

# **DEFENDERS UNDER ATTACK!**

PROMOTING SEXUAL AND  
REPRODUCTIVE RIGHTS IN THE  
AMERICAS

# CONTENTS

EXECUTIVE SUMMARY .....	3
Methodology .....	5
Acknowledgements .....	6
1. ATTACKED AND DISCRIMINATED AGAINST FOR DEFENDING SEXUAL AND REPRODUCTIVE RIGHTS .....	8
Increased stigma and vilification .....	14
Criminalizing defenders of sexual and reproductive rights .....	19
Harassed, intimidated and threatened .....	23
2. PROMOTING SEXUAL AND REPRODUCTIVE RIGHTS IS DEFENDING HUMAN RIGHTS .....	28
3. CONCLUSIONS AND RECOMMENDATIONS.....	34

# EXECUTIVE SUMMARY

Exercising the right to defend and promote human rights continues to be a dangerous activity in the Americas. Amnesty International has documented patterns of attacks on human rights defenders including killings, attempted killings, death threats, the misuse of the justice system to criminalize their work, violence, discrimination and stigmatization.<sup>1</sup>

In this report, Amnesty International focuses on the situation of those defending sexual and reproductive rights in the Americas. These defenders face particular difficulties stemming from sexual and gender stereotypes and the challenge they pose to traditional socio-cultural norms regarding the roles of women and men, gender identity and sexual orientation.

Those who defend sexual and reproductive rights, do so in a context in which the importance of their work is not widely acknowledged. They tackle issues that are considered taboo, such as sexuality and reproduction or each individual's capacity, autonomy and entitlement to make independent decisions regarding these rights. This, despite the fact that sexual and reproductive rights have been recognized as human rights by those responsible for interpreting the treaties that guarantee these rights.

The persistently high levels of violence against women and against lesbian, gay, bisexual, transgender and intersex (LGBTI) people has an impact on those who work to defend and protect the sexual and reproductive rights of women and the right to non-discrimination on the basis of sexual orientation and gender identity of LGBTI people; it means they too are the targets of violence.

In this report, Amnesty International highlights the specific patterns of violence faced by defenders of sexual and reproductive rights and the consequences of these attacks on the defenders and those close to them, on their work on sexual and reproductive rights and on the right to defend human rights in general.

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<sup>1</sup> See, *Defending human rights in the Americas: Necessary, legitimate and dangerous* (Index: AMR 01/003/2014).

Many of the attacks are similar to those faced by other human rights defenders, irrespective of the particular rights they are working on. For example, they are stigmatized and denigrated, their communications are intercepted, they are subject to judicial proceedings, and they are subjected to intimidation and threats against their lives or physical integrity. However, these attacks take on particular forms and have a different impact when they are targeted at those defending sexual and reproductive rights.

Defenders of sexual and reproductive rights are the target of public statements that seek to stigmatize and discredit them and their organizations. Clear illustrations of this are the cases of **the Association of Citizens for the Decriminalization of Abortion** (Agrupación Ciudadana por Despenalización del Aborto) and **the Feminist Collective for Local Development** (Colectiva Feminista para el Desarrollo Local) in El Salvador and **Women and Health in Uruguay** (Mujer y Salud en Uruguay, MYSU). The aim of these public statements is to undermine defenders by accusing them of being unethical or denigrating them as bad mothers or women. The stigma that surrounds work on sexuality and reproduction is compounded by statements that compare these defenders to criminals and by the way that the authorities dismiss these sorts of attacks as insignificant. As a result, this kind of vilification can last for years. Although it may disappear for a while, it resurfaces when defenders support someone whose sexual and reproductive rights have been violated or during public debates that try to advance the fulfil of these rights.

Stigmatizing defenders and likening them to criminals paves the way for the misuse of the criminal justice system to investigate, charge and sentence defenders of sexual and reproductive rights. A clear example of this pattern is the case brought against the Director of the **Centre for the Promotion and Defence of Sexual and Reproductive Rights** (Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos, PROMSEX) in Peru for advocating abortion. The accusation was made in connection with a book, which she neither wrote nor published, that contained information about abortion. The investigation was closed in its preliminary stages, however, both the defender and the organization had to expend time, money and effort in mounting their legal defence. It is important to note that this defender was the subject of an investigation directly linked to women's decision to have an abortion, a decision that is protected in international human rights instruments, as a minimum when the life or health of the woman is at risk, when the pregnancy is the result of rape, or when the foetus suffers from severe or fatal impairment.

