CEDAW
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REPORT ON THE STATUS OF GIRLS, ADOLESCENTS AND WOMEN'S REPRODUCTIVE RIGHTS IN MEXICO

Executive Summary

SHADOW REPORT ON THE STATUS OF GIRL'S, ADOLESCENTS AND WOMEN REPRODUCTIVE RIGHTS IN MEXICO

By virtue thereof the presentation and analysis of periodic reports 7th and 8th of Mexico to the CEDAW Committee, 25 organizations of the civil society dedicated to promoting and defending women's human rights present the **Shadow report on the status of reproductive rights of girls, adolescents and women in Mexico**.

The report highlights the lack of compliance by the Mexican State of its obligations towards the elimination of discrimination against women (Article 2) in the exercise of the rights to health, including sexual and reproductive health (Article 12), education (Article 10), work (Article 11), family planning and family (article 16.e), and the rights of rural women (Articles 14.2.by 14.2.h), recognized in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Despite Mexico ratified the CEDAW Convention more than thirty years ago and although the CEDAW Committee has repeatedly expressed concern on the situation of women's reproductive rights, the protection of these rights is still a pending issue.

From the research, policy analysis, public policy and statistics, as well as the documentation of cases, this report includes **nine issues that are highly concerning** regarding the respect, protection and fulfiment of women's reproductive rights:

1. The presentation by legislators of **legislative initiatives that undermine women's reproductive rights** (e.g. to give legal personhood to the embryo or discourage information on condom use) and the **non-approval of key initiatives** for the protection of women's reproductive rights (e.g. legislation to regulate assisted reproduction technologies).

2. **High rates of maternal mortality** and lack of effective action to reduce it from a human rights perspective. In the last five years the number of maternal deaths has not declined significantly. In 2010, the maternal mortality ratio in Mexico was 51.5 deaths per 100.00 births and the authorities have indicated that it's very likely that they will not meet the Millennium Development Goal of reducing maternal mortality ratio to 22.3 by 2015. Although the government has put in place programs to combat maternal deaths, the implementation of these programs at the three levels (federal, local and municipal) is quite poor. The quality of the care provided in health care institutions is very deficient: eight out of nine maternal deaths occur in hospitals. The women most affected are indigenous and young women.

3. The **lags in health care and social services for adequate maternity protection** to reconcile motherhood with work outside the home, including lack of access to rooms and paternity leave. The care of children, family and the home continues to fall on women: 78.5% of children and children under 6 years are cared for by their mothers, while 2.6% are in day care.

4. The **negative impact and possible violations of women's reproductive rights caused by the amendments to the local constitutions that protect life from conception**. These reforms, which had the intention to shield the local constitutions from a decriminalization of abortion as in the Federal District, have created a climate of persecution against women and confusion among government officials in terms of their obligations regarding the provision of reproductive health services. Although the legal grounds for abortion are still valid in states where these reforms were approved, officials are unclear about this and this may exacerbate the denial of abortion services and even access to assisted reproduction technologies or contraception.

5. The **denial of sexual and reproductive health information and services to for women victims of rape**. According to national legislation, women rape victims have the right to terminate their pregnancies, as well as the right to be provided with information and services on emergency contraception, and the prevention and treatment of sexually transmitted infections and HIV. However, in many cases law enforcement authorities and health care providers do not provide this information and services.

6. The **unmet need for contraception** for women of reproductive age throughout the country, particularly for young people. By 2006, only 11.7 million women of childbearing age and joined using contraception, less than half of all women of reproductive age in Mexico (about 26.5 million).

7. The **lack of access of adolescents and young people to high-quality sexual and reproductive health services**, and the lack of comprehensive sex education. Teenage pregnancy has increased alarmingly in recent years. Sex education in the country is very poor and adolescents face many barriers to accessing sexual health services and reproductive health.

8. The **reproductive rights violations suffered by women deprived of their liberty**. Of the 10.120 women deprived of liberty in the country, only 25% (2.530) are in spaces exclusively for female population in custody. The women inmates generally have no regular access to gynecological care and contraception. Additionally, detention centers do not have the conditions to ensure that women are able to exercise their motherhood.

9. **The lack of adequate policies to protect the reproductive health of women living with HIV**. According to estimates from the Joint United Nations Programme on HIV-AIDS, in Mexico there are 59.000 women with HIV. These women are often subjected to discrimination in the exercise of their reproductive rights, including access to contraception and access to comprehensive reproductive health.

The report includes a series of recommendations that we hope the CEDAW Committee will incorporate in its Concluding Observations to the Mexican State, in order to strengthen the guarantee of reproductive rights of girls, adolescents and women in the country.

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List of Organizations that contributed to the preparation of this report:

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The publication of this report on the website of CEDAW Committee is authorized.

Introduction

In recent years Mexico has made significant advances in the recognition and protection of the women´s human rights, particularly in the normative framework. On June 10, 2011, an amendment to article 1 on human rights of the Mexican Constitution was published. This amendment: 1) incorporated the norms on human rights contained in international treaties to which Mexico is a party; 2) included the obligation of authorities to promote, respect, protect and guarantee the human rights in accordance with the principles of universality, interdependence, indivisibility and progressiveness, and 3) established the principles of *pro person* and consistent interpretation *according with* as criteria to implement human rights' standards.

Women´s human rights recognized by international legislations are now part of the Mexican Constitution. For this reason, all authorities are compelled to apply said juridical norms in accordance with the standards of protection established by the interpretation bodies of international treaties, as the recommendations issued, *inter alia,* by CEDAW Committee.

In the last decade, many legislation expanding the protection of women´s human rights have been issued, particularly in relation to gender-based violence, equality and non-discrimination.[1] However, the respect, protection and fulfillment of women´s human rights, is quite poor, due to discrimination, lack of implementation of public policies and the persistence of structural barriers that make the exercise of these rights difficult. In addition, the regulatory framework, especially at the local level is not fully harmonized with the international standards on the matter of women´s human rights, and there are large discrepancies on the laws among the states. Moreover, in the design and implementation of public policies, there are serious deficiencies. It is the same in respect to the mechanisms of transparency and accountability, which significantly hinder the evaluation of the effectiveness of the actions taken.

More than thirty years ago the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified by the Mexican State, however the recommendations of this Committee about the protection of women's reproductive rights is still a pending subject in Mexico.

Derived from research, public policies, normative and statistical analysis, and the follow-up of the cases, the undersigned organizations have identified nine issues of concern related to the exercise of girls, adolescents and women's reproductive rights. These situations demonstrate the lack of implementation of a number of recommendations made by national and international mechanisms to the Mexican government in this matter.

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[1] See General Law of Women's Access to a Life free from Violence (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia) February* 1, 2007, available at <http://www.diputados.gob.mx/LeyesBiblio/pdf/LGAMVLV.pdf> [access: June 7 2012] and the corresponding state laws. General Law for Equality between Women and Men (*Ley General para la Igualdad entre Mujeres y Hombres*) August 2, 2006, available at <http://mexico.justia.com/federales/leyes/ley-general-para-la-igualdad-entre-hombres-y-mujeres/gdoc/> [access: June 7, 2012].

These nine topics reflect the degree of compliance with CEDAW and the recommendations of this Committee. We specifically notice Mexico's lack of implementation of Articles: 1, 2.b, 2.d and 2.f, in conjunction with Articles 10 (education), 11 (work), 12 (health), 14.2.b and 14.2.h (rural women) and 16.e (family relations), General Recommendation 24 on women and health, and of the recommendations already made by the Committee during the 6th Periodic Report of Mexico in matters of maternal mortality, access to safe abortion, reproductive health care, sexuality education and family planning services.

