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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3629/2019*, **, ***

<i>Communication submitted by:</i>	Fátima (pseudonym; represented by Mujeres Transformando el Mundo, Center for Reproductive Rights, Planned Parenthood Global and Debevoise & Plimpton LLP)
<i>Alleged victim:</i>	The author
<i>State Party:</i>	Guatemala
<i>Date of communication:</i>	29 May 2019 (initial submission)
<i>Document reference:</i>	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State Party on 4 July 2019 (not issued in document form)
<i>Date of adoption of Views:</i>	19 March 2025
<i>Subject matter:</i>	Forced motherhood after rape and lack of access to abortion services
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issues:</i>	Right to an effective remedy; right to life; integrity of the person; liberty and security of person; privacy and family; right to information; special protection measures for children; equality and non-discrimination
<i>Articles of the Covenant:</i>	2 (3), 3, 6 (1), 7, 9, 17, 19, 24 (1) and 26
<i>Articles of the Optional Protocol:</i>	2, 3 and 5 (2) (b)

1.1 The author of the communication is Fátima (pseudonym), a national of Guatemala born on 3 January 1996. She claims that the State Party has violated her rights under article 2 (3) of the Covenant, read in conjunction with articles 3, 6 (1), 7, 9, 17, 19, 24 (1) and 26; article 6, read alone and in conjunction with article 24 (1); article 7, read alone and

* Adopted by the Committee at its 143rd session (3–28 March 2025).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonne Donders, Mahjoub El Haiba, Carlos Ramón Fernández Liesa, Laurence R. Helfer, Konstantin Korkelia, Dalia Leinarte, Bacre Waly Ndiaye, Hernán Quezada Cabrera, Akmal Saidov, Ivan Šimonović, Soh Changrok, Teraya Koji, Hélène Tigroudja and Imeru Tamerat Yigezu.

*** Two third-party submissions and an individual opinion by Committee member Rodrigo A. Carazo (concurring) are annexed to the present Views.



in conjunction with article 24 (1); article 9; article 17, read alone and in conjunction with article 24 (1); article 19; article 3; and article 26. The author is represented by counsel. The Optional Protocol entered into force for the State Party on 28 February 2001.

1.2 On 19 and 26 April 2021, the Committee received two third-party submissions (see paras. 7 and 8).

Factual background

Widespread pattern of sexual violence, forced pregnancy and forced motherhood

2.1 The author submits that her case is representative of a widespread pattern of sexual violence against girls in Latin America. The State Party is one of the countries in the region with the highest rates of both forced motherhood and systematic impunity for sexual violence. In particular, even though any sexual intercourse with a girl under 14 years of age has been classified as rape since 2009, only 1 per cent of rape complaints result in a satisfactory judgment.¹ There are also legal and cultural barriers hindering access to sexual and reproductive health services.

2.2 The author maintains that, in this context, access to information for the prevention of sexual violence and pregnancy among girls is insufficient. Healthcare for girls who are rape victims or who are pregnant or have become mothers is also deficient. In particular, maternal mortality among girls exceeds the regional average; among girls aged 10–14, there were 219 maternal deaths per 100,000 live births in 2007 and 143 maternal deaths per 100,000 live births in 2015.² The author points out that there are also significant territorial disparities, especially in access to health, justice and education services in the Departments of Alta Verapaz and Huehuetenango, which are characterized by poverty and geographical inaccessibility. Pregnancy is the main reason why girls who are pregnant or have become mothers decide to drop out of school, with life-altering effects on their future and their chances of escaping from cycles of poverty, dependence and violence.

2.3 The author argues that it is almost impossible for girl victims of sexual violence to access legal abortion, even though article 137 of the Criminal Code allows abortion in order to “avoid a duly established threat to the life of the mother”. The author submits that this is the case for 14-year-old girls, whose bodies are still growing and are therefore not capable of carrying a pregnancy safely.

Family context and environment

2.4 The author grew up in the village of San Lorenzo, Department of Huehuetenango. She lived in poverty with her mother and six sisters and brothers; her father abandoned them when she was born. From a very young age, while her mother worked, the author attended a public day-care centre run by the Huehuetenango Social Welfare Secretariat, called the Huehuetenango Comprehensive Care Centre. Its director (the future perpetrator), Eduardo Roberto Santiago López, supported the author’s family financially, paying school expenses.

2.5 The author recalls that, from the very beginning until 2003, when the perpetrator resigned from the Huehuetenango Social Welfare Secretariat, he used to touch her legs, kiss her on the mouth and demand that she help him clean his office.

Rapes and discovery of the pregnancy

2.6 Eduardo Roberto Santiago López remained in contact with the author and her family. On 27 November 2009, he took the author, with her mother’s permission, to Guatemala City to help him at a workshop. For that purpose, they had to stay several nights in a house he owned in that city. That same night, he entered the room where the author was sleeping and raped her. Fátima was 13 years old. Afterward he warned her not to tell anyone what had happened, ordered her to take two pills – which the author did not take because she did not

¹ National Institute of Forensic Sciences.

² See <https://osarguatemala.org/>.

know what they were – and left. The author cried a great deal and her vagina hurt and was bleeding, so the next day they returned to Huehuetenango.

2.7 On 2 January 2010, the perpetrator asked the author's mother for permission to invite the author to dinner to celebrate her birthday; she would turn 14 years old the next day. He took her to a motel, where he raped her for a second time.

2.8 In February 2010, the author's mother noticed that her daughter was depressed, isolated herself, made her nails bleed, shut herself in a room to burn paper and said she wanted to die. As she was not eating, her mother took her to a doctor, who referred her for an ultrasound.

2.9 On 3 March 2010, during the medical examination, they were informed that the author was 13 weeks pregnant. The author began to cry and repeated that she wanted to die and did not want to be a mother. She did not dare to identify the perpetrator, to whom she sent a message telling him that she was pregnant, thinking he would explain to her mother what he had done to her. The perpetrator threatened to do the same to her sister if she did not blame someone else.

2.10 The author's mother took her daughter to a psychologist working with the non-governmental organization (NGO) Tierra Nueva, to whom the author reiterated that she did not want to be a mother. The author told the psychologist who was responsible for the rapes and the pregnancy. After that, she also told her mother.

2.11 The rape and pregnancy led to the breakdown of the author's family. Her brothers argued with their mother because they wanted to find the perpetrator and kill him. Her older sister felt guilty for having been unable to prevent the rapes, which were committed systematically by the perpetrator and which she too had suffered years earlier in a storeroom of the day-care centre, where he used to take girls from the centre, promising them sweets (see para. 2.25).

Criminal complaint and threats by the perpetrator

2.12 On 17 March 2010, the author's mother filed a complaint against the perpetrator with the Huehuetenango District Prosecutor's Office. After the criminal complaint was filed, relatives and friends of the perpetrator pressured the author and her mother to withdraw it. The perpetrator's wife offered to take care of the child in exchange for withdrawal of the complaint and told them that the complaint would not succeed, as her brother-in-law was a judge. In addition, the perpetrator's father offered them money to withdraw the complaint. At the public school attended by the author, the Alejandro Córdova Co-Educational Teacher Training Institute in Huehuetenango, the computer teacher tried to convince her to accept the 400 quetzales (approximately US\$ 52) per month that the perpetrator was offering her in exchange for withdrawing the complaint. Another teacher would take her out of class to force her to take intimidating phone calls from the perpetrator.

2.13 The author's mother reported the pressure and threats they were receiving to the prosecutor's office and requested a restraining order, which was granted.