These persistent attacks that seek to stigmatize defenders, combined with efforts to criminalize them in people's minds and the use of the criminal justice system,

contribute to, or at the very least facilitate, other types of attacks against defenders working on sexual and reproductive rights. Harassment, intimidation and death threats against defenders always surface in the wake of defamatory statements. The cases of the **Latin American and Caribbean Committee for the Defence of Women's Rights** (El Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer, CLADEM Paraguay) in Paraguay and **Humanitarian Sexual and Reproductive Health Services** (Servicios Humanitarios en Salud Sexual y Reproductiva) in Mexico, illustrate this pattern. These organizations have been the targets of interference with the telephone calls and electronic communications, harassment in public spaces, intimidation in their homes or private sphere and death threats. A particularly egregious aspect of the intimidation meted out to defenders is that in addition to targeting them in their private sphere, it also focuses on those closest to them, such as their children.

The physical, psychological and symbolic violence targeted against this group of defenders is facilitated by the failure of states to explicitly and unequivocally acknowledge the legitimacy and importance of their work to defend and promote human rights and by their failure to put in place measures to punish and stop these kinds of attacks. By failing to address these failures, states in the region are sending a message that defenders of sexual and reproductive rights can be attacked with impunity because no one will be punished for them.

Until states in the Americas publicly and repeatedly acknowledge the legitimacy of the work of defenders of sexual and reproductive rights as legitimate human rights work, the likelihood of attacks will persist. Amnesty International, therefore, calls on states in the Americas to take steps to: 1) stop attacks against defenders of sexual and reproductive rights; 2) recognize sexual and reproductive rights as human rights; 3) eradicate social, sexual and gender stereotypes that impact on the identity and activities of defenders working on these rights; 4) publicly recognize the legitimacy and importance of the role of these defenders; 5) take reports of the different types of violence inflicted on these defenders seriously and investigate and bring to justice those responsible, whether they are state agents or private individuals; and 6) implement gender-appropriate protection measures for defenders of sexual and reproductive rights that take into account the needs of their family and community, in consultation with the defenders and in accordance with their specific needs.

## METHODOLOGY

In order to prepare this report, Amnesty International interviewed a number of defenders of sexual and reproductive rights in Ecuador, El Salvador, Mexico, Paraguay, Peru and Uruguay. In addition, the report draws on information gathered in

extensive meetings with networks of defenders working on these rights who are also Indigenous, Afro-descendant, ethnic minority, lesbian, transgender and disability rights defenders.

A review was also carried out of press reports, official documents issued by government authorities and by sexual and reproductive rights organizations. In addition, the report contains an analysis of international and Inter-American human rights standards on sexual and reproductive rights, as well as relevant decisions by the European Court of Human Rights.

## ACKNOWLEDGEMENTS

Amnesty International would like to thank all the defenders of sexual and reproductive rights who shared their stories and experiences, as well as the strategies for protection and resistance they have adopted in order to pursue their work in defence of human rights.

In addition, Amnesty International is grateful to the more than 40 defenders in the Americas who came to Mexico City on 8 October 2015 and took part in an exchange of experiences and ideas. This meeting was organized by the Mexican Consortium for Inter-parliamentary Dialogue and Equity (el Consorcio para el Diálogo Interparlamentario y la Equidad, Mexico), the Association of Citizens for the Decriminalization of Abortion in El Salvador (la Agrupación Ciudadana por la Despenalización del Aborto de El Salvador) and the Centre for the Promotion and Defence of Sexual and Reproductive Rights (Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos, PROMSEX) in Peru.<sup>2</sup>

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<sup>2</sup> The following organizations took part in the meeting: Agrupación Ciudadana por Despenalización del Aborto, El Salvador; Alianza de Mujeres Indígenas de Centro-América y México, regional; Association for Women's Rights in Development (AWID), regional; Católicas por el Derecho a Decidir, Argentina; Católicas por el Derecho a Decidir, Bolivia; PROMSEX, Peru; CLADEM Mexico; CLADEM Dominican Republic; Closet de Sor Juana, México; Consorcio Latinoamericano de Anticoncepción de Emergencia, regional; Consorcio para el Diálogo Interparlamentario y la Equidad, México; Coordinadora de la Mujer, Bolivia; Coordinadora Nacional de Mujeres Indígenas de Panamá, Panamá; Coordinadora Política Juvenil, Ecuador; Darlene Garner Institute for Ibero-American Leadership Formation, regional; Enlace continental de mujeres indígenas de las Américas, regional, Foro Feminista, Dominican Republic; Fundación Margen, Chile; Fundación para Estudio e Investigación de la Mujer, Argentina; GoJoven, Guatemala; Grupo de Información en Reproducción Elegida (GIRE), México; Grupo Guatemalteco de Mujeres, Guatemala; Haurralde Fundazioa, País Vasco; Iglesias de la Comunidad Metropolitana, regional; Iniciativa Mesoamericana de Mujeres Defensoras, regional; IPAS Brazil; IPAS Mexico; JASS Mesoamérica, regional; Movimiento del trabajo sexual (MOTRASEX), México; Mujer libertad, México; Mujer y Salud en Uruguay (MYSU), Uruguay; Realizing Sexual and