This report includes a brief description of these issues, as well as a series of recommendations. We expect the Committee will take these into consideration to issue the Concluding Comments in relation to Mexico's periodic reports 7 and 8.

I. Legislative initiatives

Despite advances in the legislative harmonization process, application of the Committee's recommendations suggested to the Mexican State is still pending. A brief review of the work of the LXI Congress Legislature of the Union -September 2009 to April 2012 - shows a picture of the little progress of legislative harmonization in the field of reproductive rights.

In addition to the constitutional amendment of article 1 regarding human rights, in March 2012 two constitutional amendments to strengthen the secular nature of the Mexican State (Articles 24 and 40) were approved, they were also turned to the state congresses for approval.

These reforms are vital for the effective exercise of women's reproductive rights in Mexico, since they strengthen the implementation of public policies that respond to the needs of all people, without religious, moral or other types of bias.

Even though the mentioned reforms to three constitutional articles represent a significant advance for the exercise of human rights in a secular framework, we should also notice that the legislative harmonization still shows a dark picture. Four issues have been a driven priority by the Executive Power:[2]equality, non-violence, non-discrimination and the fight against human trafficking. Although the National Women´s Institute (INMUJERES) has advised, encouraged or supported reforms, at both the federal and state levels - it is still necessary to complete the legal framework in these areas. Moreover, beyond these areas, the Executive Branch does not usually go along or support the actions / initiatives of the Federal Legislative Power.

Reproductive rights have been the subject of legislative proposals in both the positive and the negative sense. In the negative sense, law proposals in reaction against the legalization of abortion in Mexico City have been submitted with the purpose of limiting a potential legalization in the country or in other states. In general, the reproductive rights are in a swamp, leaving little room for progress. Most of the law proposals-both to amend the Constitution and to amend secondary legislation, did not prosper. It has been the task of civil

[2] See the site of the National Women´s Institute by the Federal Government (in Spanish: Instituto Nacional de las Mujeres del Gobierno Federal), <http://www.inmujeres.gob.mx/index.php/ique-es-el-inmujeres/legislacion> [access: June 7, 2012].

society organizations to monitor the legislative work and bring information to legislators, to guide and encourage discussion about the proposals.

Examples of the proposed laws shown in the chart on the next page highlight the tension between the positions for and against the proper regulation for the reproductive rights, and the limited progress in these matters in the legislative field.

It is important to notice that conservative lawmakers used law proposals about ensuring reproductive rights for couples who want to use assisted reproductive technologies with the purpose to give embryos a legal personality. This issue was widely discussed in Congress, and it was the participation of civil organizations and the medical sector, which prevented the approval of those conservative and technically inadequate proposals.

Date	Law maker	Proposal	Status
Constitutional Reform Initiatives			
April 2011	Carlos Navarrete (PRD)	Elevate to a constitutional rank "the fundamental right of Mexican women to continue or not with her pregnancy within the first twelve weeks of gestation," recognizing the concept of reproductive autonomy.	Not discussed
December 2009	Leticia Quezada (PRD)	Promote and protect sexual and reproductive rights, ensure the distribution of modern contraceptives and legal abortion upon a woman's request.	Rejected November 2011
November 2009	Congreso del estado de Veracruz	Recognize the right to life from the moment of conception, in order to limit the access to safe abortion for women in Mexico and the access to emergency contraception.	Not ruled
November 2010	Maria Joann Novoa (PAN)	Ensure the full protection of the rights of the unborn child (sic) from conception	Rejected 2011
February2 012	Maria Joann Novoa (PAN)	Ensure the full protection of the rights of the unborn child (sic) from conception	Not ruled
Initiatives for Amendments to secondary Laws			
December 2009	Leticia Quezada (PRD)	Create the General Law for Prevention, Comprehensive Care and Control of HIV / AIDS	Rejected
July 2011	Leticia Quezada (PRD)	Include in the General Health Act a chapter of comprehensive HIV care, recognizing the reproductive rights of people with HIV	Not ruled
December 2009	Cesar Augusto Santiago (PRI)	Include in the General Health Law, a chapter of reproductive health care focused on various vulnerable population groups such as adolescents, indigenous women. Regulate access to emergency contraception and that public health services in each state offer access to abortion in the cases specified by law.	Rejected on March 2012
January 2011	Paz Gutierrez (PAN)	Discourage the use of preservatives by unnecessary regulations on advertising placed on packages of preservatives	Rejected
March 2012	Paz Gutierrez y Miguel Osuna (PAN)	Discourage the use of preservatives by unnecessary regulations on advertising placed on packages of preservatives	Rejected
October 2011	Velia Aguilar (PAN)	Discourage the use of preservatives by unnecessary regulations on advertising placed on packages of preservatives	Not ruled
June 2011	Celia Cora Pineda (Nueva Alianza)	Promote responsibility in sexual matters, ensuring the ability to make decisions about their own sexuality and exercise it freely, without pressure, violence or discrimination; and guarantee the reproductive rights.	Not discussed

II. Maternal Mortality

Any maternal death is the reflection of a sum of inequities and shortages at the health system; discrimination that keep women out of positions of power, and give little or no importance to their health care and lead them -fatally- to lose their lives during the reproductive process. Additionally, behind the maternal mortality (MM), there is a background of noncompliance and violations of the women's human rights, particularly of sexual, reproductive and health rights.

Historically, MM is considered an indicator of inadequate maternal and reproductive health coverage and quality of service in the country. Its close relationship with the socioeconomic conditions of the population permits to evaluate the progress in the fight against inequality and poverty. International evidence shows that the vast majority of the current causes of MM may be timely detected and treated effectively. The basic measures to achieve the reduction of MM include: preventing unwanted pregnancies by strengthening the access to contraception; ensuring access to safe and legal abortion; encourage and increase the access to prenatal care; and ensure humanized and skilled care with emphasis on emergency obstetrics care to cope with complications of pregnancy, abortion, childbirth and postpartum.

In Mexico, the maternal mortality ratio (MMR) in 2008 was 57.2, in 2009, 62.2 and in 2010, of 51.5 maternal deaths per 100,000 births.[3] In absolute numbers, in Mexico, from 1990 to 2010, 27.071 women died from complications during pregnancy, abortion, childbirth or postpartum.[4]/[5] These figures show that the efforts are insufficient and that they are not fulfilling the assumed commitments within the Millennium Development Goals (MDG 5.a y 5.b), that include reducing the MMR to 22.3 deaths per 100,000 live births, which means that - for 2015 – we should reach a maximum of 417 maternal deaths per year.

By 2010, five states had the highest percentage of MM, corresponding to women speaking an indigenous language: Oaxaca (55.9%), Guerrero (47.2%), Chihuahua (35.9%), Yucatan (25.0%) and Chiapas (24.6%). Regarding the level of education, at the national level, 8.7% of women who died did not have access to education, and in states such as Chihuahua, Chiapas, Guerrero, Puebla, Oaxaca, Michoacan, Hidalgo, Veracruz and Morelos, this percentage ranges between 10 and 25%. One out of three women had no social security,

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[3] Observatory of Maternal Mortality in Mexico, Maternal Mortality in Mexico (in Spanish: Observatorio de Mortalidad Materna en México, *Mortalidad materna en México.) Numeralia 2009*, p.6, available at <http://www.omm.org.mx/images/stories/documentos/NumeraliaMM2009.pdf> [access: June 7, 2012].