Pregnancy, delivery and postpartum care

2.14 During her pregnancy, the author initially went with her mother to Casa Materna, a health centre sponsored by the NGO Project Concern International. When she resisted a pelvic examination because she was afraid, the doctor asked her why she had been "fine with spreading her legs before but not for the pelvic exam". The author did not go back and, for subsequent prenatal check-ups and for the delivery, she was seen at Jorge Vides Molina National Hospital in Huehuetenango.

2.15 As for her mental healthcare, the author continued to receive psychological treatment from the NGO Tierra Nueva during her pregnancy. After the delivery, her psychological care was provided by the organization Mujeres Transformando el Mundo.

2.16 On 9 September 2010, the author had a caesarean delivery because the medical staff of the hospital considered that her body was not ready to give birth. During the surgery, her blood pressure dropped considerably and the hospital staff told her mother that they were

unable to stabilize her; her life was in danger. Finally the health personnel managed to stabilize her vital signs. After the delivery, she had some minor haemorrhaging.

2.17 The day after the delivery, the author did not want to see her child, but the nurses forced her to breastfeed him, telling her that the child was hungry and needed her. That same day, 10 September 2010, only one day after the caesarean section, the author was discharged from the hospital on the orders of an attending physician.

2.18 At home, the author continued to breastfeed the newborn until, on the fourth day, when she developed a fever of 40°C, she was hospitalized for 22 days with severe mastitis and breastfeeding was interrupted. According to the psychologist's report, it was "a defensive mastitis" developed as a way to avoid contact with the child: "the infectious disease and inflammation of the breasts were an attempt to save her from such intimate contact with a baby so alien to her, the result of a denied pregnancy and an anaesthetized delivery".

Progress of criminal proceedings between 2010 and 2019

2.19 On 18 March 2010, the assistant public prosecutor requested an expert opinion from a psychologist to determine whether the author was suffering from psychological trauma and needed treatment. A psychologist from the Victim Support Office of the Public Prosecution Service issued a report noting that the author wanted to die and concluding that she showed psychological symptoms consistent with sexual abuse and had suffered irreversible harm owing to the disruption of her life and future, as she did not have "the physical or psychological maturity to take on the responsibility of being a mother".

2.20 On 20 April 2010, the assistant prosecutor requested the Criminal Court of First Instance for Drug Trafficking and Environmental Offences of the municipality of Huehuetenango to issue a warrant for the perpetrator's arrest for the offence of aggravated rape, noting that the offence had been premeditated. The court issued the arrest warrant on 3 May 2010.

2.21 On 16 May 2010, the psychologist from the NGO Tierra Nueva submitted a report to the prosecutor's office indicating that the author suffered from neurodermatitis, poor appetite, stress, social isolation, anxiety, fear, crying spells, insecurity and emotional instability and had even attempted suicide by taking pills because she did not want to be a mother. The report concluded that she required psychological treatment to minimize the risk of suicide, as well as medical support to cope with the pregnancy, which was high-risk owing to her young age.

2.22 On 23 May 2010, an expert opinion noted "hymen with old scars due to tearing".

2.23 On 25 May 2010, the assistant prosecutor requested the court to authorize a search of the suspect's home, which was carried out on 6 June 2010, in the perpetrator's absence.

2.24 On 28 May 2010, the author's mother provided the prosecutor's office with a copy of an audio recording she had made on 26 May 2010, when the perpetrator had called her, acknowledging the facts and offering her money to withdraw the complaint.

2.25 On 3 June 2010, Fátima's older sister made a witness statement claiming that, 10 years earlier, the perpetrator had raped her in a storeroom of the day-care centre where he used to take girls, promising them sweets.

2.26 On 9 June 2010, the defence lawyer filed an appeal seeking withdrawal of the arrest warrant. The appeal was dismissed on 10 June 2010.

2.27 On 15 June 2010, the prosecutor's office requested the Directorate General of Migration to report on the perpetrator's cross-border movements. The report showed that he had not left the country since May 2009. The various border posts were informed of the arrest warrant.

2.28 On 29 June 2010, the perpetrator's lawyer appealed against the refusal to withdraw the arrest warrant. On 5 July 2010, the Appeals Court of Huehuetenango rejected the appeal.

2.29 On 14 July 2010, the author applied for a travel ban to be imposed on the perpetrator, which was ordered by the judge on 8 September 2010.

2.30 In September and November 2010, friends and relatives of the perpetrator sent letters of support to the prosecutor's office to contradict the author's statements and attest to the "good conduct" of the accused.

2.31 On 22 March 2011, the perpetrator's lawyer again requested a hearing to review the arrest warrant. The judge dismissed the request. On 7 June 2011, the lawyer filed an appeal, which was also dismissed.

2.32 On 20 June 2011, DNA analysis and genetic profiling of the author and her child were carried out.

2.33 On 7 December 2011, the author's mother provided the prosecutor's office with information on four residences where the perpetrator might be found and also reported that witnesses had seen him in Mexico. The court authorized searches of the four properties, but the perpetrator was not found.

2.34 On 12 December 2011, the perpetrator's lawyer submitted a third request for the cancellation of the arrest warrant, which was rejected on 19 January 2012.

2.35 On 20 June 2014, a pretrial evidentiary hearing was held to enable the author to give testimony.

2.36 In early 2015, the authorities informed the author that, using the perpetrator's bank transactions and registration to vote in the presidential elections, they had located him in Huehuetenango and would soon arrest him.

2.37 As at the date of submission of the communication, more than nine years had passed without the perpetrator's having been arrested.

The author's life with a child born of rape

2.38 The author's mother took responsibility for the child, as the author did not want to be involved with him. Nine years later, the child is still living with his grandmother, and the author struggles to help cover his food, clothing and schooling expenses.

2.39 Since May 2011 and up to the time of submission of the communication, the NGO Mujeres Transformando el Mundo has provided psychological support to the author. As at the time of submission of the communication, the author is still emotionally unstable, still suffers from a "sense of persecution amounting to paranoia" and still needs to work on her relationship with her child.

2.40 More than nine years after the events, the social stigma has also remained. At the time of the events, some of the teachers at her school blamed her for what had happened and she was stigmatized as a girl who had become sexually active at an early age. In particular, even though she ranked first in academic performance at the school, she was not allowed to carry the flag in the holiday parade, as she should have done, because the school wished to protect its reputation by not making it obvious that one of its students was pregnant. In January 2011, four months after the delivery, when the author sought to return to public school, she was told that, in order to do so, she had to get married. The organization Tierra Nueva had to intervene and, although the author was able to re-enrol without marrying, she was stigmatized. For instance, the vocational counsellor would tell her that she had "asked for" what had happened to her.

2.41 At the time the communication was submitted, the author was in the third year of her teacher training studies. She was always an excellent student and wanted to continue studying because it was an escape from thinking about her forced motherhood. Owing to a lack of financial resources, she had to leave school in 2015 and work for a year before being able to resume her studies.

Complaint

3.1 The author claims that the domestic remedies related to the criminal complaint have been unreasonably prolonged as, more than nine years after the filing of the complaint, no progress has been made in the proceedings and the authorities have stopped looking for the perpetrator.

3.2 The author also claims that she had no recourse against her forced motherhood. Even though pregnancy was a risk to her life, given her young age, there was no protocol for enabling her to access therapeutic abortion. Although she repeatedly told several authorities (the prosecutor and the psychologist from the Public Prosecution Service) that she did not feel capable of becoming a mother, they never advised her about the possibility of having an abortion. The only avenue for challenging the denial of her wish to have an abortion was the remedy of *amparo*, but she was not aware of it and it would have been ineffective because the “risk to life” exception established in the Criminal Code for therapeutic abortion is interpreted very narrowly, as shown by the very small number of legal abortions performed in the State Party (only 38 between 2010 and 2016) compared to the number of unsafe abortions reported (65,000 per year).