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Reproductive Justice (RESURJ), regional; Red de Jóvenes Indígenas de Centro-América y México (RMAAD), regional; Red de Jóvenes por los derechos sexuales y los derechos reproductivos ELIGE, Mexico; Red de la No Violencia contra las Mujeres (REDNOVI), Guatemala; Red de Mujeres Afrolatinoamericanas, Afrocaribeñas y de la Diáspora, regional; Red de Salud de las Mujeres Latinoamericanas y del Caribe, regional; Red de Trabajadoras Sexuales de Latinoamérica y del Caribe (Red TraSex), regional; and Red Nacional de Defensoras de Derechos Humanos, Mexico.

# 1. ATTACKED AND DISCRIMINATED AGAINST FOR DEFENDING SEXUAL AND REPRODUCTIVE RIGHTS

“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.”

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Article 1

The right to promote the protection and fulfilment of human rights includes efforts to ensure the rights of women<sup>3</sup> and rights associated with gender identity and expression.<sup>4</sup> Men and women undertaking this work are among the groups of human

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<sup>3</sup> See Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: Protecting women human rights defenders (A/RES/68/181), available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/181](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181).

<sup>4</sup> Report of the Special Rapporteur on the situation of human rights defenders, 30 July 2015, paras 65-67, available at <http://www.refworld.org/docid/55f288724.html>.

rights defenders who face serious dangers because of their work.<sup>5</sup>

Sexuality and reproduction and the recognition of the ability, autonomy and entitlement of every person to make their own decisions in this area of their lives remain taboo. In the Americas, the degree of stigma associated with sexuality and reproduction has fostered a hostile environment for those defending these rights and an environment in which violence against them is dismissed and tolerated.

Women human rights defenders and those promoting the rights of LGBTI people<sup>6</sup> face particular difficulties stemming from sexual and gender stereotypes and prejudices in society. These result in their being viewed negatively by the state and society at large because they challenge socio-cultural traditional norms regarding the roles of women and men<sup>7</sup> either through the specific causes that they support<sup>8</sup> or because of their sexual orientation or gender identity.<sup>9</sup>

## “Whoever fights for rights is seen as a threat.”

Sandra Peniche, Humanitarian Sexual and Reproductive Health Services, Mexico (Servicios Humanitarios en Salud Sexual y Reproductiva)

Those who defend sexual and reproductive rights are singled out because of the stereotypes prevailing in society. They are accused of being “men haters”, “unfit

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<sup>5</sup> Report of the Special Rapporteur on the situation of human rights defenders, 20 December 2010 (A/HRC/16/44), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-44.pdf>.

<sup>6</sup> Op cit, Report of the Special Rapporteur on the situation of human rights defenders, 30 July 2015 (A/70/217), para 65.

<sup>7</sup> Op cit, Report of the Special Rapporteur on the situation of human rights defenders, 30 July 2015, (A/70/217), para 23.

<sup>8</sup> Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II, Doc. 66, 31 December 2011, para 283 (Original Spanish), available at <http://www.humanrights.se/wp-content/uploads/2012/05/Second-report-on-the-situation-of-human-rights-defenders-in-the-americas-20121.pdf>.

<sup>9</sup> Op cit, Report of the Special Rapporteur on the situation of human rights defenders, 30 July 2015 (A/70/217), para 56.

mothers”, “loose women”, “child haters” and “traitors” and dismissed as embittered or pathetic. These kinds of epithets are not only a symbolic form of violence against defenders, they also help create an environment that is hostile to the defence of the rights they are trying to promote.