[4] See Ipas México Analisys. Schiavon, R., E. Troncoso y G. Polo, "Analysis of maternal and abortion-related mortality in Mexico over the last two decades, 1990-2008" en *IJGO (Int. Journal of Ginaecology and Obstetrics)*, [in press].

[5] Observatory of Maternal Mortality in Mexico, *Numeralia 2009*, available at <http://www.omm.org.mx/images/stories/documentos/NumeraliaMM2009.pdf> [access: June 7, 2012]. *Numeralia 2010*, *op. cit.* (see *supra*, note 3).

while about 40% were affiliated to the Social Health Care System.[6] These figures show the situation of vulnerability and discrimination in which indigenous women are.

Over the past two decades, one in eight MM occurred in women of less than 20 years old. In 2010, of the total maternal deaths, 10% corresponded to women younger than 19 years, reaching levels between 20 and 30% in the states of San Luis Potosi, Tabasco, Nuevo Leon, Chihuahua and Aguascalientes. In addition there has been a nationwide increase in unwanted pregnancies among adolescents and young women, particularly among those younger than 15 years. In 2009, of all hospitalizations of girls between 10 and 14 years, 29.7% were due to causes related to pregnancy, childbirth and abortion.[7]

In 2010, over 91% of women who died from a maternal cause, arrived to a hospital and received some care before dying, which speaks of a poor quality in emergency obstetric care services. But in states like Oaxaca, Guerrero and Chiapas, about one out of four died at their homes; up to 15% died in public places in Guerrero y San Luis Potosi.

These figures show a serious problem of access to health services in the more marginalized areas.[8]

The main causes of maternal death in Mexico are related to unsafe abortions, high blood pressure condition during pregnancy, hemorrhage, labor and postpartum and indirect obstetric causes. The geographic distribution of these causes shows the challenges associated with biases of socio-economic development situations and new epidemiological emergencies.[9]

Abortion, which was responsible, on average, for 7% of all maternal deaths over the past 20 years,[10] in 2010 caused 9.3% of deaths. Yet, it represented between 11 and 25% of all cases of MM in nine states of the Republic (Campeche, Chihuahua, Jalisco, Mexico, Morelos, Nayarit, San Luis Potosi, Veracruz and Zacatecas).[11]

The severity of the situation in relation to MM has been exposed even by public officers. On February 23, 2012, Dr. Romeo Rodriguez Suarez, head of the Coordinating Committee of National Health Institutes and High Specialty Hospitals of the Federal Government, said that the MDG 5.a would not be met, and noted that eight out of nine deaths occur in hospitals

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[6] Observatory of Maternal Mortality in Mexico, *Numeralia 2010*, *op. cit.* (see *supra*, note 3).

[7] Ipas Mexico, Numeralia about maternal morbidity and mortality in adolescents. Mexico 1990-2009, May 28, 2011, available at <http://elrostrodelamortalidadmaterna.cimac.org.mx/sites/default/files/numeralia_2011_morbi_mortalidad_materna_en_adolescentes_1990-2008_y_2009___2_1.pdf> [access: June 7, 2012].

[8] Observatory of Maternal Mortality in Mexico, *Numeralia 2010*, *op. cit.* (see *supra*, note 3).

[9] Observatory of Maternal Mortality in Mexico, *Numeralia 2009 and Numeralia 2010*, *op. cit.* (see *supra*, note 3 and 5).

[10] See analysis of Ipas Mexico, *op. cit.* (see *supra*, note 4).

[11] Observatory of Maternal Mortality in Mexico, *Numeralia 2009 and Numeralia 2010*, *op. cit.* (see *supra*, note 3 and 5).

due to lack of proper medical care in health centers.[12] Such statements reflect that maternal health services do not meet the international standards for the right to health, specifically one of quality.

Mexico's government has created programs based on the Planning Act, the General Health Law and the National Development Plan. These state that the mother-infant attention is a priority and a part of the national health care.[13] The *2007-2012 National Health Plan* also proposes, as a goal, to decrease the maternal mortality ratio by half in the one hundred municipalities with the lower human development rate; to increase in 92% the delivery care by trained personnel and establish high level health care networks. At the same time, in the period 2007-2012, the State continued implementing the specific action program "Arranque Parejo en la Vida" (Fair Start in Life), which aims to "provide information and quality health services to ensure a healthy, safe delivery and a postpartum without complications for all Mexican women."[14]In addition, In May 28, 2009, the Federal Government introduced the Comprehensive Strategy to Accelerate the Reduction of Maternal Mortality, which includes, among other measures, free universal care for complications during pregnancy, childbirth and postpartum in any health sector institution. Finally, this year the government started a strategy focused to reduce 7 - 14% of the deaths expected for 2012. However, maternal deaths have not declined significantly, demonstrating a lack of effectiveness of the programs as well as poor implementation of these programs at all the three levels of government (federal, state and municipal).

Therefore, we believe that the persistent and unacceptable situation of maternal mortality in the country cannot be attributed to lack of policies and programs, at least as stated. Rather, the challenges rest on an appropriate implementation of these programs, on a progressive allocation of resources, and on a transparent and effective monitoring to apply them.

Recommendations

Parallel to the activities raised from the National Health System, we recommend to reinforce the actions taking into account the following strategies:

Encourage safe motherhood as an end in itself among policies promoting equality. Encourage universal access to contraceptive education and to sexual health services in order to prevent unwanted pregnancies, to receive quality prenatal care, medical assistance for all births provided by skilled personnel, and emergency obstetric care for all women with complications. All of these constitute a single strategy that requires political will, an adequate technical and administrative implementation, and a sufficient and progressive

[12] "They recognize that the Millennium Development Goals on maternal mortality will not be met" in The Reporter, February 23, 2012. Available at <www.informador.com.mx/jalisco/2012/359329/6/reconocen-no-se-cumpliran-metas-del-milenio-en-mortalidad-materna.htm> [access: June 7, 2012].

[13] Article 61 of the General Law for Health (In Spanish: Ley General de Salud). Available at <http://info4.juridicas.unam.mx/ijure/tcfed/180.htm?s=> [access: June 7, 2012].

[14] Health Department, *Specific Action Program 2--7-2012. Fair Start in Life, Mexico 2008* p. 32(in Spanish: *Programa de acción específico 2007-2012. Arranque Parejo en la Vida*, México, 2008). Available at <http://www.spps.gob.mx/images/stories/SPPS/Docs/proy_prog/8._apv.pdf> [access: June 7, 2012].

budget allocation, as well as a transparent application of the necessary resources at the federal level and for the entire fragmented health system.

Fortify the implementation of public policies targeted to indigenous women as a principal group, and develop a dialogue between traditional and western medicine. Also promote actions addressed to women who live in marginal urban areas.

Situate safe motherhood as a human rights issue, considering that underneath a preventable maternal death, there is a track of violations to women's human rights.

Increase the budget directed to strengthen actions and programs for maternal health, as well as the actions specifically oriented to reduce maternal mortality, and facilitate monitoring, follow up and transparency actions in the fiscal-year budget, at both federal and state levels.

III. Lags in Maternity protection

The protection of motherhood is part of the women's right to be respected about their reproductive decisions and to be entitled to receive health and social services needed for them to freely decide on how and when to become mothers. According to the CEDAW, the State has the obligation to implement all kind of measures needed to protect maternity, in health and labor aspects. The Convention also points out special protection measures, so as to recognize, first, the social function of motherhood and, second, that raising children is a mutual responsibility of men and women.

