studies have provided evidence on the low level of knowledge on fertility in relation to the menstrual cycle; alarmingly, only 15 percent of Guatemalan women knew in which moment of their menstrual cycle they were likely to get pregnant. The low levels of contraceptive use and knowledge on sexual health reveals the lack of access to Comprehensive Sexuality Education (CSE) (Richardson & Birn, 2011: 184).

45. Teenage and child pregnancies place their lives as well as their health in danger and the majority of the girls suffer physical complications during their pregnancy, since they are still growing but the fetus absorbs the nutrients that they would in fact need for themselves. Moreover, there are risks for their pelvic floors when giving birth and they tend to suffer from urinary tract and vaginal infections (CLADEM, 2016: 26-27).

46. Furthermore, teenage and child pregnancies may cause psychological problems, especially when the pregnancy is the product of sexual violence. According to multiple studies, girls that have had to face a pregnancy, suffer from depression, anxiety and post-traumatic stress and are at a greater risk to have suicidal thoughts and to consume drugs and alcohol. Similarly, a study by Mujeres Transformando el Mundo (MTM) provides evidence of the links between suicides and adolescent pregnancies (MTM, 2015).

47. Diverse studies have concluded that girls below the age of fifteen are five times more likely to die of childbirth than women in their twenties (OSAR 2017) and other studies have argued that the probabilities of adolescent women dying of childbirth are two times higher than adult women dying in the same situation (IPPF,207:5 ). Therefore, teenage and child pregnancies are one of the leading causes of maternal deaths in the country, this is clearly highly alarming and demands immediate action from the State.

48. Although the State of Guatemala, in its 8<sup>th</sup> and 9<sup>th</sup> report to the Committee, elaborates on several policies, programs, plans and laws designed to address the issue (For example la Ley de Desarrollo Social; Ley de Acceso Universal y Equitativo de Servicios de Planificación Familiar; Ley de Maternidad Saludable, Plan Estratégico Nacional para Prevención, Atención y Control de ITS, VIH y SIDA 2011-2015 ) ; the current situation of the sexual and reproductive health of the girls and adolescent women of the country clearly demonstrate the lack of implementation of these initiatives and the insufficient budget assigned to the prevention and management of the problem by the State.

49. In its response to the Committee in July of 2017, the State of Guatemala reports on the creation of the proposal of the Public Policy on Dignified and Transformative Reparation for the cases of Sexual Violence, Forced Pregnancies and Motherhoods in Children and Teenagers and its action plan 2016-2026, which is currently under revision. It is important to mention that the proposal was created by civil society organizations, such as MTM (Asociación Mujeres Transformando el Mundo) and was

presented, with the assistance of the congresswoman Sandra Morán, to the Secretaría Presidencial de la Mujer (SEPREM) and for revision and adjustment to the Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y contra las Mujeres (CONAPREVI), therefore it was not an initiative made by the State.

50. In Guatemala, abortion is penalized and, according to Article 137 of the Penal Code, exclusively permitted in situations where the life of the pregnant woman is in danger. Due to this penalization of the abortion, unplanned teenage and child pregnancies that result in the birth of the child, should be considered forced pregnancies and motherhoods, since they do not reflect the autonomous decision of these women, but rather an imposition by the State, that denies them the option of access to a legal, free and safe abortion. It is evident that despite the legal restrictions and the moral and social penalization of abortion, it is a common practice in the country. The situation of the women is further aggravated by the unsafe and clandestine conditions of abortion to which they are subjugated. These unsafe abortions are dangerous to their health and place their lives at risk and it has been proven that restrictive abortion laws do not contribute to the reduction of the number of abortions but they do increase the number of maternal deaths.

51. According to the Guttmacher Institute, each year an estimated 65,000 women go through an unsafe abortion. It is important to highlight that those most affected by these practices are the young women that live in poverty or extreme poverty and do not have the resources to pay for the services in private clinics or to travel abroad for an abortion in safe conditions. Moreover, the loudest opposition to a safe, free and legal abortion are those conservative groups with economic and political power and the opportunity to pay for in private and safe clinics and are therefore in the position to ignore the reality of the majority of Guatemalan women (Richardson & Birn, 2011: 189). This situation impedes an open and scientific public debate about abortion and converts the reality into a taboo, of which no one speaks.

52. Guatemala does not register the deaths caused by complications related to unsafe abortions, however, it is estimated that each year around 20,000 women are hospitalized due to these complications (Singh et. Al. 136) and unsafe abortions constitute one of the principle causes of death among adolescent women (Richardson & Birn, 2011: 184).