## **STEREOTYPES**

**Stereotypes affecting defenders of sexual and reproductive rights target their personal identity and their activities, helping to create an atmosphere that is hostile to their work.**

“a stereotype is a generalized view or preconception of attributes or characteristics possessed by, or the roles that are or should be performed by, members of a particular group (...) The key consideration is that, because a particular group is presumed to possess those attributes or characteristics or perform those roles, an individual, simply by the virtue of membership in that group, is believed to conform to the generalized view or preconception.”<sup>10</sup> In particular gender stereotypes reflect the assignation of certain behaviours that are considered appropriate to that person, depending on whether they are a man or a woman.<sup>11</sup>

Lesbian and transgender defenders face stigma and exclusion because of their sexual orientation and gender identity. In addition transgender defenders and those defending the rights of sex workers are treated as criminals for providing sexual and reproductive health information and services, including access to contraception and condoms.

States play an important role in perpetuating, normalizing and legitimizing stereotypes and, therefore, in the continuing discrimination faced by certain groups. They do this by denying people the exercise of rights on the basis of stereotypes, by adopting laws and policies that are based on stereotypes and by allowing practices that perpetuate them. They have also failed to adopt the necessary measures to eliminate stereotypes, to ensure that state agents do not replicate them and to

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<sup>10</sup> Rebecca J. Cook and Simone Cusack, Simone, *Gender Stereotyping: Transnational Legal Perspectives*, University of Pennsylvania Press, 2009, p. 9.

In addition to the Convention for the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, which set out specific obligations on states relating to combatting stereotypes, committees responsible for monitoring other human rights treaties have also issued statements regarding this obligation. See for example, the report by the Office of the High Commissioner for Human Rights, *Gender Stereotyping As A Human Rights Violation*, October 2013.

<sup>11</sup> See Inter-American Court of Human Rights, *González et al. (“Cotton Field”) v. Mexico*, 16 November 2009, para 410, available at [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_205\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_205_ing.pdf).

prevent them from resulting in more serious human rights violations.<sup>12</sup> This situation has in turn fostered a climate where threats, attacks and violence against those who defend sexual and reproductive rights have intensified.

Thus, the attacks against those who promote sexual and reproductive rights and their consequences must be seen in the context of a number of factors that states should take into consideration when implementing measures to promote a supportive environment for the defence of these rights.

- The persistent failure by society to recognize sexual and reproductive rights as human rights;
- The long history of discrimination on the basis of gender expression and identity and sexual orientation;
- The exclusion and discrimination faced by other groups
  - because of the context in which they find themselves (for example, migrants or those living in a particular area) or
  - because of the particular focus of their efforts to defend sexual and reproductive rights (for example, the rights of adult sex workers, the rights of children, the rights of adolescents or the rights of people with disabilities).

**“I have children and a family. No one can imagine the impact it has on them if they hear**

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<sup>12</sup> Convention on the Elimination of All Forms of Discrimination against Women, Articles 5 and 10.

Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (11th session, 1992), Violence against women, para 11, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>.

## someone call you a ‘murderer’ in their school, for example.”

Lilián Abracinskas, Women and Health in Uruguay (Mujer y Salud en Uruguay, MYSU)

In addition to discrimination and stereotyping, violence is another factor that creates a hostile environment to the defence of sexual and reproductive rights in the Americas,<sup>13</sup> especially violence against women<sup>14</sup> and violence targeted against people because of the sexual orientation or gender identity.<sup>15</sup>

Violence against women in all its forms persists in Latin America and the Caribbean.<sup>16</sup> For example, in 2013, 71 women were killed by their partners or ex-partners in the Dominican Republic; the equivalent numbers for Peru and Colombia were 83 and 88, respectively.<sup>17</sup> In 2011, Peru reported that 38% of women who had been married at some point between the ages of 15 and 49 had experienced some kind of physical or sexual violence; the equivalent figure for Colombia in 2010 was 37.4%.<sup>18</sup> In 2011, the

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<sup>13</sup> See UN Office on Drugs and Crime (UNODC), *Crime and criminal justice statistics*, available at <https://www.unodc.org/unodc/en/data-and-analysis/statistics/crime.html>.

<sup>14</sup> Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (IIth session, 1992), Violence against women.

<sup>15</sup> Report of the Office of the United Nations High Commissioner for Human Rights, Discrimination and violence against individuals based on their sexual orientation and gender identity, 4 May 2015 (A/HRC/29/23), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/088/42/PDF/G1508842.pdf?OpenElement>.

