



TRES DÉCADAS TRABAJANDO POR LOS DERECHOS HUMANOS DE LAS MUJERES



La Paz - Bolivia, April 15th, 2013

SECRETARIAT OF THE COMMITTEE AGAINST TORTURE

Human Rights Treaties Division (HRTD)
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson - 52, rue des Pâquis
CH-1201 Geneva (Switzerland)

Ref: Information on violence against women, femicide, rape and criminalization of abortion to be assessed on the 50th Meeting of the Committee against Torture

Dear Sir or Madam:

The Center for Information and Development of Woman-CIDEM¹, the Campaign September 28 for the Decriminalization of Abortion in Bolivia and the Center for the Promotion and Defense of Sexual and Reproductive Rights-PROMSEX² are providing more information on the situation of women in the Plurinational State of Bolivia and the real exercise of their rights, within the framework of the Political Constitution of the State (February 2009), adopted through referendum by the 61.43 % of the population. This text, for the first time fully recognizes the legal value of the human rights treaties and, consequently, its mandatory compliance.

This report seeks to respond to the thematic prioritized by the Committee in the list of issues that should be addressed in the second periodic report of the Plurinational State of Bolivia referred to the numeral 8 "on the existing legal framework for preventing and combating gender-based violence and the measures taken to eradicate this phenomenon, including domestic violence, sexual violence and femicide as a form of extreme violence against women.³ In this regard, the present report provides information and data on women in a situation of violence, femicide, sexual violence, sexual health - reproductive and the criminalization of abortion. These taking into account that they are rights constitutionalised in the Plurinational State of Bolivia and that its noncompliance, in practice, constitute a violation of their fundamental rights, with profound traits of discrimination and acts of torture.

¹ CIDEM, is a non-profit, non-governmental organization that works since 30 years ago in Bolivia for the human rights of women. It is part of the Coordination National of the Campaign 28 for the Decriminalization of Abortion in Bolivia. The Campaign 28 is composed of more than 20 institutions and feminist organizations at the national level and has as objective to carry out actions of political impact to achieve the decriminalization of abortion in the national legislation and give real access, to women who have decided to discontinue their pregnancy, to secure services through a simple request of the woman.

² PROMSEX is a Peruvian institution of civil society composed of men and women, professionals and activists, that seeks to contribute to the validity of the integrity and dignity of persons in the access to sexual and reproductive health, justice and human security, through the political impact, the generation of knowledge and the coordination with other civil society organizations.

³ Committee against Torture. List of issues that need to be addressed when considering the second periodic report of the Plurinational State of Bolivia, adopted by the Committee at its 49th session (October 29 to November 23, 2012) unedited version.

I. VIOLENCE AGAINST WOMEN AND FEMICIDE

The new Constitution of the Plurinational State of Bolivia recognizes and guarantees as a fundamental right that "*all people, particularly women, have the right not to suffer physical, sexual or psychological violence, both in the family and in society (Art 15, II) and that the State shall take the necessary measures to prevent, suppress and penalize the gender and generational violence, as well as any action or omission which have intended to degrade the human condition, cause death, pain and physical, sexual, or psychological suffering, in both the public and private spheres (Art 15, III) in the framework of the commitments assumed as a State in the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women (Belem do Para) and the international standards that guarantee the human rights of women".*

In Bolivia, despite the normative advances, it has not been possible to reduce its impacts and access to justice and it is still not guaranteed for women in a situation of extreme violence or family members of murdered women, therefore the cases go unpunished and the aggressors without sanctions. It can be said that the violence against women is institutionalized because:

1. Justice operators and administrators apply the legal rules with gender biases, discriminating and ignoring constitutional rights of women, and ultimately justifies and protects the aggressors who commit violent acts and the crime of femicide because the State has not yet been able to implement policies aimed at the judicial and social de-naturalization and de-normalization of the violence against women. Judicial system, of services and of police that continually returns to the women next to her aggressors; this lack of access to justice is the main factor of the femicides.
2. The Statistical Report "More than Figures a Reality"⁴ shows that between 2007 and 2011, there has been 442,056 complaints due to violence in different public and private institutions in the 9 capitals of the departments and the municipality of El Alto, of which the 17.81 % correspond to men, the 55.96 % of allegations made by women and in a 26.22 % information is not disaggregated by sex. The daily complaint has increased in 63% in the 2011 management period compared with 2007. (See in annex N° 1 Table N°. 1).