Article 2 (3), read in conjunction with articles 3, 6, 7, 9, 17, 19, 24 (1) and 26

3.3 The author claims a violation of her right to an effective remedy, protected by article 2 (3) of the Covenant, read in conjunction with articles 3, 6, 7, 9, 17, 19, 24 (1) and 26, in relation to both the criminal proceedings and the lack of remedies with respect to forced motherhood.

3.4 The prosecutor’s office did not act with the enhanced due diligence required by her status as a minor. In addition, there has been no sign of progress in the investigation and, for more than three years, no steps have been taken to apprehend the perpetrator or to provide reparations to the author.

3.5 The author recalls that the procedural component of the right to an effective remedy implies that States Parties have an obligation to take appropriate measures to investigate the facts, even when the perpetrators of violations are private persons. The substantive component of the right to an effective remedy implies that States Parties have an obligation to ensure access to an appropriate remedy and to provide restitution, rehabilitation, satisfaction and guarantees of non-repetition, including special measures for the child’s recovery, rehabilitation and social reintegration.

3.6 In relation to her forced motherhood, the author claims a violation of her right to an effective remedy because there was no protocol for enabling her to access legal abortion and she did not have access to a mechanism for challenging the actions of State agents, given that the remedy of *amparo* is an inefficient procedure for claiming reproductive rights.

Article 6 (1), read alone and in conjunction with article 24 (1)

3.7 The author also submits that the State Party violated her right to life by failing to ensure her access to sexual and reproductive health services, thereby generating: (a) a risk of maternal mortality, considering her age, as well as a risk of death by suicide due to the depression caused by the sexual violence and forced pregnancy, with two suicide attempts; and (b) a violation of her right to a life of dignity.

3.8 The author recalls that article 6 of the Covenant is violated when the authorities fail to take measures to mitigate reasonably foreseeable threats that can result in loss of life.³ She argues that failure to provide healthcare can generate just such a risk to life, in violation of article 6 of the Covenant. The Committee has not only requested States Parties to abolish restrictive abortion regulations or practices that put women’s lives at risk, but also recognized the risks of maternal mortality inherent in pregnancy. The Committee on the Rights of the Child has even recognized that such risks are higher in the case of adolescent pregnancy – as complications during pregnancy and childbirth are the leading cause of death among girls and adolescents because they are not physically prepared for childbirth – and has called for guaranteed access to abortion to protect their lives.⁴

³ Human Rights Committee, general comment No. 36 (2018), para. 7.

⁴ See Latin American Federation of Obstetrics and Gynaecology Societies, *Factores relacionados con el embarazo y la maternidad en menores de 15 años en América Latina y el Caribe* (Factors related to pregnancy and motherhood in girls under 15 years of age in Latin America and the Caribbean), Lima, 2011; and International Planned Parenthood and Women’s Link Worldwide, “Pautas para la toma de

3.9 The author recalls that the right to a life of dignity implies that States Parties must take measures to ensure the enjoyment of economic, social and cultural rights.⁵ They should not interfere with the life goals of boys or girls, but should nurture and encourage them.⁶ The State Party not only failed to provide the author with access to abortion after rape, imposing pregnancy and forced motherhood on her, but also failed to support her in her altered life path. The author did not want to be a mother at the age of 14. She was a student with excellent academic performance. With forced motherhood, she no longer wanted to live because she would not be able to reach her goals. With regard to her social health, the author “displays precarious social functioning”, as noted by the psychologist, and has not been able to go outside on her own because of the stigma she has suffered in her neighbourhood and the fear of encountering her attacker. The State Party did not ensure that she received the healthcare she required and provided her with only four sessions of therapy during her pregnancy, for which she had to turn to an NGO. Because of the ongoing repercussions of her forced motherhood, she continues to need support for her mental rehabilitation so that she can heal and come to terms with her motherhood.

3.10 Lastly, the author claims a violation of the right to life, protected by article 6 of the Covenant, read in conjunction with article 24 (1), because the State Party should have taken special and enhanced measures to protect her, as a particularly vulnerable child, by providing her with access to abortion.

Article 7, read alone and in conjunction with article 24 (1)

3.11 The author also claims that the State Party violated her right not to be subjected to torture or inhuman or degrading treatment, such as that caused, in the first place, by the unpunished sexual violence that led to her severe suffering, resulting in suicide attempts.⁷ She recalls that, in the case of child victims, the impact “can be exacerbated and they may suffer an emotional trauma that differs from that suffered by an adult with extremely profound effects, in particular when the victim’s relationship with the perpetrator is based on trust and authority”.⁸ She also recalls that article 7 is violated when the authorities fail to investigate effectively, thus depriving victims of their right to reparation, and that when the victim is a minor, the obligation of due diligence is enhanced.⁹

3.12 The author submits that the inhuman or degrading treatment was caused, secondly, by the lack of access to abortion, which resulted in a forced pregnancy and forced motherhood because she was also not informed about other options, such as adoption. She recalls that the treaty bodies have already found that the denial of access to abortion constitutes a violation of article 7 when a woman’s health is at risk.

3.13 The author argues that the inhuman or degrading treatment mentioned above was caused, thirdly, by revictimization. A doctor working in a private service that operates under State agreements and to whom she was referred by a public official reproached her, asking why she was not able to open her legs when she had done so previously. In addition, because of the perpetrator’s impunity, she has not been recognized as a victim by the people around

decisiones clínicas cuando el embarazo pone en riesgo la vida de la mujer” (Guidelines for clinical decision-making when pregnancy puts a woman’s life at risk) (2018).

⁵ Human Rights Committee, general comment No. 36 (2018).

⁶ Inter-American Court of Human Rights, “*Street Children*” (*Villagran-Morales et al.*) v. *Guatemala*, judgment of 19 November 1999, paras. 144 and 191; *Gómez-Paquiyaui Brothers v. Peru*, para. 128; and *Myrna Mack Chang v. Guatemala*, para. 152.

⁷ Committee against Torture, general comment No. 2 (2007), para. 22; *V.L. v. Switzerland* (CAT/C/37/D/262/2005); joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019), para. 31; A/HRC/31/57; Inter-American Court of Human Rights, *Miguel Castro-Castro Prison v. Peru*, judgment of 25 November 2006, paras. 306 and 311; and *Fernández Ortega et al. v. Mexico*, judgment of 30 August 2010, para. 119.

⁸ Inter-American Court of Human Rights, *V.R.P., V.P.C. et al. v. Nicaragua*, judgment of 8 March 2018, para. 156.

⁹ *Purna v. Nepal* (CCPR/C/119/D/2245/2013); *X. v. Sri Lanka* (CCPR/C/120/D/2256/2013); and Inter-American Court of Human Rights, *V.R.P., V.P.C. et al.*, para. 156.

her. This has contributed to her stigmatization, which has increased her feelings of guilt and her sense that her life has been ruined.

3.14 Lastly, the author submits that such treatment was also caused by a lack of comprehensive care.¹⁰ In particular, as a child victim of sexual violence, she also claims that article 24 (1) was violated by the failure to provide her with medical and psychological care adapted to her status as a minor.

Article 9

3.15 The author claims that her forced motherhood was also in breach of article 9 of the Covenant, recalling that the concept of security of person concerns freedom from injury to the body and the mind, or bodily and mental integrity, and applies to all persons whether or not they are deprived of liberty.¹¹

Article 17, read alone and in conjunction with article 24 (1)

3.16 The author further claims that the State Party's disregard of her wish not to become a mother amounted to arbitrary interference with her privacy. The decision to terminate a pregnancy is a decision related to reproductive autonomy, a component of the right to privacy. The interference was also unlawful, since therapeutic abortion is permitted.