Previously, the Committee recommended Mexico to expand the coverage of health services -particularly the reproductive health care, a situation that is not fully satisfied yet. Proof of this is the case of a 24 years old woman, seven months pregnant, who had to go nine times to the Health Center and the Hospital of the Mexican Social Security Institute (IMSS) of Alvarado, Ver., until she was able to be received. Due to complications of pregnancy, she had to rush twice to an emergency room of the IMSS in another city (Veracruz, Ver.). She died in the ambulance during the second ride.

In the labor environment, the State reported the adoption of the paternity leaves benefit in certain public institutions such as the Federal Judiciary Power, Human Rights Commission of the Federal District, the National Women´s Institute, Ministry of the Interior and the Federal Electoral Institute. However, the Federal Labor Law does not cover the right to paternity license or day-care service for the parents, which preclude workers in general to exercise this right.

In addition reports the consultation process for the possible ratification of Convention No. 156 of the International Labor Organization about workers with family responsibilities,[15] a fact which undoubtedly represents a progress in the field, but this effort is not complete without ratification of Convention No. 183 on Maternity Protection.

The balance between domestic and non-domestic work is still a pending issue in Mexico. The figures show that home and family care continue depending on women: 78.5% of

[15] CEDAW Committee, Consideration of reports submitted by states parties: Mexico, May 17, 2011 (In Spanish: *Examen de los informes presentados por los Estados partes)* [CEDAW/C/MEX/7-8], paragraph 151, p. 46.

children younger than 6 years old are cared for by their mothers, while 2.6% go to day-care centers,[16] these figures show that the State has not undertaken the necessary measures to reconcile work and family life for women. In 2010, of the 43.2 million women older than 14 years old, 61.8% performed unpaid work, while of the 39.1 million men older than 14 years; only 26.3% did not receive remuneration for their work.[17]

Recommendations

Regulate and guarantee the exercise of the women´s rights to a free and voluntary motherhood, with access to quality health services, accessible and affordable as: adequate prenatal care, risk prevention programs, identification of warning signs, access to a humanized birth care and universal and free attention of complications, among others.

Take the necessary measures to harmonize legislation and implementation, in order to create social programs to support the social function of motherhood, employment retention and recruitment of pregnant women, implement appropriate programs to support women and their families during pregnancy, childbirth and postpartum. And public policies and laws that allow men to share responsibilities in the upbringing of children, such as paternity leave and access to day-care centers for their children.

IV. Constitutional reforms at local level to protect life since conception

In 2006, in the Concluding Comments of this Committee during Mexico's 6th Periodic Report, it recommended to harmonize State legislation on abortion at state and federal levels, and implement a comprehensive strategy that includes effective access to safe abortion services in circumstances provided within the law.

Far from complying with these recommendations from 2008, the country has going through a wave of reforms of the local constitutions in several states, to protect life since the moment of conception. These reforms were intended to limit women's reproductive rights in a frank and open response against the decriminalization of abortion in Mexico City.

The above mentioned reforms, far from guaranteeing rights have become an obstacle for women in the exercise of their right to a free, voluntary, healthy, joyful and shared maternity. These laws turns the pregnant woman an instrument while *pregnant* without taking into account the complexity of the implications of *exercising maternity*, these laws jeopardize the access to services that the State is compelled to ensure to all women in the country.

[16] Percentage obtained in Frame 3.41. National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía) (INEGI) and the Mexican Institute of Social Security (Instituto Mexicano del Seguro Social) (IMSS), *National Survey of Employment and Social Security 2009*, Mexico, 2010, p. 71. Disponible en <http://www.inegi.org.mx/est/contenidos/espanol/metodologias/encuestas/hogares/concep_eness09.pdf> [access: June 7, 2012].

[17] National Institute of Statistics and Geography (INEGI) and the Mexican Institute for Women (INMUJERES), *Men and Women in Mexico, 2011*, Mexico, 2012, p. 141.

These reforms have led to confusion among staff in the health care services and among women, hindering access to safe abortion services in cases permitted by law, the State hasn´t taken any action to prevent this misinformation. In addition there aren´t figures of the number of women who have had access to legal abortion services in the entities in which these reforms were carried out.

However, Mexico reports that the legalization of abortion in Mexico City was a measure to strengthen sex and reproductive health services, and medical and social counseling. [18] This given recognition of progress in protecting the women´s reproductive rights is inconsistent because the State does not promote equivalent reforms in other states.

In September 2011, the Federal Supreme Court of Justice (SCJN) discussed two unconstitutional actions against the reforms that protect absolutely the product of conception in San Luis Potosi and Baja California. Most of Supreme Court Justices agreed in that the reforms were unconstitutional because the absolute protection of the product of conception jeopardizes the women´s reproductive rights. The Justices recognized that the protection of prenatal life is important, but that such protection must be compatible with the women's rights.

Unfortunately, to declare these reforms unconstitutional eight votes (out of eleven) were needed and it yielded only seven, so the actions were dismissed. This does not mean that the reforms have been declared constitutional, but that they did not achieve a qualified majority to declare them unconstitutional. However, the arguments submitted by most Justices,[19] and the constitutional reform in human rights, show that these reforms have to be interpreted so as not to jeopardize the women´s reproductive rights. Thus women, should have guaranteed their access to legal abortion (on the grounds established by law), access to all contraceptives (including emergency contraception), and access to assisted reproductive techniques.

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[18] CEDAW Committee, Consideration of reports submitted by states parties: Mexico, May 17, 2011 (In Spanish: *Examen de los informes presentados por los Estados partes)* [CEDAW/C/MEX/7-8], paragraph 170, p. 52.

[19] Minister Arturo Zaldívar Lelo de Larrea: "Definitely the contested provision to match or to modify the content of the holder means to push, ignore, eliminate the human rights of women [...] deny to women in certain circumstances the right to terminate the pregnancy, would continue this circle of marginalization and discrimination." Shorthand version of the plenary section of the Nation's Supreme Court, celebrated on Wednesday, September 28, 2011, p. 28. Available at <http://www.scjn.gob.mx/PLENO/ver_taquigraficas/pl20110928v2.pdf> [access: June 8, 2012].

Minister Margarita Luna Ramos"No, in any case, what we have to see is whether article 7, in a way which is establishing a protection of the unborn, protection of the unborn and says to us from the moment of conception . But this does not mean in any way as an absolute, something that no longer allows for the power to establish regulations on the matter [...]" Shorthand version of the plenary section of the Nation's Supreme Court, celebrated on Tuesday, September 27, 2011, pp. 60 y 61. Available at <http://www.scjn.gob.mx/PLENO/ver_taquigraficas/pl20110927v3.pdf> [access: June 8, 2012].

This Committee has also expressed concern about the criminalization of women who undergo abortions, a situation that has occurred and has been recognized by the State in its Report[20] and in response to questions posed by this Committee.[21]

An example of this is the case of a woman in Puebla (state which amended the constitution to protect life since conception), which was reported by the staff of the hospital where she was treated because of a hemorrhage. This is a woman with Rh negative blood, who needed an abortion because the pregnancy was life threatening. She didn't undergo the legal termination of pregnancy that she was entitled to, but there was fetal death, and she arrived at the hospital with a miscarriage in progress. The woman was accused by the woman-physician who treated her and she was hold for trial before a criminal judge. During the trial, the medical expert certified the death of the product, thanks to which she was released. This case is a clear example of how the constitutional reform has lead health care staff and law enforcement officers to accuse and consign women before checking the facts.