On the judicial resolution of the cases of violence against women, the same study indicates that of the total complaints (442,056) in these 5 years, **247,369** correspond to allegations made by women in a situation of violence and **only 51 aggressors have received final sentence**.

3. In January of 2013, WHO/ PAHO pointed out that Bolivia is the country with the highest level of violence and indicates that the 53% of women claim to have suffered some type of physical or sexual violence.
4. The situation of women is aggravated when analyzing data from the Observatory "Manuela" Violence, Femicide and Women at Risk of the CIDEM that points out that between 2009 and the two first months of the management period of 2013 there have been 621 violent deaths of women. **Of these, 64.9 % are femicides and 35.1 % killings of women due to citizen insecurity.** Until the management period of 2012 it had been identified that every 3 days a woman was the victim of femicide or murder due to citizen

⁴ Brañez Cortez, Patricia, "More than Figures, a Reality" Statistical Report Violence Against Women Quinquennial Data 2007-2011. System Information for Citizen Surveillance from a Gender Perspective. Special Edition. Year 9 No. 9 - 2012, "Centro de Información y Desarrollo de la Mujer" - CIDEM. Connection Emancipation Fund.

insecurity. The preliminary data from the 2013 management period show that every 2 days a woman is a victim of murder or femicide in our country. Femicides that remain in the systematic impunity.

5. At almost 3 years since the promulgation of the Law N° 348 *Comprehensive to Ensure Women a Life Free of Violence*⁵, there is no court of domestic violence and therefore nor prosecutors, administrators and operators in specialized justice. Currently, we are confronted with a series of obstacles in the implementation of the Comprehensive Law because the courts on family matters refuse to receive the new complaints without waiting for the gradual implementation of the Comprehensive Law, leaving in the legal vacuum to women in a situation of violence.
6. What prevails in the instances of complaints is the use of conciliation between the parties or the signature of guarantees, without measuring the risk of death of women, when resolving in this way the cases of even extreme violence.
7. The household survey carried out by Plan International - 2011, in 51 rural municipalities of 6 departments, clearly shows that women suffer violence from an early age, and in different areas where they develop their life, so the 23% of girls from 0 to 5 years show psychological violence. The school is also a space of risk where girls from 6 to 14 years in a 40% mentioned that suffer violence, the home provides no security, because 43% manifested that suffer mistreatment. 31 % of women in their teens and young people from 15 to 24 years mention that they suffer violence at home.
8. This situation is disturbing, even more due to the lack of protective systems in the rural area because the 194 offices for the Protection of Children and Adolescents have a greater presence in the urban area, leaving nearly 57% of the municipalities without this service.

II. SEXUAL AND REPRODUCTIVE RIGHTS

With respect to the guarantee of the sexual and reproductive rights of women we have that:

1. The Political Constitution of the Plurinational State of Bolivia, in its section VI about the rights of Families, incorporates the article 66 that " (...) guarantees to women and men the exercise of their sexual rights and their reproductive rights".
2. 50% of the women of the country are in childbearing age (25% of the Bolivian population according to the INE 2002-2010); the total fertility rate decreased from 3.8 to 3.5 children per woman, (urban areas: 2.8 children, and rural areas: 4.9 children); however, 6 of every 10 births that occurred between 2003 and 2008 were not expected; and nearly two-thirds of women in union (63 %) consider that the ideal number of children is 2 or less.
3. The Supreme Decree No. 29894 (2009) approved "protocols and technical procedures for the use of Misoprostol in Gynecology and Obstetrics" including the misoprostol in the list of basic supplies of the Universal Insurance Maternal and Child Health; however, these policies have an incipient implementation, not only for the lack of infrastructure and staff but also for their lack of dissemination.

⁵ This Law incorporates in criminal matters the violence against women, femicide is typified in the Penal Code with 30 years in prison without the right to pardon and amends the Law N° 025 so the Public Courts of Intra-Familiar and Domestic Violence become Courts against Violence toward Women.