Article 19

3.17 The author also claims a violation of article 19 of the Covenant in that she did not receive sexual and reproductive health education, which would have enabled her to realize earlier that she was or could become pregnant and to take steps to avoid the unwanted pregnancy by seeking emergency contraception or access to legal abortion; she also did not receive information about pregnancy, childbirth or post-caesarean care in her particular case of forced motherhood.

3.18 The author recalls that the Committee has already recognized that the right of access to information includes the right to receive quality and evidence-based information and education on sexual and reproductive health.¹²

3.19 The Committee has already recommended that the State Party provide adolescents with formal and informal education on sexual and reproductive health.¹³

Articles 3 and 26

3.20 Lastly, the author claims violations of articles 3 and 26 of the Covenant, recalling that a State Party's refusal to provide for the performance of certain reproductive health services for women is discriminatory on the basis of gender,¹⁴ as is the lack of diligence in investigating and punishing sexual violence.

Reparations

3.21 The author requests the Committee to call for: (a) rehabilitation measures consisting of access to comprehensive health services, including mental health services for the author and her child; (b) restitution measures consisting of access, for her, to secondary and higher education in the field of her choice and access to extracurricular areas that will enable her to build a future, as well as access for her child to education at all levels; (c) satisfaction measures consisting of effective access to justice; and (d) compensation measures consisting of sufficient compensation to: (i) ensure her access to basic resources; (ii) cover the costs of pregnancy, childbirth, child support and legal proceedings; and (iii) provide reparation for the psychological harm suffered.

¹⁰ [A/HRC/31/57](#).

¹¹ Human Rights Committee, general comment No. 17 (1989), para. 3.

¹² General comment No. 36 (2018), para. 8.

¹³ [CCPR/C/GTM/CO/4](#), para. 15 (c).

¹⁴ Committee on the Elimination of Discrimination against Women, general recommendation No. 24 (1999), para. 11; and *L.C. v. Peru* ([CEDAW/C/50/D/22/2009](#)), para. 8.15.

3.22 The author requests, as guarantees of non-repetition: (a) access to therapeutic abortion, as established in the Criminal Code, for girls who are victims of sexual violence; (b) implementation of the Protocol for the Care of Victims/Survivors of Sexual Violence; (c) strengthening of the work of clinics specializing in the treatment of girls and adolescents who are victims of sexual violence; (d) adoption of a public policy of dignified and transformative reparation for girls and adolescents who have been subjected to sexual violence, forced pregnancy and forced motherhood; (e) establishment of specific judicial mechanisms to ensure that girls who are victims of sexual violence have prompt access to restorative justice; (f) creation of a central register and statistical system on cases of sexual violence, pregnancy and forced motherhood, in order to monitor progress in the eradication of these phenomena; (g) training and awareness-raising for health professionals and justice officials on comprehensive care for victims of sexual violence; and (h) establishment of a centre in Huehuetenango for the comprehensive care of survivors of sexual violence and forced motherhood.

State Party's observations on admissibility

4.1 On 14 October 2019, the State Party argued that the communication is inadmissible because domestic remedies have not been exhausted, given that criminal proceedings are ongoing. It indicates that on 23 September 2019, the assistant prosecutor requested the conduct of civilian intelligence initiatives so that the arrest warrant could be executed; that on 24 September 2019, support was requested from the Guatemala office of the International Criminal Police Organization (INTERPOL) for the issuance of an international Red Notice; and that on 30 September 2019, security measures were granted for six months, under which the alleged perpetrator was prohibited from disturbing or intimidating the victim or any member of her family.

4.2 The State Party also indicates that, as part of attempts to arrest the alleged perpetrator, the National Civil Police interviewed his neighbours, who said that he had travelled to the United States of America in an irregular manner, knowing that he was under investigation. The Criminal Investigation Department conducted surveillance at the homes of relatives of the alleged perpetrator but failed to locate him, and also conducted surveillance at polling stations in 2019, but he did not appear at the polls.

4.3 The State Party submits that therapeutic abortion, which is provided for in article 137 of the Criminal Code, is not a right of which the author could have availed herself, but rather a medical issue. It is not an option that can be offered by public officials, since, in the words of the State Party, "proposition of and instigation to commit an offence are punishable by law, so they cannot present it as an alternative or legal means without committing other offences". The State Party provides examples of pathologies endangering the life of the pregnant mother and for which therapeutic abortion could be applied: "congenital or acquired heart disease with congestive heart failure and chronic arterial hypertension with damage to target organs"; "severe chronic kidney failure with or without dialysis"; "advanced multidrug-resistant pulmonary tuberculosis"; "severe respiratory failure that endangers the woman's life"; "neoplastic diseases requiring chemotherapy or radiotherapy and partial hydatidiform mole". The State Party argues that, in the present case, the existence of the child "inside the womb did not put the mother's life at risk" even though it caused psychological harm to the author, "which is generally suffered by all women as a result of pregnancy, since it generates various types of discomfort and inconvenience". It indicates that the author's life was not in danger "except by reason of her age, which is a risk that applies to any pregnant victim under 14 years of age".

4.4 The State Party also emphasizes that it upholds the right to life, guaranteeing and protecting it from the moment of conception.

4.5 The State Party specifies that the Protocol for the Care of Victims/Survivors of Sexual Violence requires that caesarean deliveries be performed on minors under 14 years of age in order to avoid revictimization.

Author's comments on admissibility

5.1 On 12 August 2020, the author reiterated that the criminal proceedings for rape had been unreasonably prolonged without justification by the State Party. She claims that the actions referred to by the State Party do not show that the investigation was aimed at advancing the criminal proceedings. She further claims that, in connection with the security measures granted, far from having an effective means of communicating with the officers in charge of protecting her, she was given only the telephone number for public enquiries.

5.2 The author also notes that the State Party has not provided information on the existence, availability or effectiveness of remedies that would have allowed her to access an abortion when she was 14 years old and facing a forced pregnancy resulting from rape. She further notes that it has not claimed that the remedy of *amparo* should have been exhausted.

5.3 In addition, the author notes that the fact that an action, such as a decision not to permit abortion, is legal under domestic law does not mean that the action cannot violate the Covenant. Furthermore, the author argues that the exception established by law for life-threatening situations was fully applicable to her case, given the risk posed by pregnancy and childbirth at her young age.

5.4 She also submits that the State Party cannot invoke the right to life of the unborn to justify the treatment she suffered, as the Committee is not being called upon to decide whether the unborn enjoy protections under the Covenant.

State Party's observations on admissibility and the merits

6.1 On 5 February 2021, the State Party reiterated that domestic remedies have not been exhausted and that the criminal proceedings are an effective remedy. It specifies that the delay is due to the complexity of the case, which entails finding the alleged perpetrator and respecting his right to a defence; if it were to continue the criminal proceedings without enabling the alleged perpetrator to exercise his right to a defence, it would incur international responsibility for violating his human rights and would jeopardize the progress of the criminal trial because he could file a challenge that would undermine the process.

6.2 The State Party reiterates that the author's life was not in danger and that "she had only an emotional disturbance".

6.3 On the merits, the State Party claims that it did not violate article 2 (3) of the Covenant, for the same reasons that it considered that the author had failed to exhaust domestic remedies. It also argues that it did not violate article 6 of the Covenant, as it safeguarded the author's mental health by ensuring follow-up with psychologists "to address her concerns", and indicates that, as the author was receiving psychological care from an NGO, the prosecutor's office did not deem it necessary to refer her to another psychologist in order to avoid revictimization. The State Party further argues that it did not violate article 7 of the Covenant, as the defining characteristics of torture are not in evidence in the present case; that it did not violate article 9 of the Covenant, as there was no intentional infliction of physical or psychological harm; that it did not violate article 17 of the Covenant, as it ensured that the author "had a free and safe space to express her emotional distress and to have her views heard"; and that it did not violate article 19 of the Covenant, despite being aware of the challenges it faces in the area of sexual and reproductive education, as it has implemented mechanisms to safeguard access to information, including an inter-institutional cooperation agreement entitled "Prevention through Education" for the prevention of adolescent pregnancy. Lastly, the State Party claims that it did not violate articles 3 and 26 of the Covenant and indicates that the author received differential treatment in the light of her status as a minor at the time of the events, with her best interests being taken into account.