<sup>16</sup> Economic Commission for Latin America and the Caribbean, Latin America and the Caribbean and Millennium Development Goal 3, Promote gender equality and empower women, available at [http://www.cepal.org/sites/default/files/infographic/files/15-00878\\_odm\\_fichas\\_web\\_english-3.pdf](http://www.cepal.org/sites/default/files/infographic/files/15-00878_odm_fichas_web_english-3.pdf).

<sup>17</sup> Economic Commission for Latin America and the Caribbean, Statistics and Indicators, Women deaths at the hands of their intimate partner or former partner, available at <http://interwp.cepal.org/sisgen/ConsultaIntegrada.asp?idIndicador=1345&idioma=i>.

The statistics cover the 12-month period between November and the following October. The countries included in these statistics are: Chile, Colombia, Costa Rica, El Salvador, Granada, Honduras, Nicaragua, Paraguay, Peru, Puerto Rico, the Dominican Republic, Saint Vincent and the Grenadines, Spain, Suriname, Trinidad and Tobago and Uruguay. Honduras has never produced data on the issue.

<sup>18</sup> Economic Commission for Latin America and the Caribbean, Statistics and Indicators, Percentage of women aged 15 to 49 who have experienced some form of physical violence by age, available at <http://interwp.cepal.org/sisgen/ConsultaIntegrada.asp?idIndicador=1860&idioma=i>.

women accounted for 40% of reported homicides in Guyana and 32.12% in Barbados.<sup>19</sup> Between January 2013 and March 2014, the Inter-American Commission on Human Rights recorded 594 killings and 176 cases of attacks on the physical integrity of LGBT people, or people thought to be LGBT, in the Americas.<sup>20</sup>

Women and LGBTI people and those who promote a view of sexuality and reproduction based on rights are the targets of various forms of violence in the Americas.

Defenders face a constant barrage of abusive and stigmatizing statements which are widely disseminated through the media. They are the target of arbitrary intrusions into their private lives aimed at exposing, stigmatizing and intimidating them. They have also been physically attacked and threatened with violence and even death. The attacks are directed not only at the defenders, but also at their families. The aim is to limit their ability to carry out their work and intimidate them into stopping their human rights activities.

Organizations that promote and defend sexual and reproductive rights have also been subjected to unjustifiable restrictions and attacks for their work. For example, they have been the subject of legal proceedings to remove their legal status and they also experienced serious difficulties in registering, in regularizing their legal status and in formally establishing themselves as organizations. Legislative and administrative regulations have also been used to try to restrict their activities. Some have even been compared to criminal or terrorist organizations.

Defenders of sexual and reproductive rights, particularly women from ethnic minority

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These statistics include data from a Bolivia, Colombia, Haiti, Peru and the Dominican Republic between 2005 and 2011.

<sup>19</sup> See UN Office on Drugs and Crime (UNODC), *Crime and criminal justice statistics*, Percentage of male and female intentional homicide victims, by country/territory, available at <https://data.unodc.org/#state:1>.

<sup>20</sup> Inter-American Commission on Human Rights, "An Overview of Violence against LGBTI Persons in the Americas: a Registry Documenting Acts of Violence between January 1, 2013 and March 31, 2014", available at [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/153A.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/153A.asp).

The Commission received data from 25 members of the Organization of American States: Argentina, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panamá, Paraguay, Peru, the USA, Uruguay and Venezuela.

groups, also face serious obstacles in getting access to justice. This has helped create a situation where most attacks and violence against them are committed with impunity. Investigations into state officials who attempt to stigmatize, discredit and bring baseless accusations against defenders of sexual and reproductive rights are either never started or fail to progress.

While defenders are denied access to justice, they themselves have often been subjected to baseless investigations and criminal proceedings and investigations into the sources of the funds used for their activities.

## INCREASED STIGMA AND VILIFICATION

**“Instead of calling us defenders, they call us ‘murderers’, ‘terrorists’. They say we are ‘apologists for crime’.”**

Sara García, Association of Citizens for the Decriminalization of Abortion, El Salvador (Agrupación Ciudadana por la Despenalización del Aborto)

Defenders of sexual and reproductive rights are stigmatized in widely publicized statements by officials and private individuals that compare them to criminals. Terms are used to describe them that are hurtful to them and their families and that seek to portray them as unethical, with the aim of damaging their reputation and standing as people dedicated to ensuring respect for human rights. In several countries in the region, those defending and promoting sexual and reproductive rights have been the object of expressions of hate rooted in discriminatory stereotypes.