Recommendations

Interpret state constitutions which provide protection to life since conception-fertilization in the context of Article 1 of the Federal Constitution, under which the principles of universality, interdependence, indivisibility and progressiveness are recognized. From this, the standard which most benefits the person (in this case a woman) in accordance with international standards should be applied at all times.

Ensure that in all the states of the country, women who are in any of the cases of legal abortion, have access to adequate and qualified services. As well as to strengthen sexual and reproductive health based on the experience of Mexico City's government, from the reforms to legalize abortion in 2007.

Implement the necessary legal mechanisms to ensure that women are not prosecuted for having an abortion under the law.

V. Denial of information and to access to sexual and reproductive health for women who are victims of rape.

In General Recommendation 19, the CEDAW Committee urged States to provide rape victims with protection and appropriate support; training the judiciary officials, law enforcement agents and other officials to implement the CEDAW; undertake steps to prevent coercion in regard to fertility and reproduction, so that women are not forced to seek unsafe medical procedures such as illegal abortions, for lack of appropriate services in

[20] CEDAW Committee, Consideration of reports submitted by states parties: Mexico, May 17, 2011 (In Spanish: *Examen de los informes presentados por los Estados partes)* [CEDAW/C/MEX/7-8], paragraph 170, p. 52.

[21] CEDAW Committee, *Responses to list of issues and questions with regard to the consideration of the combined seventh and eighth periodic reports,* March 14, 2012 [CEDAW/C/MEX/7-8], paragraph 129 p. 35 available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/264/08/PDF/N1226408.pdf?OpenElement> [access: June 8, 2012].

health institutions. This Committee also recommended that States ensure that the services for victims of violence be accessible to women in rural zones.

On April 16, 2009, the *Mexican Official Standard NOM-046-SSA2-2005* entered into force. *Family violence, sexual violence and violence against women. Criteria for prevention and care* (NOM-046),[22] which aims to establish the criteria to be observed in the detection, prevention, care and guidance provided to users of health services who have been victims of domestic or sexual violence. This rule ensures access to emergency contraception, prophylaxis against HIV / AIDS and legal abortion.

Regarding rules applicable to cases of rape, it should be noted that on April 30, 2012 Congress approved the General Law of Victims, which expressly provides that victims of rape are entitled to access to emergency contraceptive services, to request legal termination of pregnancy and safe treatments to prevent sexually transmitted infections. At the time of preparing this report, the release of this law by the President of the Republic is pending.

In Mexico, abortion resulting from rape is legal throughout the country. However, there is an obstruction by public officials who receive allegations of rape preventing access to this service.[23]

According to figures obtained through the Access System to Public Information (INFOMEX), since the coming into force of the NOM-046 to date, only the health departments of 14 states reported caring for 3.760 women victims of rape, a very low figure, if compared with the information given by the attorney general's office from the same states, concerning the number of reported victims of rape in the same period: 12.831.[24] This disproportion of figures shows that more and more women are reporting these kinds of attacks, however, from these data, we noted the lack of coordination between law enforcement authorities and health services providers in the application of a comprehensive health care for women victim of rape. Another situation we have observed is that women do not reach the Specialized Centers of Attention to Violence, since these are located in the state capitals and in the larger municipalities, making the access difficult for women living in remote and marginalized communities.

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[22] The NOM-046 was the result of a friendly settlement agreement signed on March 8, 2006 by the Mexican State before the Inter American Commission on Human Rights.

[23] See chapter V. Human Rights Watch, Second Assault: Obstructing Access to legal abortion after rape in Mexico in March 2006, vol. 18, no. 1, p. 39-79.

[24]The figures correspond to the state of Aguascalientes, Coahuila, Colima, Chihuahua, Durango, Mexico, Jalisco, Hidalgo, Nayarit, Queretaro, Quintana Roo, San Luis Potosi, Sinaloa and Veracruz; the 3.760 registered cases of rape victims reported by the secretariats health states, for the period June 2009 to June 2010, INFOMEX. In the case of 12.831 cases reported by the attorney generals, 7.465 correspond to 2009; such information was obtained from the report: special committee to monitor the female victims, LXI Legislature House of Representatives, National Institute for Women, UN Women and The College of Mexico, Female victims of violence in Mexico. Approach, trends and changes, 1985-2009. Available in <http://cedoc.inmujeres.gob.mx/documentos_download/00_feminicMx1985-2009.pdf> [access June 8, 2012]. 5.366 The remaining cases are for the period June 2010 to June 2011; such information was obtained via INFOMEX.

Data provided by the state health secretaries, via INFOMEX, is very limited, but it allows us to know how the NOM-046 is being implemented in 10 states.[25] The chart on the next page shows the information obtained. Poor information on counseling available and the provision of emergency contraception, treatment to prevent sexually transmitted infections and access to legal abortion for rape victims, indicates that the Health Departments in these states are failing to fully comply with the comprehensive health care criteria established in NOM-046, for example, in the state of Hidalgo, there is only a report provided for psychological care, but no emergency contraception, treatment to prevent infections sexually transmitted nor legal abortion services.

State	Victims of rape	Emergency Contraception		Application of STI´s treatment	Pregnant Women	Legal abortions		Medical and psychological follow up
		Information	Administered			Requests	Fulfilled	
Aguascalientes	13	0	0	0	INP	INP	INP	INP
Coahuila	41	0	0	0	INP	INP	INP	INP
Colima	426	100%	76.2%	100%	1	INP	INP	59.8%
Chihuahua	20	90%	90%	40%	3	INP	1	INP
Durango	176	100%	2.8%	99.4%	INP	INP	INP	99.4%
Mexico	220	0	25.9%	25.9%	26	12	12	INP
Hidalgo	194	INP	INP	INP	9	INP	INP	99.4%
Queretaro	76	100%	INP	69.7%	INP	INP	INP	INP
Quintana Roo	494	100%	INP	100%	INP	INP	INP	INP
Sinaloa	29	0	0	0	INP	INP	INP	INP

INP: Information not provided

However, some states have regulated the protocols for abortions for rape victims, which have been implemented,[26] thanks to which this right is becoming a reality for women.

Another common situation occurs when the female victim of rape goes to prosecutor or to health agencies to request termination of pregnancy and the authorities refuse to do it, because they do not consider themselves as competent to authorize the abortion. This obstacle is added to the request of unnecessary and unjustified requirements and / or the authorization delay, factors which, in many cases prevent the abortion to be performed (due to timing requirement in most states). A clear example is the case of a girl in the state of Morelos. Raped by her stepfather, she went to public health services and to the Attorney

[25] Aguascalientes, Chihuahua, Coahuila, Colima, Durango, Mexico, Hidalgo, Queretaro, Quintana Roo y Sinaloa.

[26] Baja California Sur, Colima, Distrito Federal, Mexico, Oaxaca, Puebla, Quintana Roo and Zacatecas.

General's Office of Morelos to request permission for an abortion. Since she was denied in both instances, she had to travel to Mexico City (with the support of the Mary Fund Organization) to end the pregnancy.

Recommendations

Gather records on the cases of victims of rape and the number of women who accessed to emergency contraception and treatment to prevent sexually transmitted infections, the number of pregnant women as a result of rape who requested an abortion and the number of abortions performed for this cause, and, where applicable, the number of women who were not provided legal abortion, and the reasons for denial.

Train staff of prosecutors' offices and health departments of states regarding rape victims' rights and ensure the access to knowledge, emergency contraception methods, abortion and prophylaxis and treatment of sexually transmitted diseases.