4. On the other hand, it is verified that Public Health Services, even in the case of sexual violence to children and adolescents, the AOE is not administered as a measure for the prevention of unwanted pregnancies or to prevent STIs and HIV/Aids. Despite the fact that this is included in the benefits of the SUMI.⁶ In the same way, the Special Force of Fight Against Crime – FELCC - of the National Police does not refer these cases to the gathering of evidence to the Institute of Forensic Investigation - IDIF - nor to public health centers to administer the AOE.
5. With respect to maternal mortality, Bolivia still has the second highest rate in the region (229 deaths per 100,000 children live births). According to the Ministry of Health, 627 women die every year from complications of pregnancy, childbirth, and puerperium. Similarly, teenage pregnancy does not cease to become a serious problem, between 2003 and 2008 it was increased from 16 to 18 %, and two of every 10 women, between 20 and 49 years, had their first child before the age of 18⁷.
6. The absence of a Law on Sexual and Reproductive Rights does not permit to progress in the exercise of the sexual and reproductive rights. The responsibilities of servers of health, justice and education are not established, perpetuating the absence of an educational policy that develops a curriculum including education in sexuality. The lack of a specific legislation has discriminatory effects, especially for women, which restricts their constitutional rights to decide on their sexuality and reproduction and exercise them with freedom and autonomy.

III. ABORTION

1. Abortion constitutes the third leading cause of maternal mortality in Bolivia. During the year 2011, 67,000 abortions were carried out in clandestine centers or private operators who did not have adequate training and conditions of hygiene and healthfulness. It is estimated that as a result of this, 100 women lost their lives during 2011. It is not less serious to mention that the 38.5 % of pregnancies in adolescents under the age of 15 years, end in abortion.⁸
2. Currently, it is not possible to establish actual figures on the number of abortions that occurred. However, there are investigations that indicate that about 100 clandestine abortions occur each day in Bolivia; the main cause is the unwanted pregnancy.⁹
3. The Bolivian Criminal Code in its article 263° punishes women that consent to abort, with a term of imprisonment of 1 to 3 years¹⁰. In the article 266° contemplates the figure of unpunished abortion, which

⁶ The Law 3250 of 2005, widens 27 benefits in Sexual and Reproductive Health, Women in Childbearing Age within the Universal Insurance Maternal Infantile.

⁷ Instituto Nacional de Estadística - INE. National Demographic and Health Survey - ENDSA - 2008. La Paz - Bolivia.

⁸ Information collected at 147th session of the Organization of American States on thematic audience on criminalization of abortion, carried out on 15 March 2013 in New York. URL: <http://www.youtube.com/watch?v=kEPXNAWAvLU>

⁹ Ministry of Health and Sports. National Strategic Plan to Improve Maternal Health, Perinatal, and Neonatal 2009-2015, La Paz - Bolivia.

¹⁰ Penal Code

Article 263.- "He who causes the death of a fetus in the womb or entails its premature expulsion, shall be punished: 1) with deprivation of freedom of two (2) to six (6) years, if the abortion is practiced without the consent of the woman or if it is less than sixteen (16) years old. (2) with deprivation of liberty for one (1) to three (3) years, if it is practiced with the consent of the woman 3) with imprisonment of one (1) to three (3) years, to the woman who has given her consent."

means that the abortion is not punishable when pregnancy has been the product of a rape and when the life or health of the pregnant woman is at risk.¹¹

4. The first barrier to access to a legal abortion occurs when the 266th article of the Penal Code is seen in the judicial area. This article points out that the women, girls and adolescents must seek a court order that would allow them to access a safe service to have an abortion practiced. In the majority of these cases, the judicial system puts the conscientious objection for not taking the case, in this way the pregnancy progresses and the court order is not sent to a public health service. In this way, women do not easily find a judicial authorization to have a safe and aseptic abortion.
5. The second barrier is when women get the court order to gain access to legal abortion and service providers are the ones that are opposed to do this by also arguing conscientious objection.
6. There are cases of women who have been criminally charged in the Bolivian system as the following: an 26 years old indigenous woman, mother of a daughter in situation of extreme socio-economic vulnerability. In 2011, she became pregnant through rape, and was forced to resort to clandestine practices to interrupt her pregnancy, even when the abortion in cases of rape is decriminalized in Bolivia. After practicing the procedure, the patient was admitted to the public hospital "Percy Boland" in the city of Santa Cruz and was subjected to police custody because she informed to the health staff that the cause of the hemorrhage and infection that was suffering was the product of an abortion. Additionally, she was handcuffed at the bars of the bed for two weeks and was subjected to constant vigilance. Finally, he was transferred and detained for 8 months in jail in the city of Santa Cruz for the crime of abortion as a perpetrator.¹²
7. Another case was when two women students at the Police Academy were expelled from the institution because they were subjected to an abortion. They were conducted against their will to the Police Clinic to check her pregnancy and subsequent abortion and arrested in conditions of isolation and solitary confinement. The prosecutor who pursued this case, ordered the kidnapping of the medical records of the two students and ordered the lifting of the medical secrecy, violating their right to privacy.¹³
8. In practice, the criminalization of abortion causes that many women resort to clandestine abortions, performed in unsanitary conditions and by unqualified people and have an impact on maternal mortality rates, morbidity and costs for the health system.