Statements seeking to ostracize and undermine the legitimacy of defenders create an environment that is inimical to their work. This results in increased risk for defenders because it fosters a view of them as not deserving of respect and protection. As a result, it paves the way for more serious attacks against them that aim not to discredit and undermine them as defenders, but rather to cause physical harm, even to kill them. Together with the current failure to investigate attacks against them, this sends a message that these defenders can be stigmatized, discriminated against and

attacked, with the acquiescence of state officials.

Campaigns to stigmatize defenders of sexual and reproductive rights aim to diminish their credibility and to ostracize and silence them. This kind of campaign has obliged these defenders to divert time and energy to countering attempts to undermine their legitimacy. If there were no such attacks, these resources would be used exclusively to promote sexual and reproductive rights and to seek to ensure that they are respected and protected by the authorities.

## **THE ASSOCIATION OF CITIZENS FOR THE DECRIMINALIZATION OF ABORTION AND THE FEMINIST COLLECTIVE FOR LOCAL DEVELOPMENT - EL SALVADOR**

**The Association of Citizens for the Decriminalization of Abortion (Agrupación Ciudadana por Despenalización del Aborto) and the Feminist Collective for Local Development (Colectiva Feminista para el Desarrollo Local) were founded in the 2000s in El Salvador. The two human rights NGOs were set up after the total ban on and criminalization of abortion in 1997.**

The Agrupación Ciudadana carries out advocacy work focused on the legislature aimed at returning to a situation where abortion is permitted in at least some cases. In addition, some of its members also provide legal assistance and representation for women with limited means who are accused of crimes such as homicide because of haemorrhages resulting from unsafe abortions,<sup>21</sup> miscarriages or lack of access to emergency obstetric services.<sup>22</sup>

The Colectiva Feminista works for the right of women to live a life free from violence; for sexual and reproductive rights, with particular emphasis on teenage pregnancies and the decriminalization of abortion; for women's right to participate in political and civic life; and for the protection of women human rights defenders.

For years, both organizations have been the targets of statements aimed at stigmatizing them because of their work. In 2014 and 2015 this intensified when they provided legal support to 17 women who experienced obstetric emergencies and who were convicted of homicide.<sup>23</sup> Both

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<sup>21</sup> In this report, the term unsafe abortion is used to indicate abortions that are carried out by untrained personnel or in unhygienic surroundings.

<sup>22</sup> For more information on the reproductive rights of women in El Salvador, see *On the brink of death: Violence against women and the abortion ban in El Salvador* (Index: AMR 29/003/2014), available at <https://www.amnesty.org/en/documents/amr29/003/2014/en/>.

<sup>23</sup> Op cit, *On the brink of death: Violence against women and the abortion ban in El Salvador* (Index: AMR 29/003/2014).

organizations were accused of being “unscrupulous”,<sup>24</sup> “pro-death”,<sup>25</sup> “adding to the rivers of blood already flowing in the country”,<sup>26</sup> “unpatriotic traitors bringing shame on El Salvador”,<sup>27</sup> and of “manipulating vulnerable women”.<sup>28</sup>

The defence of the 17 women, all from the poorest sections of Salvadoran society, was compared to “accepting that criminal gang members<sup>29</sup> should be allowed to kill people who don’t pay up because their victims have a low level of education, are poor and don’t have access to health care.”<sup>30</sup> Their defenders were accused of “damaging the image of the country abroad by manipulating the facts about the cases of the 17 women”<sup>31</sup> and “smearing the image of El Salvador with all the lies of the 17 women”.<sup>32</sup> It was even insinuated that as a consequence of the defence of

<sup>24</sup> *La Prensa Gráfica*, “El fin no justifica los medios”, Carla Varaona de Lacayo, 26 September 2014, available at <http://www.laprensagrafica.com/2014/09/26/el-fin-no-justifica-los-medios> (last visited 21 October 2015).

<sup>25</sup> *Elsalvador.com*, “Nuevamente nuestra posición ante insultos”, Evangelina del Pilar de Sol, 9 November 2014, available at <http://www.elsalvador.com/articulo/editoriales/nuevamente-nuestra-posicion-ante-insultos-60365> (last visited 21 October 2015).

In the same sense: See for example, *Elsalvador.com*, “¡Mienten! Ley Anti-aborto sí protege vida de mujer e hijo”, Evangelina del Pilar de Sol, 1 February 2015, available at <http://www.elsalvador.com/articulo/editoriales/mienten-ley-anti-aborto-protege-vida-mujer-hijo-75337> (last visited 21 November 2015).