53. The General Recommendation 24-18 establishes that the States must guarantee all women and girls, without prejudice or discrimination, the right to information, education y health services and the General Recommendation 24-31c states that they should prioritize the prevention of undesired pregnancies through family planning and sexual education and reduce the maternal death rates through providing maternal services and prenatal assistance, without risks. The recommendation further emphasizes the need for the States to reform the legislation that criminalizes abortion. Despite these recommendations, the State of Guatemala in its 8<sup>th</sup> and 9<sup>th</sup> report to the Committee reaffirms that abortion is a crime and that the only exception is the Therapeutic Abortion. In the response of the State to the Committee in July of 2017, the State expresses that there have been 2331 diagnoses of medical abortions between the years 2010 and 2017, implying that these were qualified as therapeutic abortions. Hence, 333 abortions were considered therapeutic per year. When taking into account the aforementioned statistics on adolescent and child pregnancies in the country and the risks these pregnancies present to their physical and mental health, it is evident that to diagnose a mere 333 pregnancies as dangerous to the lives of women is extremely low. This is contradictory since it is clear that in the majority of the cases, a pregnancy of a child or teenager is a risk to their lives. In this context, the State prohibits the adolescent women and children the access to a safe abortion and obliges them to confront a forced pregnancy and a forced motherhood. Therefore, to propose laws such as the Law 5272 Law for the Protection of Life and the Family (Ley de Protección de La Vida y Familia), which seeks to increase penalties for abortion and the lack of political will to open up the debate on the decriminalization of the abortion and the reality of thousands of unsafe abortions practiced in

Guatemala every year, the State clearly is ignoring the recommendations of the Committee and fails to comply with its obligations, established in the CEDAW.

## **V. Violence against women (Article 12 and Article 1)**

54. Guatemala holds the third highest rate of femicides worldwide, and it is reported that the decline in murders in general has not been reflected in a decline in female murders because of their gender (Bookey & Musalo, 2013: 271 ). UN Women data shows that in 2013: 748 women lost their lives due to situations of violence; on average 2 women died daily in Guatemala as a result of violence. On the other hand, according to the statistics of the Judicial Branch; in 2014, 1236 complaints were filed for femicide (IACHR, 2015: 112). This provides evidence that femicide rates in Guatemala have grown alarmingly over the last decade.

55. Femicides represent the most extreme manifestation of violence, which women in Guatemala suffer in their daily lives. It is estimated that one in three women are victims of physical and / or sexual violence, mainly by their partners and relatives (UN Women, 2012). On the other hand, in 2012 there were 51,524 reports of violence against women (UN Women). In addition, 18,194 reports of domestic violence were reported, of which 376 cases reached a sentence, this shows that only 2% of violence cases were solved in the courts (Menjívar, Drysdale Walsh, 2014: 5). Finally, in 2011, more than 20,000 cases were brought before the courts in the framework of the Law against Femicide and other forms of Violence against Women. Of these cases, only 3% reached a sentence. The reported cases included domestic violence, abuse, sexual violence and femicide (Bookey & Musalo, 2012: 266).

56. Despite the alarming number of cases of violence against women, experts argue that the officially reported amount of cases does not reflect the reality of the country. For example, in 2011, the Public Prosecutor's Office received 38,000 complaints of violence against women, but this amount is not the same as the numbers in the courts in charge of these cases. The phenomenon of contradictory statistics in different state institutions shows that they do not report cases to the courts and the lack of investigation and follow-up to these particular cases, demonstrate the indifference of the State towards the suffering of women. On the other hand, high levels of impunity in Guatemala regarding cases of discrimination against women, evidence that the State is failing in its responsibilities and obligations to protect women.

57. A study reports that 7.1% of the women that participated had experienced sexual abuse at some point in their lives and 4.7% were under 15 years of age; usually the abuses were committed by their relatives and most of the abuses occurred before the girl had turned 11 (Speizer et. al., 2008: 460). These data demonstrate the lack of protection of adolescent girls and women, being the most vulnerable among the wide group of women.

58. The statistics allow us to capture specific moments of the situation of women in the country, but those statistics, especially in the context of Guatemala, where the numbers of different institutions are contradictory, are not enough to understand the reality of women in the country. The experiences of Guatemalan women cannot be comprehended or reduced only to data and numbers, but must be placed in their context of multiple forms of intertwined violence. Violence against women occurs within networks of power marked by attitudes, norms and social practices towards women, their rights and their bodies. Therefore, violence against women is not only an issue between individuals or a private matter, but is a political and public issue (Godoy-Paíz, 2012: 94)

59. Violence against women cannot be understood as isolated events between individuals, but should be understood as a symptom of a system that produces and reproduces violations of the rights of

citizens at a daily level and that normalizes violence against certain sectors of society. (Godoy-Paiz, 2012: 93) so that it cannot be seen as a private matter, but as a political and public matter (Godoy-Paiz, 2012: 94).