IV. RAPE

1. 211 allegations of rape against minors of age were registered in the 2011 management period; in the case of complaints from the management period of 2012, up to the month of April there were 53 complaints of sexual rape. It must be taken into account that in 2011 the 92.5 % of the rape allegations corresponded to females and 7.5 % to men. In the first quarter of 2012 the 98.1 % of the complaints were females and 1.9 % of the victims were men.¹⁴

¹¹ Penal Code

Article 266.- *abortion is unpunished "when the pregnancy is the result of a rape, abduction not followed by marriage, rape or incest and by presenting danger to the life or health of the mother"*

¹² Information collected at 147th session of the Organization of American States on thematic audience on criminalization of abortion, carried out on 15 March 2013 in New York. URL: <http://www.youtube.com/watch?v=kEPXNAWAyLU>

¹³ Ibidem.

¹⁴ According to data from the Division of Children and Family of the Special Task Force to Fight Against the Crime of the Bolivian Police (FELCC) in the city of El Alto,



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2. There is a lack of specialized and sensitized human resources, infrastructure and equipment for proper operation of the instances in charge of women in a situation of physical, psychological and sexual violence, including the Comprehensive Municipal Legal Services that exist in 150 of the 337 municipalities in the country.
3. In accordance to the Law 2026 Code Children, Adolescents possess a criminal procedure for the resolution of cases - causes of sexual offenses; however, the percentage of the judicial processes are few, slow and re-victimizing, even for violation.
4. According to CIDEM data, in 2011, 684 causes for sexual offenses have been entered to criminal courts. One of the first obstacles to highlight is that a 90.20 % of the information collected is not disaggregated by sex in the investigation notebooks. 9.36 % correspond to women - girls and adolescents; and, a 0.44 % to complaints of men - children and adolescents.¹⁵

If we only take into account the information disaggregated by sex, we have that 12 girls/adolescents have reported pregnancy as a product of rape; 2 the offense of attempted rape, 30 the crime of rape and 20 the offense of dishonest abuse.

Of these, 83% has abandoned its case because the FELCC - Technical Police - and the Public Prosecutor Office has not "put" their efforts in collecting evidence, leaving this (in the majority of the cases) under the responsibility of the victim and/or his family. On the other hand, 94% of the cases do not exceed the initial phase of investigation. An 11 %, with evidence and expert report by the Public Prosecutor, initiate judicial process and only a 0.04 % has a sentence.

V. SUGGESTION OF QUESTIONS

Violence against women and femicide

- What measures will be taken by the State to implement the Law N°348 Comprehensive to Ensure Women a Life Free of Violence, that will consider the creation of Specialized Courts, taking into account that the Law N° 025, after 3 years of its enactment, has not received more economic resources for the restructuring of the Judicial Body?
- What are the measures that the State will take to face up the high incidence of violence against women and the femicide?
- What are the measures that the State will take, at all governmental levels, to ensure that women in situation of violence will have services, equipment, infrastructure, human and economic resources?
- What are the public policies for the prevention of violence against women in education, health, labor and the media?

Sexual and Reproductive Rights

- What steps are being taken by the State to face the high maternal mortality rate?
- What are the measures that the State will take to approve and implement a Law on Sexual and Reproductive Rights that includes the access to safe abortion in the public health system?

¹⁵ Information System for Citizen Surveillance from a Gender Perspective - SIVICIGE. "Centro de Información y Desarrollo de la Mujer" - CIDEM. La Paz - Bolivia, 2012.



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Rape

- What steps have been taken to have quantitative and qualitative information on rape, disaggregated by sex and age?
- What actions have been taken to ensure a comprehensive and free coverage in health for victims of rape, including prevention, care, recovery and follow up?
- What steps have been taken to ensure that women who have experienced a sexual assault can have free access to the emergency oral contraception in the public health establishments?
- What measures have been implemented to fight against impunity in cases of rape?
- What actions have been taken to ensure integral reparations for victims of violence?