<sup>26</sup> *Elsalvador.com*, “Perdónalos, porque no saben ¿o sí saben?, lo que hacen”, Evangelina del Pilar de Sol, 17 August 2014, available at <http://www.elsalvador.com/articulo/editoriales/perdonalos-porque-saben-saben-que-hacen-61399> (last visited: 21 October 2015).

<sup>27</sup> *Elsalvador.com*, “¡Mentirosas feministas!”, Evangelina del Pilar de Sol, 6 July 2014, available at <http://www.elsalvador.com/articulo/editoriales/mentirosas-feministas-64641> (last visited 21 October 2015).

<sup>28</sup> *ContraPunto*, “Denuncian campaña a favor del aborto”, 24 January 2015, available at <http://www.contrapunto.com.sv/sociedad/genero/organizaciones-denuncian-campana-a-favor-del-aborto> (last visited 21 October 2015).

<sup>29</sup> Original in Spanish: mareros

<sup>30</sup> *La Página*, “FMLN intenta indultar a 17 mujeres condenadas por aborto”, 28 September 2014, available at <http://www.lapagina.com.sv/ampliar.php?id=99566> (last visited 21 October 2015). See also, *El Faro*, “Respuesta de Evangelina del Pilar de Sol a Elena Salamanca”, 4 February 2015, available at <http://www.elfaro.net/es/201502/opinion/16565/> (last visited 21 October 2015).

<sup>31</sup> *La Página*, “El aborto no debe ser prioridad ni para las mujeres ni para la sociedad”, 17 February 2015, available at <http://www.lapagina.com.sv/nacionales/104061/2015/02/17/El-aborto-no-debe-ser-prioridad-ni-para-las-mujeres-ni-para-la-sociedad> (last visited 21 October 2015).

<sup>32</sup> Op cit, *La Página*, “El aborto no debe ser prioridad ni para las mujeres ni para la sociedad”.

these women other women would kill their children.<sup>33</sup>

State officials added their voices to the kind of statements highlighted above by private individuals. Among them was the then Director of the Institute of Legal Medicine, part of the justice system, who stated that those who sought a change in the law to decriminalize abortion were behaving like Nazis.<sup>34</sup> Members of parliament asserted that these organizations were promoting “‘a culture of death’ starting from the human womb”<sup>35</sup> and that there was “‘a great deal of money behind this campaign solely because they want to change the Constitution and permit abortion.”<sup>36</sup>

Between April and May 2013, the Agrupación Ciudadana and the Colectiva Feminista were the target of another smear campaign in the media and by private individuals. This time, the media storm was prompted by their support for a young 22-year-old woman suffering from lupus whose health and life were put at grave risk by her pregnancy;<sup>37</sup> she was also carrying a foetus with anencephaly.<sup>38</sup> The organizations advised and supported the young woman in pursuing her request for a therapeutic abortion using national and international legal mechanisms.

State officials have not investigated such attacks and smear campaigns because they do not consider them to be important. States have failed to take the necessary measures to put an end to the violence and discrimination faced by these defenders, in breach of their international obligations to protect human rights and to create a safe and supportive environment for their defence.<sup>39</sup>

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<sup>33</sup> *El Salvador.com*, “Nuevamente nuestra posición ante insultos”, Evangelina del Pilar de Sol, 9 November 2014, available at <http://www.elsalvador.com/articulo/editoriales/nuevamente-nuestra-posicion-ante-insultos-60365> (last visited 21 October 2015).

<sup>34</sup> *El Faro*, “Beatriz: ‘Quisiera ser como antes’”, 8 December 2014, available at <http://www.elfaro.net/es/201412/noticias/16312/Beatriz-Quisiera-ser-como-antes.htm> (last visited 21 October 2015).

<sup>35</sup> *La Página*, “ARENA pide pronunciamiento contra el aborto”, 29 September 2014, available at <http://www.lapagina.com.sv/nacionales/99605/2014/09/29/ARENA-pide-pronunciamiento-contr-el-aborto> (last visited 21 October 2015).

<sup>36</sup> *ContraPunto*, “Diputados niegan indulto a una de las 17”, 16 January 2015, available at <http://www.contrapunto.com.sv/reportajes/diputados-niegan-indulto-a-una-de-las-17> (last visited 21 October 2015).

<sup>37</sup> *Op cit*, *Defending human rights in the Americas: Necessary, legitimate and dangerous*.