Third-party submissions

7. On 19 April 2021, the Committee received a third-party submission from the Center for International Human Rights of the Pritzker School of Law at Northwestern University and from Anand Grover, former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, which argues that forced motherhood violates the right to a life of dignity (see annex 1).

8. On 26 April 2021, the Committee received a third-party submission from students at the Human Rights Centre in Paris and the Assas International Law Clinic at Panthéon-Assas University addressing the violation of the right to privacy represented by forced pregnancy (see annex 2).

Author's comments on admissibility and the merits

9.1 On 23 September 2021, the author reiterated that the criminal proceedings had been unreasonably prolonged and that the exception to the exhaustion-of-remedies rule was therefore applicable. She observes in this regard that the failure to apprehend the accused, which the State Party used as an argument to justify the delay in the criminal proceedings, is attributable to its own negligence in the investigation strategy.

9.2 The author also claims that the State Party was indeed under an obligation to provide her with access to therapeutic abortion, as her life was at risk. She recalls in particular that both the psychological-victimological report of the Victim Support Office of the Public Prosecution Service, submitted on 18 March 2010, and the report of the Tierra Nueva psychologist, submitted to the Public Prosecution Service on 16 May 2010, stated that she had serious physical health problems and that her pregnancy in itself was high-risk.

9.3 The author reiterates her claims regarding the existence of violations and, with regard to the violation of article 2 (3) of the Covenant, notes that the criminal proceedings have been an ineffective remedy that has allowed the perpetrator to go unpunished for more than 12 years, even though this is not a complex case, given that, at the time the complaint was filed, various pieces of evidence were already available regarding the identity of the perpetrator and the commission of the offence.

9.4 The author reiterates that she did not want to be a mother and that, because she was forced to take on that role, she was unable to continue her studies properly, with the result that her socioeconomic situation continues to be a challenge. She currently works as a teacher at a private school for a salary of 1,000 quetzales (approximately US\$ 129) per month.

Additional information provided by the parties

10. On 26 November 2021, the State Party reiterated that the complex criminal proceedings were ongoing and that "domestic law does not permit an abortion based solely on the woman's desire to resort to that extreme".

11. On 6 April 2022, the State Party reported that it had just located the accused in Mexico, which would result in his future apprehension and extradition.

12.1 On 14 October 2022, the author reiterated that the failures to apprehend the accused are attributable to the State Party's negligence: (a) the travel ban on the perpetrator was issued six months after the complaint was filed, leaving sufficient time for the perpetrator to escape justice; (b) no action was taken between 2012 and 2019, and it was only after she submitted the communication that the State issued official letters, which do not show that the investigation is aimed at advancing the criminal proceedings; and (c) to date, the case has not moved beyond the first stage of the procedure.

12.2 The author also emphasizes that, by ignoring her situation of risk, the State Party disregarded both the child-centred approach and the scientific evidence that her life and her physical, mental and social health were at risk because of the forced pregnancy and subsequent delivery at the age of 14. The State Party also disregarded the standard established by the Committee to the effect that access to abortion should be provided when carrying a pregnancy to term would cause a pregnant girl substantial pain or suffering, most notably when the pregnancy is the result of rape or incest.

12.3 Lastly, the author requests the Committee to establish that the criminalization of abortion constitutes a violation of the Covenant.

13. On 3 April 2023, the State Party indicated that it continues to issue official letters with a view to locating the accused. For example, in June 2022 the Ministry of Health was asked for information on the vaccination data of the accused, and in December 2022 and January 2023 surveillance was carried out at properties in Huehuetenango where he might have been.

Issues and proceedings before the Committee

Consideration of admissibility

14.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

14.2 The Committee takes note of the State Party's argument that the communication should be declared inadmissible for failure to exhaust domestic remedies, given that the criminal proceedings are still ongoing and the delay is due to the complexity of the case, which entails finding the alleged perpetrator and respecting his right to a defence. The Committee also notes the author's argument that this remedy has been unreasonably prolonged (for more than 12 years) and that the case is not complex, since, at the time the complaint was filed, various pieces of evidence were already available regarding the identity of the perpetrator and the commission of the offence.

14.3 The Committee recalls that the purpose of requiring that domestic remedies be exhausted is to give States Parties the opportunity to perform their duty to protect and guarantee Covenant rights.¹⁵ With regard to remedies relating to the investigation of the rape, the Committee notes that, in the 15 years that have passed since the criminal complaint was filed, no significant progress has been made in the proceedings, despite the existence of an audio recording in which the alleged perpetrator acknowledges the facts (see para. 2.24). The Committee also notes the author's claim that no domestic remedy was available to her in relation to her principal complaint concerning her forced motherhood, an element that is not refuted by the State Party. In the light of the foregoing, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication.

14.4 The Committee considers that the author has sufficiently substantiated her claim under article 2 (3) of the Covenant, read in conjunction with the other articles invoked, for the purposes of admissibility and recalls its jurisprudence according to which this article lays down general obligations for States Parties and is of an ancillary nature; its examination, with respect to the present communication, will therefore be incidental to the examination of other substantive articles of the Covenant.¹⁶

14.5 The Committee notes the author's claims under article 9 of the Covenant and considers that she has not provided sufficient information to explain how the facts could have undermined the enjoyment of her rights under that article. Accordingly, the Committee considers that these claims have not been sufficiently substantiated and therefore finds them inadmissible under article 2 of the Optional Protocol.

14.6 The Committee also notes the claim of a separate violation of articles 3 and 26 of the Covenant and considers that this claim is closely related to those made under other articles of the Covenant and that they should therefore be considered together.¹⁷

14.7 The Committee considers that the claims under articles 6, 7, 17 and 19 of the Covenant, read alone and in conjunction with articles 2 (3), 3, 24 (1) and 26, have been sufficiently substantiated for the purposes of admissibility and proceeds with its consideration of the merits.

Consideration of the merits

15.1 The Committee has considered the present communication in the light of all the information submitted to it, in accordance with article 5 (1) of the Optional Protocol.

¹⁵ Settled jurisprudence since the Committee adopted its Views in *T.K. v. France* (CCPR/C/37/D/220/1987), para. 8.3.

¹⁶ *Norma v. Ecuador* (CCPR/C/142/D/3628/2019), para. 10.6; *Balekelayi Nyengele et al. v. Democratic Republic of the Congo* (CCPR/C/139/D/3658/2019), para. 5.4; and *L.M.R. v. Argentina* (CCPR/C/101/D/1608/2007), para. 8.4.

¹⁷ *Norma v. Ecuador*, para. 10.8; and *L.M.R. v. Argentina*, para. 8.5.