Abortion

- What steps are being taken by the State to ensure that health establishments will be able to take care of health complications in the pregnancy and hemorrhages in the first quarter (as result of clandestine abortions)?
- What measures is taking the State for the access of women to the safe services for an abortion with impunity without court permission?
- What steps are being taken by the State to allow that girls and adolescents have post abortion access in psychosocial cares, which are not restricted just to the administration of contraceptive methods?

VI. SUGGESTION OF RECOMMENDATIONS

- To implement a Single System for Complaint Registration, disaggregated by sex and age, to give visibility to the magnitude of the violence against women in all the national territory, since the data in civil society only reach, for the moment, the urban area.
- To install, as soon as possible, Specialized Courts of Violence to Women, to be able to track cases-causes.
- To design and implement a basic training curriculum and awareness to operators and administrators of justice in human rights of women.
- To implement a Law on Sexual and Reproductive Rights that incorporates in its articles a free and safe service for the interruption of pregnancy when the woman so requires. As well as the strengthening in the execution of programs and policies of family planning and reproductive health to provide effective access to women and adolescents, especially in rural areas, to the information on the care and health services, particularly in the area of reproductive health and affordable contraceptive methods.
- To take effective measures to solve the problem of the high rate of maternal mortality by ensuring the adequate medical care during pregnancy, childbirth, and proceed to the regulation of the legal provisions in force, concerning the right to therapeutic abortion in women and enable women to access to quality services for the attention of the complications derived from unsafe abortions in conditions of risk.



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- To implement specific strategies and public policies that have an impact on a change in attitudes of the population as a whole, in the denaturalization of violence against girls and adolescents, as well as the promotion of policies for prevention and sensitive and timely care for the victims of these crimes. Also, the State must install systems and mechanisms of community protection.
- To make viable reforms to the Criminal Code, the Code for Children and Adolescents, and implement protocols of care without re-victimization at the Institute of Forensic Investigation, with requirement of specialized staff and installation of Camera Gesell that avoids the double victimization.
- To give free comprehensive coverage of the services in physical, sexual and reproductive and mental health to women victims of sexual violence.
- To amend the Criminal Code with regard to the court order as a requirement for women who are pregnant, according to article 266°, to access to safe abortion in health facilities.
- Ensure that women, children and adolescents in situations of sexual violence can access emergency oral contraception.

Mary Marca Paco
Coordinator
Campaign September 28 for the Decriminalization
of Abortion-Bolivia
And Director
Center for Information and Development of Woman

Patricia Brañez Cortez
Coordinator of Projects
Center for Information and Development of Woman

Rossina Guerrero
Director
Center for Promotion and Defense of Sexual and Reproductive Rights
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ANNEX N° 1

Chart N°1

Bolivia: Quinquennial Data 2007 - 2011
Registration of violence in 9 capitals of department and El Alto municipality
Plurinational State of Bolivia

REGISTRATION PER YEAR	TOTAL NUMBER OF COMPLAINTS	AVERAGE/ DAY COMPLAINTS
2007	68,777	188
2008	80,942	221
2009	81,008	222
2010	102,267	280
2011	109,062	299
TOTAL QUINQUENNIAL COMPLAINT	442,056	242

Source: Information System for the Citizen Surveillance from the Gender Perspective - SIVICIGE.
Centro de Información y Desarrollo de la Mujer - CIDEM. La Paz - Bolivia 2012.

Chart N° 2
N° Total Femicide
By type of Femicide
Historic 2009 - 2013 (p)
Plurinational State of Bolivia

TYPE OF FEMICIDE	SEXUAL FEMICIDE	LESBOFOBIC FEMICIDE	SOCIAL FEMICIDE	CHILD FEMICIDE	POLITICAL FEMICIDE	FAMILY FEMICIDE	INTIMATE OR SPOUSAL FEMICIDE	BAD PRACTICED ABORTION FEMICIDE	FEMICIDE BY STIGMATIZED OCCUPANCY	FEMICIDE BY CONNECTING	TOTAL
Total	102	2	1	71	2	17	197	5	3	3	403
% Total	25.31	0.50	0.25	17.62	0.50	4.22	48.88	1.24	0.74	0.74	100.00

Source: Observatory "Manuela" Violence, Femicide and Women at risk – Centro de Información y Desarrollo de la Mujer - CIDEM. La Paz - Bolivia. 2013.