Monitor, with civil society's participation, the implementation of *NOM-046-SSA2-2005. Family violence, sexual violence and violence against women. Criteria for the prevention and care* by staff of the state attorney general offices and health departments.

Ensure accessibility to the Specialized Centers of Attention to Violence, for women living in remote communities outside the state capitals and county seats.

VI. Unsatisfied demand of contraceptives

In 2006, in the Concluding Comments of this Committee for Mexico, it was recommended to apply a strategy to ensure the access to a wide range of contraceptive methods.

In the last twelve years, the increase in coverage of contraceptives was only four percentage points. The percentage of use of these methods in women of childbearing age rose from 68.5 in 1997 to 70.9% in 2006. This means that by 2006, only 11.7 million women of childbearing age and together using contraception, less than half of all women of reproductive age in our country (about 26.5 million).[27] For 2009, the contraceptive coverage rose to 72.5% among women together, but was only 58.5% among indigenous women, 63.7% in women living rural areas and 60.5% among women with no education.[28] One of the factors associated directly with this problem is the absence of mass media campaigns that promote the benefits of contraceptive use.

Early pregnancy remains a concern. The first pregnancy occurs more frequently among girls (26.8%), followed by those between 18 and 20 (14.5%) and between 21 and 23 years

[27] Estimates of National Population Council (CONAPO) based on the National Demographic Dynamics Survey 1997 and 2006. Available in <http://www.conapo.gob.mx/publicaciones/SaludReproductiva/2009/4.%20Anticoncepcion%20en.pdf> [access 11 June, 2012].

[28] CONAPO, *National Demographic Dynamics Survey (ENADID).* 2009. Available in <http://www.conapo.gob.mx/index.php?option=com_content&view=article&id=455&Itemid=15> [accessed 7 June 2012].

(20.7%).[29] These figures show high rates of teenage pregnancies that occur in the country, which is related to the low rates of contraceptive use in young people. Surveys show that 92.5% of young people know a contraceptive method, but only 64.1% used one and-alarmingly-56% of girls between 15 and 19 reported not using contraceptive protections during their first intercourse.[30] In 2009, only 38.4% of adolescent women reported using contraception during their first intercourse.[31]

In Mexico, the provision of contraceptive services is established in the General Health Law, under which all the country's health institutions have an obligation to ensure access to contraception. Regular methods of contraception as well as emergency contraception are included in several official standards issued by the Federal Ministry of Health. Thus, the health services of all levels (federal and local public and private) must comply with these instructions. Since January 21, 2004, emergency contraception is included in the *Mexican Official Standard NOM 005-SSA2-1993*. *Regarding family planning services*. Despite this legislation, there are still obstacles in access to emergency contraception because of the lack of information on their use and, sometimes, resistance of health care providers and staff of the attorney general's offices(in the case of female victims of rape) to provide this method.

The statistics report an unsatisfied demand in terms of access to quality contraceptives, which are suitable for the specific needs of each woman. National Population Council (CONAPO) recognizes that there are still inequalities in effective access to contraceptives, especially for adolescents, women with low levels of education and women living in rural areas.[32] Some of the problems that remain in ensuring access to contraceptives are: shortage, especially in rural areas, administrative barriers in health centers, lack of information on methods and their correct use, limited supply of various contraceptives, for the women to choose their preference, lack of quality services, to ensure the confidentiality and privacy, especially important issue in the case of adolescents.

Recommendations

Build communication strategies and campaigns to ensure access to adequate and scientific-based information on contraception for the entire population, especially young rural, indigenous and low socio-economic women and men.

Ensure the supply of the widest range of free, good quality and appropriate contraceptive methods that meet the specific needs of adult and adolescents women.

Monitor implementation of *NOM 005-SSA2-1993, Family planning services,* through evaluation mechanisms with civil society participation and ensure free access to emergency contraception provided by this rule.

[29] CONAPO estimates based on ENADID 1997 and 2006 (see *supra*, note 26).).

[30] Instituto Mexicano de la Juventud (Youth Institute), National Youth Survey 2005. Preliminary Results, Mexico, May 2006. Available in <http://sic.conaculta.gob.mx/centrodoc_documentos/292.pdf> [access June 8, 2012].

[31] CONAPO *ENADID* 2009, *op. cit.* (see *supra*, note 27).

[32] CONAPO, *ENADID 2009*, *op. cit*. (see *supra*, note 27).

VII. Invisibility of reproductive health of adolescents

Reproductive health for young people and respect for reproductive rights is an issue that is still invisible in the implementation of public policies in Mexico. Unwanted pregnancies, the increase in sexually transmitted infections and sexual violence are obvious problems affecting this sector of the population.

Unintended and unwanted pregnancies in young women, unsafe abortions, as well as health risks resulting from the latter, have been the result of limited access to quality health services.

45% of young women have had at least one live birth. The rates of unwanted pregnancies in women under 24 are very high. According to the Ministry of Health of the Mexico City, collected between April 25, 2007 (when it decriminalized abortion and began to provide the service) and April 30, 2012, 78.544 women (living in the City or any states) have had an abortion in government health institutions in Mexico City. Of these 471 women were between 11 and 14 years of age and 3.142 women aged 15 to 17 years of age. In relative terms at the same time, young women (between 11 and 24 years) represent 52.4% of women who have abortions, with the group of 18 to 25 years the largest.[33]

Added to a lack of recognition of rights, are also other factors that limit the access of young women to safe abortion services, including: social stigma around youth and abortion, lack of effective justice and health systems, and lack of recognition of women´s and girls' rights, specifically to freely choose over sexuality and reproduction. In order for to access an abortion, frequently the authorization of an adult is required (mother, father or guardian) which prevents the search and exposure to unsafe abortion services without accompaniment.

Another important factor in the exercise of young people´s reproductive rights has been the lack of promotion of quality sexuality education, with relevant content and based on scientific evidence. Since 1997 the state joined the holistic view on sexuality education, with the axis based on gender and of sexual and reproductive rights in the plans and curricula of basic education.

This strategy had an impact in reducing teen pregnancy. However, since 2000, alternating with the party change in the federal Executive Branch, the contents of sexuality education have been detrimental. The regressive effect of the federal government's actions during the past 10 years is documented even by the CONAPO. The 2009 National Demographic Dynamics Survey (ENADID) found that the motherhood of women under 20 years reversed its trend, stopped descending and grew for the first time from 16 to 17.4 of all births in Mexico between 2000 and 2008. The same trend is observed in terms of specific fertility rates, CONAPO estimated that in 2003-2005, for every thousand women between 15 and 19

[33] See data constantly updated on the website of the Information Group on Reproductive Choice (Grupo de Información en Reproducción Elegida- GIRE) <http://www.gire.org.mx/index.php?option=com_content&view=article&id=504&Itemid=1397&lang=es>.

years, about 65 had had a child. The figure rose to 69.5 in the triennium 2006-2008.[34] Today, less than half of women between 15 and 19 years of age used a contraceptive method (44.7%).[35]

The most effective way to reduce the number of abortions is to prevent unwanted pregnancies with effective access to contraception, as well as clear information on correct use, as the reality in Mexico shows that young people has been a sector that rarely goes to health services, either for fear of being discriminated against, or lack of information to access them.

Recommendations

Strengthen and align public policies, resource allocation and adequate training of human resources to ensure timely access to comprehensive reproductive health services for adolescents. Access to information and methods of contraception has an obvious impact in reducing adolescence pregnancy and, consequently, in reducing unsafe abortions, complications during pregnancy, childbirth and postpartum and maternal deaths.