Article 6 (1), read alone and in conjunction with articles 2 (3) and 24 (1)

15.2 The Committee notes the author's claim that the facts of the present case constitute a violation of her rights under article 6 (1) of the Covenant because, given that the State Party failed to provide her with access to sexual and reproductive health services, she was exposed to the risk of maternal mortality inherent in pregnancy and childbirth at a young age, she was also at risk of death by suicide owing to the depression caused by the sexual violence and forced pregnancy, and her right to a life of dignity was undermined because the State Party imposed pregnancy and forced motherhood on her without subsequently supporting her in her life path, which had been altered by the forced motherhood. Furthermore, the Committee notes the author's claim that there was also a violation of article 6 of the Covenant, read in conjunction with article 24 (1), because the State Party should have taken special measures to protect her as a child. Lastly, the Committee notes that the author links the foregoing with a violation of article 2 (3) of the Covenant, in the light of both the lack of due diligence in the criminal investigation and the lack of access to an effective remedy in relation to her forced motherhood, since there was no protocol for access to abortion under article 137 of the Criminal Code and the remedy of *amparo* is an inefficient procedure for claiming reproductive rights.

15.3 In addition, the Committee notes the State Party's argument that therapeutic abortion is not a right of which the author could have availed herself, but rather a medical decision that applies only in the case of pathologies endangering the life of the pregnant mother. The State Party specifies that the author's life was not in danger.

15.4 The Committee nonetheless recalls that both the psychological-victimological report of the Victim Support Office of the Public Prosecution Service and the report which the Tierra Nueva psychologist submitted to the Public Prosecution Service stated that the author had serious physical health problems and that her pregnancy in itself was high-risk. Although specialists warned of the high risk, and although article 137 of the Criminal Code recognizes that a pregnancy can be legally terminated if it represents a risk to the life of the pregnant person, the State Party did not take any measures for the effective application of therapeutic abortion in the author's case. The Committee also notes that the State Party does not deny that, during the caesarean section, the author's blood pressure dropped so far that her life was in danger, and that she haemorrhaged (see para. 2.16).

15.5 The Committee recalls that the right to life cannot be properly understood if it is interpreted in a restrictive manner; the protection of this right requires that States adopt positive measures.¹⁸ In this connection, the Committee notes that violations through acts of omission include the failure to take appropriate steps towards the full realization of everyone's right to sexual and reproductive health and the failure to enact and enforce relevant laws.¹⁹ The Committee recalls that States Parties must provide safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest, and should remove existing barriers to effective access by women and girls to safe and legal abortion.²⁰ The Committee also notes the view of the Committee on the Rights of the Child that consideration should be given to the particularly significant risk that pregnancy poses to the lives of girls because of possible complications during pregnancy and childbirth.²¹ That Committee has also recognized that pregnancy and childbirth at the age of 14 carry a risk of

¹⁸ *Toussaint v. Canada* (CCPR/C/123/D/2348/2014), para. 11.3.

¹⁹ Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016), para. 55. See also Inter-American Court of Human Rights, *Beatriz et al. v. El Salvador*, judgment of 22 November 2024, para. 122.

²⁰ Human Rights Committee, general comment No. 36 (2018), para. 8.

²¹ *Camila v. Peru* (CRC/C/93/D/136/2021), para. 8.5.

maternal mortality.²² The Committee recalls that it has already found a violation of article 6 of the Covenant in similar cases involving adolescent mothers.²³

15.6 The Committee recalls its general comment No. 36 (2018), in which it established that the right to life also concerns the right to enjoy a life with dignity and that States Parties should take all appropriate measures to address the general conditions in society that may give rise to threats to the right to life or prevent individuals from enjoying their right to life with dignity. The Committee also notes that “every child has the right to harbour a project of life that should be tended and encouraged by the public authorities so that it may develop this project for its personal benefit and that of the society to which it belongs”.²⁴ In particular, the Committee agrees with the considerations put forward in the first third-party submission to the effect that forced motherhood interrupts and hinders the personal, family, educational and professional goals of adolescent mothers and severely restricts their lives and futures and their right to a life of dignity. The Committee further notes the view of the Committee on the Rights of the Child that, regarding the situation of pregnant girls, consideration should be given to the potentially serious impact that it can have on their development and their future.²⁵

15.7 In the present case, the Committee notes the impact that the author’s pregnancy resulting from rape has had on her mental, physical and social health and on her life goals, including her ability to continue her studies. In the light of the foregoing, the Committee is of the view that the facts before it disclose a violation of article 6 (1) of the Covenant, read alone and in conjunction with articles 2 (3) and 24 (1).

Article 7, read alone and in conjunction with articles 2 (3) and 24 (1)

15.8 The Committee notes the author’s claim that the facts of the present case constitute a violation of article 7 of the Covenant, read alone and in conjunction with article 24 (1), because of: (a) the sexual violence and forced pregnancy that caused her severe suffering, resulting in suicide attempts; (b) the lack of access to abortion, which resulted in a forced pregnancy and forced motherhood while she was still a child; (c) the revictimization and stigmatization that she suffered; and (d) the lack of necessary comprehensive care adapted to her status as a minor.

15.9 The Committee also notes the State Party’s argument that the defining characteristics of torture are not in evidence in the present case.

15.10 The Committee recalls that the right protected by article 7 relates not only to physical pain but also to mental suffering and that this protection is particularly important in the case of children.²⁶ In particular, the Committee notes the view of the Committee on the Rights of the Child that, in the case of pregnant girls, consideration should be given to the special and differential physical and mental health impacts of child pregnancy, whose effect on each girl will depend on her age and physical and psychological maturity, her family and community support systems and other factors that can have a bearing on mental health, including a history of rape or incest and socioeconomic or cultural factors that increase vulnerability.²⁷ Moreover, in the case of child victims, the impact “can be exacerbated and they may suffer an emotional trauma that differs from that suffered by an adult with extremely profound effects, in particular when the victim’s relationship with the perpetrator is based on trust and authority”.²⁸ Lastly, the Committee also recalls that, when the victim is a minor, the

²² The Committee on the Rights of the Child stresses that adolescent girls are the group most at risk of dying or suffering lifelong injuries in pregnancy and childbirth and that lack of access to sexual and reproductive health services makes them even more vulnerable (Committee on the Rights of the Child, general comment No. 20 (2016), para. 59).

²³ See *Norma v. Ecuador*.

²⁴ Inter-American Court of Human Rights, “*Street Children*” (*Villagran-Morales et al.*) v. *Guatemala*, para. 191.

²⁵ *Camila v. Peru*, para. 8.5.

²⁶ The Committee’s general comment No. 20 (1992), paras. 2 and 5.

²⁷ *Camila v. Peru*, para. 8.5.

²⁸ Inter-American Court of Human Rights, *V.R.P., V.P.C. et al. v. Nicaragua*, para. 163.

obligation of due diligence is enhanced and impunity constitutes an aggravating circumstance.²⁹

15.11 The Committee considers that the author suffered a high level of distress caused by a combination of acts and omissions attributable to the State Party. In this regard, the Committee notes that the author had made two suicide attempts in rejection of her forced pregnancy and as an attempt to escape from her future forced motherhood (see para. 3.7), a fact of which the psychologist of the Victim Support Office of the Public Prosecution Service was aware (see para. 2.19). It also notes the opinion of the psychology expert that, once her child was born, the 40°C fever and severe mastitis suffered by the author consisted of “a defensive mastitis”, an “infectious disease and inflammation of the breasts” that was “an attempt to save her from such intimate contact with a baby so alien to her, the result of a denied pregnancy and an anaesthetized delivery” (see para. 2.18). The Committee notes that the State Party did not ensure the author’s right to termination of pregnancy as provided for in article 137 of the Criminal Code. The Committee recalls that the denial of access to abortion constitutes a violation of article 7 of the Covenant when the physical or mental health of the woman is at risk, that the age of the victim influences the intensity of the suffering and that the violation is especially serious when the victim is a minor who has suffered sexual abuse.³⁰

15.12 In the light of the foregoing, the Committee is of the view that the facts before it disclose a violation of article 7 of the Covenant, read alone and in conjunction with articles 2 (3) and 24 (1).