60. The State of Guatemala, in its eighth and ninth report, states that it issued Decree 9-2009 Law against Sexual Violence and Human Trafficking (VET Act). The other main law designed to protect women is the Law Against Femicide and Other Forms of Violence Against Women (2008). This means an advance for the protection of the rights of women, however, there are several difficulties in the implementation and enforcement of these laws: the law against femicide, it is difficult to implement because it is a "special" law, which means it does not replace articles on violence against women contained in the 1973 Penal Code, but rather coexists with them. This has caused problems because some of the procedures related to prosecution are different in the Criminal Code and in the law against femicide. This contradiction has led to confusion in the implementation of the law and sexist attitudes, often from the agents of justice systems who refuse to implement the law (England, 2014: 137). On the other hand, the VET law is not a "special" law but a revision of some articles that were considered sexist in the Penal Code.

61. An issue of the legal framework of the State of Guatemala is that violence is treated as an act that includes an aggressor and a victim. This approach becomes problematic because it neglects the social conditions that allow and reproduce relations of domination. It should be mentioned that there are some practices and technicalities that impede the implementation of laws and contribute to the impunity of cases of violence against women: first, the social context and the normalization of violence against women, Judicial Branch blames the victim for what has happened to her and privilege other laws and principles different from those designed to protect women, in a way that allows authorities to ignore their application (Menjívar, Drysdale Walsh, 2013: 14).

62. In this context, the collection of evidence is often inefficient and the legal system does not provide women with the necessary protection. For example, it is common for judges, after an act of violence, to refuse to remove the man from the house, based on the argument that would be unconstitutional, based on property laws or consider women as guilty of violence when it is inflicted against them, for their lack of care for the home or for the man, or for not dressing or behaving properly. In here it is evident how justice system officials use the discriminatory legal framework (mentioned in the section on Discriminatory Legislation and Cultural Stereotypes and Practices) that considers women responsible for caring for the home and behaving in an "honorable" way to justify acts of violence against them (Menjívar, Drysdale Walsh, 2013: 15).

63. The State of Guatemala, in its eighth and ninth report to the Committee, establishes that within the framework of the Law against Femicide and other forms of violence against women, from 2009 to 2014, first instance courts and criminal courts were created for the following crimes: femicides and other forms of violence against women, on 11 departments of the country 26 specialized femicide courts have been created. However, only cases prosecuted under the Femicide construct can be heard in special courts (Bookey & Musalo, 2012: 276). Statistics show that most of the cases that should be prosecuted under this law in these special courts are actually prosecuted in ordinary courts of justice where the resolution of cases of violence against women is quite low (as mentioned earlier, about 3% were sentenced in 2012). In specialized courts, the likelihood of a resolution is significantly higher, for example in 2011, 24% of cases filed in specialized courts resulted in a judgment (Bookey & Musalo, 2012: 281).

64. On the other hand, it is established that ineffective interventions by the State, the lack of effective investigation when issuing a judgment in cases of violence against women, and the lack of political will to protect women from discrimination and violence; are violations of the state to its international obligations and constitute a danger to the lives of Guatemalan women.

65. The normalization of violence against women is evidenced in an investigation that studied the attitudes of professionals in cases of domestic violence. Although the sample is quite small (only 16 public officials participated). The study reveals common attitudes in the country's governmental institutions. Most participants agreed that women had to obey men, and 5 out of 16 considered violence against women to be justifiable in instances of jealousy, alcoholism or infidelity. (Menjívar, Drysdale Walsh , 2013: 13).

66. On the other hand, it is important to note that on March 8, 2017, while many women came out to the streets to demand their rights and a stop to gender violence and misogyny. A fire took the lives of 41 girls and adolescents who died victims of burns in the "Virgen de la Asunción" Safe Home, a center for the attention for children and adolescents in situations of domestic violence, under the charge of the Ministry of Social Welfare of the Presidency; which days earlier had reported the flight of about 60 children and allegations of sexual and physical violence against the girls and adolescents who lived there. That day, 56 girls and teenagers were locked up and later burned alive. Of these, 41 died and 15 were seriously injured. The State of Guatemala is solely responsible for the death of 41 girls and adolescents, as an accomplice of the systematic violence experienced in the "Virgen de la Asunción" Safe Home.

67. The case of the "Virgen de la Asunción" Safe Home reflects the severe social conditions of violence and discrimination faced by girls and adolescents in Guatemala and, above all, little or no concern from the government to guarantee their right to a decent life. It is essential to require the relevant authorities to implement specific actions to ensure that girls and adolescents have access to a life free of violence. What happened is a call for all the population and governments of the region to become aware of the context of vulnerability and precariousness in which thousands of children, adolescents and young people live daily in the country. The State of Guatemala must be sued to assume its responsibility in this case, because no matter should be more urgent for a country than the lives of its girls, adolescents and young people. Immediate action should be required to ensure that this case does not go unpunished and to review possible similar cases.