Ensure the production and update the contents and teaching methods of the curricula so as to address comprehensive sexuality education based on scientific evidence, recognized by international organizations. Promote –to that end--the participation of specialists, civil society and community (including girls, children, adolescents, youth, teachers, mothers and fathers).

VIII. Institutional violence in the field of reproductive health against women in prison

Currently in Mexico there are at least 10,120 women deprived of their liberty, prisoners, representing 4.5% of the country's prison population (222,550 persons).[36] However, only 25% of them live in facilities exclusively for women in custody, the remaining 75% live in makeshift spaces, inside the men's prisons, and suffer from substantial shortcomings and lack of opportunities in contrast to the male population.

In relation to the reproductive health of women deprived of their liberty, we found the following: no permanent access to contraception and protection against STIs; inexistence of any efficient disease detection program related to sexual life. [37] Prisons do not offer training

[34] CONAPO, Key Indicators of Reproductive Health. ENADID 2009. Available at <http://www.conapo.gob.mx/publicaciones/SaludReproductiva/2009/1.%20Transiciones%20de%20vida%20BIS.pdf> [access 7 June, 2012].

[35] CONAPO, Key Indicators of Reproductive Health. ENADID 2009. Available in <http://www.conapo.gob.mx/publicaciones/SaludReproductiva/2009/4.%20Anticoncepcion%20en.pdf> [access 7 June, 2012].

[36] Ministry of Public Security, Journal of Statistical Corrections Monthly, July 2011.

[37] See Asistencia Legal por los Derechos Humanos (ASILEGAL), Mujeres privadas de libertad ¿Mujeres sin derechos?, Mexico, Instituto de Derechos Humanos Ignacio de Ellacurría SJ, Universidad Iberoamericana Puebla, 2011.

and information on sexual and reproductive health for inmates. There is a remarkable absence of gynecological and obstetric care within prisons and inappropriate diet for pregnant women.

Reproductive health is not limited to the moments of conception, pregnancy and birth; it continues to ensure the welfare of the mother and her baby. In this regards, we analyzed the regulations of the Social Rehabilitation Centers in the states of Queretaro, Guerrero, Guanajuato and Puebla, and none of them[38]provide for a special section designed for mothers and children, which enables reproductive autonomy, that is, women cannot make decisions freely about her motherhood, as the structural conditions in prisons force them, in most cases, to refrain from becoming mothers.

86% of female respondents reported having been pregnant at some point. Among them, 39% said they had carried to term in the prison in which they are held. Most of them (38%) are deprived of their liberty in prisons in the state of Guanajuato.[39]

Of particular concern is the surgical sterilization (called VSC, it is a permanent and irreversible method) among women in detention. Although VSC is allowed in Mexico, it is required by law to obtain an informed, voluntary, and written consent from the women.[40] However, for some women deprived of liberty, their consent is a step omitted. Of the women interviewed in the Social Rehabilitation Centers (CERESO) of Oaxaca, Guerrero, Querétaro, Puebla and Baja California, (90% decided to have the procedure itself, but 8% did not). Of this 8%, 5% received the procedure by order of the authorities and 3% reported being unaware at the time when the procedure was performed. This is an alarming figure, and means that nearly 10% of women[41] receiving this medical procedure were subjected to surgical sterilization against their will, that is, unwittingly their biological reproductive capacity were stolen from them. This situation is the result from the lack of a gender and human rights perspective within prison's authorities, who see contraception as a method of coercion against women and the solution to the inability of prisons to accommodate mothers with their children.

The act of forced sterilization, as a systematic and formal practice, is a serious violation of women´s reproductive rights. This practice is present, especially in the prisons' regulations, particularly in the case of the state of Puebla, where these actions have been specified and are a common practice.

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[38] *Idem.*

[39] ASILEGAL found that the application of medical tests to determine if they have acquired infection is discontinuous: the women say they are only done every six months tested for HIV / AIDS and Pap sporadically. See Mujeres privadas de libertad..., *op. cit*. (see supra, note 36).

[40] Legal Centre for the Reproductive Rights and Public Policy (Centro Legal para Derechos Reproductivos y Políticas Públicas) (CRLP), *Women Reproductive Rights in Mexico: a Shadow Report* (*Derechos Reproductivos de la Mujer en México: Un Reporte Sombra)*, Nueva York, 1997, p. 12. Available at <http://www.amdh.org.mx/mujeres3/biblioteca/Doc_basicos/5_biblioteca_virtual/9_informes/ONG/37.pdf> [access: June 8, 2012].

[41] See Mujeres privadas de libertad..., *op. cit.* (see *supra*, note 36).

Recommendations

Ensure that health service facilities of CERESO have a trained physician to ensure a proper attention (gynecological and obstetric) for female inmates.

Create mechanisms to allow women to decide on the possibility of using a contraceptive method, and create a process to certify the woman's informed consent to receive a certain birth control method, especially VSC.

IX. Failures in the care of women living with HIV

According to the General Recommendation 15 of the Committee, States are required to include in their reports submitted under article 12 of the Convention, information on the impact of HIV / AIDS in women, actions taken to meet the needs of women with HIV, and prevention of discrimination against those affected by HIV / AIDS.[42] Furthermore, the General Recommendation 24 urges the States to allocate resources for programs directed to adolescents for the prevention and treatment of sexually transmitted infections, including HIV / AIDS.

Notwithstanding these recommendations, the State has ignored the obligation to report to the Committee on measures taken to care for women affected by HIV / AIDS, since the report is silent on this issue. This occurs despite the figures: that worldwide, half of new HIV infections occur in people between 15 and 29 years of age. Young women are most vulnerable because they have 1.6 times greater risk of acquiring the virus.[43]

In Mexico, on September 30, 2011, there were 151.614 AIDS cases, 18% in women.[44] According to estimates from the Joint United Nations Program on HIV-AIDS (UNAIDS), in Mexico there are currently 220,000 people with HIV, of which 59.000 are women.[45] Today, women account for a quarter of people with the virus, which is a significant change in the epidemic in the country, and demands strong responses.

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[42] CEDAW Committee List of issues and questions with regard to the consideration of periodic reports: November 1, 2011, [CEDAW/C/MEX/7-8], paragraph 19, p. 4. Available in <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/574/96/PDF/N1157496.pdf?OpenElement> [access June 8, 2012].

[43] World Health Organization (WHO) y United Nations Children's Fund (UNICEF), *Global consultation on strengthening the health sector response to care, support, treatment and prevention for young people living with HIV*. *Meeting report*, Blantyre, Malawi, 2006.

[44] Ministry of Health, National Center for Prevention and Control of HIV / AIDS (CENSIDA), HIV / AIDS in Mexico 2011. Numeralia epidemiological, Mexico, 2011, p. 6. Available in <http://www.censida.salud.gob.mx/descargas/2011/NUMERALIA_SIDA_2011.pdf> [access June 8, 2012].

[45] United Nations Program on HIV / AIDS (UNAIDS), 2010 Global Report. Annex 1: HIV and AIDS Estimates and Data, 2009 and 2001, p. Available in 26 and 28 <www.unaids.org/documents/20101123_GlobalReport_Annexes1_em.pdf> [access June 8, 2012].