Article 17, read alone and in conjunction with articles 2 (3) and 24 (1)

15.13 The Committee notes the author’s claim that the facts also constitute a violation of article 17 of the Covenant because the lack of access to abortion represented arbitrary interference with her reproductive autonomy, a component of the right to privacy. It also notes her claim that the interference was also unlawful because therapeutic abortion is permitted in cases where the life of the pregnant person is at risk and, for the body of a 14-year-old girl, pregnancy and delivery constitute just such a risk to life or health. The Committee further notes the State Party’s claim that there has been no violation of article 17 of the Covenant because it ensured that the author “had a free and safe space to express her emotional distress”.

15.14 The Committee recalls its jurisprudence according to which the scope of article 17 encompasses a woman’s decision to request termination of pregnancy.³¹

15.15 In the circumstances of the case, the Committee considers that the State Party’s refusal to act in accordance with the author’s decision to terminate her pregnancy discloses a violation of article 17 of the Covenant, read alone and in conjunction with articles 2 (3) and 24 (1).³²

Article 19, read alone and in conjunction with articles 2 (3) and 24 (1)

15.16 The Committee notes the author’s claim that the facts also constitute a violation of article 19 of the Covenant in that she did not receive, inter alia, sexual and reproductive health education, which would have enabled her to realize earlier that she was or could become pregnant and that she could have taken steps to avoid the unwanted pregnancy by seeking emergency contraception or access to legal abortion, and in that she did not receive information about her right to have an abortion, about pregnancy and childbirth or about post-caesarean care. The Committee also notes the State Party’s claim that it did not violate the author’s rights under article 19 and that, as it is aware of the challenges it faces in the area of

²⁹ See *Purna v. Nepal*; *X v. Sri Lanka*; and Inter-American Court of Human Rights, *V.R.P., V.P.C. et al. v. Nicaragua*, para. 156.

³⁰ *Llantoy Huamán v. Peru*, para. 6.3; *Mellet v. Ireland* (CCPR/C/116/D/2324/2013), para. 7.4; *Whelan v. Ireland* (CCPR/C/119/D/2425/2014); and *L.M.R. v. Argentina*.

³¹ *Whelan v. Ireland*, para. 7.8; *Mellet v. Ireland*, para. 7.7; *Llantoy Huamán v. Peru*, para. 6.4; and *L.M.R. v. Argentina*, para. 9.3.

³² *Llantoy Huamán v. Peru*, para. 6.4.

sexual and reproductive education, it has implemented mechanisms to safeguard access to information and prevent adolescent pregnancy.

15.17 The Committee nonetheless recalls that, in 2018, despite the State Party's introduction of sexual and reproductive education mechanisms, it expressed concern at reports of a failure to fully implement the comprehensive sexuality education programme and thus recommended that the State Party ensure unimpeded access to comprehensive sexuality education for boys and girls throughout the country.³³ The Committee also recalls that the right of access to information includes the right to receive quality and evidence-based information and education on sexual and reproductive health.³⁴

15.18 The Committee considers that the lack of information on sexual and reproductive health, in particular on the termination of pregnancy, and later on the possibility of giving up a child for adoption, prevented the author from taking informed decisions and resulted in her forced pregnancy and forced motherhood, in violation of article 19 of the Covenant, read alone and in conjunction with articles 2 (3) and 24 (1).

Articles 6, 7, 17 and 19, read in conjunction with articles 3 and 26

15.19 Lastly, the Committee notes the author's claim that the facts also constitute a violation of articles 3 and 26 of the Covenant owing both to the failure to provide certain reproductive health services and to her forced pregnancy and forced motherhood and the lack of diligence in investigating and punishing sexual violence.

15.20 The Committee notes the humiliating comments made to the author at a health facility (see para. 2.14) and the stigmatization she suffered in different settings, both private (see paras. 2.40 and 3.10) and public (at an educational institution, see paras. 2.12 and 2.40), which have not been disputed by the State Party. The Committee considers that they amount to discriminatory treatment intended to cast doubt on the author's morals.³⁵ The Committee also notes the State Party's refusal to provide the author with the reproductive health services she needed and to which she was entitled under domestic law, which amounts to gender stereotyping of women's reproductive role. The Committee notes that both sexual violence – committed, moreover, by a person on whom the author's family was financially dependent at the time of the events – and lack of access to women's health services are forms of gender-based violence against women and gender discrimination.³⁶ The Committee therefore considers that the facts of the present communication also disclose a form of intersectional discrimination based on the author's gender and age and her family's situation of poverty.³⁷

15.21 In the light of the foregoing, the Committee concludes that the facts before it disclose a violation of articles 6 (1), 7, 17 and 19 of the Covenant, read in conjunction with articles 3 and 26.

16. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation by the State Party of articles 6 (1), 7, 17 and 19 of the Covenant, read alone and in conjunction with articles 2 (3), 3, 24 (1) and 26.

17. Pursuant to article 2 (3) (a) of the Covenant, the State Party is under an obligation to provide the author with an effective remedy. Accordingly, the State Party should: (a) provide the author with full reparation, including adequate compensation, for the harm she has

³³ [CCPR/C/GTM/CO/4](#), paras. 14 and 15 (c).

³⁴ Human Rights Committee, general comment No. 36 (2018), para. 8. See also joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019), para. 68; Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016), paras. 9, 18 and 19; *Camila v. Peru*, para. 8.14; and Inter-American Court of Human Rights, *Guzmán Albarracín et al. v. Ecuador*, judgment of 24 June 2020, paras. 113 and 141.

³⁵ *L.N.P. v. Argentina* ([CCPR/C/102/D/1610/2007](#)), para. 13.3; *Norma v. Ecuador*, para. 11.22.

³⁶ *Chakupewa et al. v. Democratic Republic of the Congo* ([CCPR/C/131/D/2835/2016](#)), *Norma v. Ecuador*, *Susana v. Nicaragua* ([CCPR/C/142/D/3626/2019](#)) and *Lucia v. Nicaragua* ([CCPR/C/142/D/3627/2019](#)). See also Committee on the Elimination of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, para. 18.

³⁷ Inter-American Court of Human Rights, *Guzmán Albarracín et al. v. Ecuador*, paras. 113 and 141.

suffered; (b) repair the harm caused to her life and future and provide support to enable her to complete higher education and pursue extracurricular areas that will enable her to advance her life goals; (c) ensure that her child has access to education at all levels; (d) provide specialized psychological care to the author and her son, as a child born of sexual violence, for as long as the author and the specialist deem necessary; (e) ensure her effective access to justice by making efficient progress in the criminal proceedings; and (f) make a public acknowledgement of responsibility. The State Party is also under an obligation to take steps to prevent similar violations from occurring in the future. Accordingly, the Committee requests the State Party to: (a) make the necessary regulatory adjustments to ensure that all girls who are victims of sexual violence, such as incest or rape, have effective access to services for the termination of pregnancy, *inter alia* by pursuing its efforts in relation to the protocol for therapeutic abortion and the bill to decriminalize abortion in cases involving girls who are victims of rape;³⁸ (b) take action to prevent sexual violence in all sectors, including by improving comprehensive sexuality education and carrying out awareness campaigns for the general public and in the field of administration of justice; (c) provide health professionals and justice officials with training on comprehensive care for victims of sexual violence, with a focus on strengthening the work of specialized clinics for the comprehensive care of girl and adolescent victims of sexual violence; (d) establish a system for registering cases of sexual violence, pregnancy and forced motherhood among girls and adolescents, in order to monitor progress in the eradication of these phenomena; and (e) develop appropriate adoption policies.

18. Bearing in mind that, by becoming a party to the Optional Protocol, the State Party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State Party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State Party, within 180 days, information about the measures taken to give effect to the present Views. The State Party is also requested to publish the present Views and to have them widely disseminated.