68. The General Recommendation 19-8 establishes that the convention applies to the violence perpetrated by public authorities and these acts of violence may also constitute a violation of the State obligations in regards to other conventions with respect to human rights, as well as the CEDAW. The General Recommendation 19-9 highlights that the discrimination does not only limit to the acts committed by the governments or the acts committed in their name. For example, in reference to article 2 of the Convention, the States commit themselves to adopt all adequate measures to eliminate the discrimination against women, realized by any person, organization, or business. Therefore, the recommendations clearly state that States may be held responsible for individual acts of violence against women when they fail to investigate and/or punish those who violate the rights of women and to create urgent mechanisms to eliminate acts of violence and discrimination against women. Taking into account the multiple forms of violence affecting the lives of women, adolescents and children in Guatemala and the normalization of this violence, it is evident that the State does not have the political will or an efficient and systematic response to face the situation of the women in the country. Moreover, the extreme levels of impunity in the cases of violence against women, the normalization of violence and the constant abuse of power by state authorities, demonstrate the indifference of the State in regards to the severe problems facing the women of Guatemala. The State of Guatemala is responsible for having created an atmosphere that is permissive to the violence against women and the state authorities have constantly violated the rights of women of all ages, as demonstrated by the events of the "safe house" Virgen de la Asunción. Therefore, it can be concluded that the State of Guatemala has not complied with its obligations, as established in the CEDAW and due to its inaction and incapacity to prevent, investigate and punish those responsible for the acts of violence against women,

the State of Guatemala should be held responsible for the systematic violence that women in the country suffer from.

## **RECOMMENDATIONS**

1. The revision of the legislation that discriminates against women as well as the profound sensitization regarding the changes made in the legislation with respect to the needs of women, principally of young and adolescent women, in all of the institutional actors of the State. Moreover, the create awareness in the legislative branch in order to avoid the proposal of laws that violate sexual and reproductive rights of women.
2. Create awareness among State authorities and personnel, particularly judges, about the laws such as, the Law Against Femicide and Other Forms of Violence Against Women and The Law of Sexual Violence, Exploitation and Human Trafficking that were designed to protect women. The State should emphasize and encourage the implementation of these laws without any type of discrimination or stereotypes. The stereotypes about women in the social imaginary, may affect the way in which these laws are interpreted and therefore make it difficult for women to access justice. Therefore, the State, in order to comply with article 5 of the CEDAW, should spread and educate on the norms that favor women and should emphasize the sentences that have been given in the cases of violence against women as examples for judges and other institutional actors.
3. Realize permanent and systematic campaigns in order to eradicate harmful stereotypes and cultural practices that violate the fundamental rights of adolescent and young women as well as the rights of girls in educational institutions. Furthermore, create awareness on these topics amongst parents, teachers, students, and community leaders.
4. Implement Comprehensive Sexuality Education in all educational levels in a gradual, age-appropriate manner and to guarantee that the education be provided based on the principles of secularity and to be based on scientific knowledge and human rights.
5. The three State branches should consider the prevention of bullying and the prevention of forced pregnancies and forced motherhoods as a priority. Comprehensive Sexuality Education is a scientifically proven route to create healthier relations between humans and to improve the ability of students to identify different forms of violence in different environments, which aids to them to denounce the acts of violence against them.
6. To revise, actualize and diffuse the Protocol to Identify, Attend to, and to Refer Cases of Violence in Educational Institutions and to include in it the definitions of sexual and reproductive rights. Moreover, the Protocol should include the new forms of violence and establish the route to attend to the cases of the violations of these rights.
7. Increase the budget of the educational system and to assign a specific percentage to Comprehensive Sexuality Education in a proportional manner, and including a gender perspective in all educational levels.
8. Monitor and guarantee the accountability on the provision of modern contraceptive methods in all health centers and guarantee the access to sexual and reproductive health services with a specific focus on the needs of the adolescents of the country.
9. To open up the public and political debate on abortion, basing the arguments on scientific and secular information. Moreover, the State should consider the decriminalization of abortion in three

scenarios; fetal infeasibility, when the life of the mother is in danger and when the pregnancy is the consequence of sexual violence.

10. Taking into account the fact that pregnancies place the lives of children and adolescent women in danger, the State should guarantee the access to therapeutic abortions in order to reduce maternal deaths and the indicators of unsafe abortions in the country.

11. The events of the “safe house” of Virgen de la Asuncion, where 41 adolescent girls lost their lives, reveal that the tragedy was merely the tip of an iceberg of the situations of violence in these types of state run safe houses. The lack of resources, care and political will to improve the lives of the adolescents living in state care risks their comprehensive development. The State should assume responsibility of its error and take all possible measures to ensure that the events of the safe house of Virgen de la Asuncion do not occur again.

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