Young women are vulnerable to get HIV[46] also due to social and cultural factors such as: poor access to information on the correct use of male preservatives and female preservatives (and lack of access to them, enabling them to have greater control to prevent a sexually transmitted infection in each intercourse), the limited recognition of the ability of women to make decisions about their life and body, the scarce campaigns addressed to youth diversity designed to make them feel identified, as well as the weak commitment of several states to ensure a sexuality education which is comprehensive, scientific and laic corresponding to the youth's human rights. To date, there have been very few targeted campaigns which address the specific needs of young women living with HIV. There aren´t any programs to ensure the protection of the reproductive rights of a woman living with HIV, which allows for full identification of adolescents and youth in general, women with HIV are of reproductive age, which implies a demand for reproductive health services and the need to promote and protect their reproductive rights.

In accordance with women living with HIV, within the rights most often violated in terms of exercising their reproductive rights, are the following:

1) the non-discrimination right: women with HIV who wish to exercise their maternity rights are labeled with adjectives such as "irresponsible." To access screening services such as Pap smear they must comply with conditions that others must not, such as bringing their own speculum and wait to be the last patient that day. Another common violation is the denial of performing the C-section;

2) The right to receive appropriate information and give their consent to medical interventions: They do not receive information about antiretroviral treatment regimens, more adequate for HIV-positive women who are pregnant or want to get pregnant. In addition women are not informed about the possibility of insemination and safe pregnancy. Women are pushed to accept surgical interventions, rather than counseling in accordance with the regulations;

3) The right to decide on the number and spacing of children; partly because they are hardly pushed to have a bilateral tubal occlusion (BTO); these interventions are performed without the woman's informed consent.[47]

In addition, a research in the south-central Mexico has confirmed insufficient contraception methods needed by women with HIV, because of the lack of contraceptive counseling in specialized HIV centers.[48]

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[46] Torres Pereda, Maria del Pilar (ed.), Women, Mexican adolescents and children: a comprehensive look around HIV and AIDS. Epidemiology, prevention, care and best practices in Mexico, Mexico, CENSIDA, National Institute for Women and National Institute of Public Health (INSP), 2010, [Angles of AIDS Series, 10]. Available in <http://www.insp.mx/centros/evaluacion-y-encuestas/publicaciones/1255-resumenes-ejecutivos.html> [access 12 June 2012].

[47] Kendall, Tamil, "Reproductive Rights Violations Reported by Mexican Women with HIV" in Health and Human Rights: An International Journal, vol. 11, no. 2, 2009, p. 79-89. Available in <http://www.hhrjournal.org/index.php/hhr/article/viewFile/175/273> [access June 8, 2012].

[48] Kendall, Tamil, "Reproductive rights, reproductive choice: Access to reproductive health services for Mexican Women with HIV" in XIX Annual Intervention Canadian Conference on HIV / AIDS

Consultation with 42 HIV-positive women leaders throughout the Republic indicate that the above situation exists all across the country.[49]

Mexico has a National HIV Strategic Plan whose theoretic framework mentions the gender perspective, but the absence of specific preventive measures for women is remarkable. The plan poses no preventive actions for specific groups of women, such as married women and women experiencing gender-related violence. Recent research work at international level has found that the majority of new infections in women occur within stable relationships and that domestic violence has been associated to increased likelihood of being infected with HIV.[50]

There are no strategies differentiated by gender for women in key and vulnerable populations, such as drug users, sexual partners of men who have sex with other men, inmates, migrants, migrant couples, indigenous, youth, and even women with HIV. The National HIV Strategic Plan neither mentions specifically the reproductive health of women with HIV nor includes contraceptive methods and guidelines for diagnosis and treatment of sexually transmitted infections, including human papillomavirus (HPV). No significance is given to provide medical services in a gender perspective.[51]

Finally, we note that the only information generated by the state about women and HIV situation is the coverage indicator of antiretroviral treatment among pregnant women, requested by UNAIDS in the Declaration of Commitment on HIV/AIDS (UNGASS) reports. No information is generated by the state about the vulnerability of women to HIV, or about public policies to address the three pillars of the Glion Call to Action to integrate

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Research, Saskatoon, Canada, 13-16 May 2010. Kendall, Tamil, "Public Policy on HIV and AIDS aimed at women: A comparative analysis in Latin America" in Board Leadership in Action: a political agenda on women and HIV / AIDS, Mexico City, November 29, 2010

[49] Kendall, Tamil y Eugenia López-Uribe, *Access con ICW- Capítulo México y Red de Mexicanas en Acción Positiva sobre la prevención perinatal del VIH y los derechos sexuales y reproductivos*, Tuxtla Gutiérrez, Chiapas, 27 de noviembre de 2009.

[50] Dunkle, KL, RK Jewkes, HC Brown, GE Gray, JA McIntyre and SD Harlow, "Gender based violence, relationship power, and Risk of HIV Infection in Women Attending antenatal clinics in South Africa" in The Lancet, vol. 363, no. 9419, May 1, 2004, p. 1415-1421. Silverman, JG et al., "Intimate partner violence and HIV Infection among married Indian women" in JAMA, vol. 300, no. 6, August 13, 2008, p. 703-710.

[51] Kendall, T and E Lopez-Uribe, "Improving the HIV response for women in Latin America: Barriers to integrated sexual and reproductive advocacy for health and rights" in Global Health Governance, vol. 4, no. 1, Fall 2010, p. 1-15. Available in <http://www.ghgj.org/Kendall%20and%20Lopez_final.pdf> [access June 8, 2012]. Kendall, T and G Garcia-Patino, "Preventing and responding to HIV in women and their integration with maternal and child health: Mexican lags to achieve the Millennium Development Goals and fulfill the Declaration of Commitment on HIV and AIDS" in Freyermuth, G Sesia and P (eds), Monitoring, diagnosis and evaluation in sexual and reproductive health: New experiences of social control, Chiapas, Mexico, CIESAS and Promotion Committee for Safe Motherhood in Mexico, [in press].

sexual and reproductive health with HIV,[52] although the Guide of Antiretroviral Handling of People with HIV mentions the need to address fertility and the use of contraceptives as part of the medical check in, the correct use of antiretroviral during pregnancy, prevention of perinatal HIV transmission, and furnishing substitutes to breast milk for the first 6 months of age. These aspects of sexual and reproductive health are not offered by health institutions.

Recommendations

Develop and implement HIV prevention programs with a gender perspective by including married women, young women, women living physical or sexual violence, as well as a gender-differentiated prevention among drug users, female partners of men who have sex with other men, inmates, indigenous, afro-descendent women, migrant women and other vulnerable groups.

Implement all the necessary mechanisms to guarantee the no-discrimination right and make available informed decision making and access to contraception, as well as ensure the overall health of women with HIV.

Effectively implement the guidelines of the Antiretroviral Handling Guide for People with HIV on the background and reproductive desires, contraceptive use, correct use of antiretroviral during pregnancy, prevention of perinatal transmission of HIV and furnishing a breast milk substitute during the first 6 months of age.

Progressively allocate budget for universal prevention and care.

[52] Preventing primary HIV infection in women; preventing unintended pregnancies in women with HIV infection; Providing care, treatment and support for HIV-infected women identified through PMTCT or voluntary counseling and Testing (VCT) programs and their families. Primary prevention of HIV in women, prevention of unwanted pregnancies in women with HIV and health care of women and their families. See The Glion Call to Action on Family Planning and HIV / AIDS in Women and Children, 3 to 5 May 2004. Available in <http://www.unfpa.org/upload/lib_pub_file/333_filename_glion_cal_to_action.pdf> [access 11 June, 2012].