³⁸ CCPR/C/GTM/CO/4, para. 14.

Annex I

[Spanish only]

Resumen de la intervención de terceros presentada por Northwestern Pritzker School of Law, Center for International Human Rights y Anand Grover, antiguo Relator Especial sobre el derecho de toda persona al disfrute del más alto nivel posible de salud física y mental

1. El derecho a la vida digna consiste en la realización de los derechos económicos, sociales y culturales. Es al impedir la realización de dichos derechos cuando la maternidad forzada constituye una violación del derecho a la vida digna. En particular, la maternidad forzada es el resultado de la incapacidad de los Estados partes de proteger el derecho a la salud, a pesar de sus deberes de proteger a las niñas de la violencia sexual, de garantizarles acceso a la educación y la información sobre salud sexual y reproductiva y de garantizarles la disponibilidad, accesibilidad y aceptabilidad de servicios de salud sexual y reproductiva, incluido el aborto, en particular para los embarazos resultados de una violación. La maternidad forzada repercute gravemente tanto en la salud física de las niñas, como en su salud mental —provocando ansiedad y depresión que pueden conducir a pensamientos o acciones suicidas— y en su salud social —con incidencia también en la violación del derecho a la educación y la consecuente repercusión en sus oportunidades de empleo y en altas tasas de pobreza—.

2. La intervención sostiene que el derecho a la vida digna consiste también en la capacidad de elegir y llevar a bien un proyecto de vida. Es al interrumpir y obstaculizar los objetivos personales, familiares, educativos y profesionales cuando la maternidad forzada constituye una violación del derecho a la vida digna. En particular, las niñas obligadas a ser madres suelen abandonar la escuela, y la destrucción de sus metas educativas causa un daño irreparable a sus proyectos de vida profesional, pues solo tendrán acceso a empleos no calificados con mínimas perspectivas de crecimiento profesional.

3. Asimismo, el derecho a la vida digna consiste en poder gozar de autonomía. Es al restringir gravemente la autonomía personal de las niñas cuando la maternidad forzada constituye una violación del derecho a la vida digna. En particular, la violencia sexual y la falta de acceso al aborto eliminan la capacidad de las niñas para ejercer su autonomía personal en relación con su salud sexual y reproductiva, conducen a la maternidad forzada y a una serie de restricciones en cascada respecto a su vida personal, familiar y profesional.

Annex II

[Spanish only]

Resumen de la intervención de terceros presentada por alumnos del Centro de Derechos Humanos de París y de Assas International Law Clinic de la Universidad Panthéon-Assas

1. La intervención empieza proponiendo una definición de embarazo forzado fuera del marco de la definición contenida en el Estatuto de Roma de la Corte Penal Internacional. Dicha definición sostiene que el embarazo forzado constituye una violación múltiple de derechos humanos consistente en una forma de violencia de género en la que una mujer o niña es forzada a quedarse embarazada, o a continuar con un embarazo, como resultado de actos u omisiones de un Estado parte o de actores no estatales, antes del embarazo o durante este, y que resulta en daño o sufrimiento físico, sexual, psicológico, económico o social.
2. La intervención precisa que, de acuerdo con el párrafo 20 de la recomendación general núm. 35 (2017) del Comité para la Eliminación de la Discriminación contra la Mujer, dado que el embarazo forzado resulta de una serie de actos u omisiones, no solo acciones positivas sino también faltas de acción, de protección y de medidas necesarias para prevenirlo o remediarlo, pueden constituir su origen. Antes del embarazo, la omisión por un Estado parte de proporcionar educación e información puede contribuir a que se produzcan embarazos forzados. La violencia sexual, especialmente la violación o el incesto, y su prevalencia en una sociedad, también son elementos centrales que conducen a embarazos forzados. Durante el embarazo, la falta de acceso al aborto, *de jure o de facto*, tiene como resultado la obligación de una mujer de llevar su embarazo a término, en contra de su voluntad.
3. La intervención defiende que la autonomía reproductiva se encuentra protegida por el artículo 17 del Pacto: a) el Comité ha reconocido que la negación de los servicios de aborto constituye una violación del artículo 17 debido a la interferencia en la vida reproductiva de la víctima; b) el Comité para la Eliminación de la Discriminación contra la Mujer ha declarado que los derechos sexuales y reproductivos cubren el derecho a la autonomía y privacidad; c) el Comité de Derechos Económicos, Sociales y Culturales reconoce en su observación general núm. 22 (2016), sobre el derecho a la salud sexual y reproductiva, la indivisibilidad e interdependencia de dicho derecho con el derecho a la privacidad; d) con arreglo a la jurisprudencia regional, el derecho a la privacidad abarca tanto el derecho a tomar decisiones sobre el propio cuerpo, como el derecho a decidir convertirse o no convertirse en padre o madre.
4. Finalmente, la intervención detalla las obligaciones de los Estados partes que emanan del artículo 17 con respecto a los embarazos forzados. Los Estados partes deben, en primer lugar, tipificar en sus legislaciones nacionales los embarazos forzados como delito y, en segundo lugar, prevenir la aparición de embarazos forzados. Dado que son el resultado de múltiples violaciones continuas, los Estados partes deben intervenir en los factores específicos que conducen al embarazo forzado y deben asegurarse de que todas las mujeres y niñas tengan acceso a información y educación de calidad y basada en pruebas sobre la salud sexual y reproductiva. La educación en salud sexual y reproductiva —adecuada a la edad, amplia e inclusiva, y desarrollada con la participación de adolescentes— debe formar parte del plan de estudios escolar obligatorio y llegar a los adolescentes que no asisten a la escuela. En tercer lugar, una vez que una niña o mujer sufre embarazo forzado, los Estados partes deben garantizarles el derecho al acceso a la justicia; protegerlas de la constante revictimización por parte de los proveedores de atención médica, del Poder Judicial y de otras autoridades, y permitirles acceder a la atención de la salud sexual y reproductiva, incluido el aborto.

Annex III

[Spanish only]

**Voto particular (concurrente) de Rodrigo A. Carazo,
miembro del Comité**

1. El suscrito valora altamente la profundidad del análisis reflejado en la comunicación núm. 3629/2019 que antecede, así como lo apropiado que resultan, para el caso y para muchos otros semejantes en todo el mundo, las disposiciones que se trasmiten al Estado parte, y considera muy necesario el seguimiento de su cumplimiento.
 2. No es de recibo que la violación de los derechos humanos de las víctimas en lamentables casos como del que se conoció se considere “un patrón generalizado” en una única región del mundo, específicamente en América Latina. Lo es en todo el orbe. Señalar una única región no solo estigmatiza a la población de esa parte del mundo, sino que impide que en otras latitudes se tome conciencia de la necesidad de su erradicación.
 3. Por otro lado no parece correcto afirmar que la autora no hubiera explicado la manera en la que los hechos denunciados socavaron su goce de los derechos que la asisten en virtud del artículo 9 del Pacto (véase el párr. 14.5).
 4. Sí lo hizo y de manera contundente al incorporar con gran precisión en su denuncia lo ya analizado en el párrafo 9 de la observación general núm. 35 (2014) del Comité, referido a que el derecho a la seguridad personal protege a las personas independientemente de que la víctima esté o no privada de libertad contra las lesiones físicas o psicológicas infligidas por cualquier agente estatal o privado, particularmente cuando dichas situaciones de violencia se dan contra mujeres o niñas (o niños).
 5. El examen ulterior de dicha alegación, de haberse admitido según correspondía, habría llevado a determinar la existencia de esa violación de los derechos a la seguridad personal de la autora contemplados por el artículo 9 del Pacto.
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