<sup>38</sup> Anencephaly is a fatal condition that prevents the normal development of the brain and the bones of the skull.

<sup>39</sup> Report of the Special Rapporteur on the situation of human rights defenders, (A/HRC/25/55), 3 December 2013, para 99, available at <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/AnnualReports.aspx>.

The decisions of the European Court of Human Rights provide valuable guidance regarding the right to freedom of expression of those who use terms designed to stigmatize or those who compare defenders of sexual and reproductive rights to criminals. The Court declared that the right to freedom of expression had not been violated by the imposition of criminal sanctions on those who produced a pamphlet identifying a doctor who provided legal abortion services which included the following: “then: Holocaust. Today: Babycaust”.<sup>40</sup> In addition, it is important to stress that state officials, those responsible for guaranteeing human rights, should not violate rights or put vulnerable groups at risk by their statements.<sup>41</sup>

States have a duty to take the necessary measures to put an end to statements, whether by state officials or private individuals, that stigmatize defenders of sexual and reproductive rights. In particular, it is crucial that the work and role of those defending sexual and reproductive rights is recognized by the authorities at the highest level in order to reduce the risks they face and help create a safer environment for their work.<sup>42</sup> By failing to fulfil their obligation to promote a safe and enabling environment for the promotion of sexual and reproductive rights, states foster a climate in which smear campaigns and vilification can flourish. As a consequence, these violations of the rights of defenders can go on for years.

## **WOMEN AND HEALTH IN URUGUAY - URUGUAY**

**Women and Health in Uruguay (Mujer y Salud en Uruguay, MYSU) was founded in 1996. It promotes and defends the rights to health and to sexual and reproductive rights from a gender-based and inter-generational perspective. The organization has been a vocal proponent of these issues in Uruguay for many years.**

In August 2015, MYSU was the target of attacks even though at the time the 2012 law allowing women to seek abortion up to, and in certain circumstances beyond, the 12<sup>th</sup> week of pregnancy, was in force. A Congressman speaking in Parliament, after referring to measures to block money

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<sup>40</sup> European Court of Human Rights, Fifth Section, *Hoffer and Annen v. Germany*, (Applications nos. 397/07 and 2322/07), Strasbourg, 13 January 2011; Final, 20 June 2011.

<sup>41</sup> See Inter-American Court of Human Rights, *Apitz Barbera et al. (“First Court of Administrative Disputes”) v. Venezuela* (Preliminary Objection, Merits, Reparations and Costs): Judgment of 5 August 2008, para 131; *Ríos et al. v. Venezuela* (Preliminary Objections, Merits, Reparations, and Costs): Judgment of 28 January 2009; and *Perozo et al. v. Venezuela* (Preliminary Objections, Merits, Reparations, and Costs): Judgment of 28 January 2009.

<sup>42</sup> Op cit, Report of the Special Rapporteur on the situation of human rights defenders, (A/HRC/25/55), 3 December 2013, para 86.

from drug-trafficking from entering the country, declared that he did not want “even half a dollar more to come into the country that was made from the blood of thousands of aborted babies”. Following this statement, the same Congressman asked the Ministry of Health and the Ministry of Education and Culture for information on the source of funding for organizations that promote sexual and reproductive health.

Previously, in 2004, when a bill to decriminalize abortion was being discussed, an opponent of the bill referred to Lilián Abracinskas, Director of MYSU, in a television interview as “a murderer”. The interview was aired several times on television. The TV channel claimed that it was the interviewee, not the channel, that was making these statements and that, if Lilián Abracinskas wished, they would carry out an interview in which she could explain that “she was not a murderer”. Lilián Abracinskas’ responded that she did “not want to talk about what she is not, but about what she is; that is, a human rights defender”.

It was during this debate that trade unions contacted MYSU to offer protection for members of the organization. The trade unions had noted that whenever MYSU members intervened in the public debate, the same people appeared behind them. From that moment to the present, trade union security personnel have accompanied the women defenders of sexual and reproductive rights.

The lack of decisive action on the part of the authorities to end discrimination against women human rights defenders and the vilification of their work has increased the risk of attacks against their life and physical integrity. The same pattern can be seen in the USA where some of those providing sexual and reproductive health services have been killed.<sup>43</sup> Associating defenders with crime in the mind of the public paves the way for unjust criminal proceedings that flout guarantees of due process.<sup>44</sup>

## CRIMINALIZING DEFENDERS OF SEXUAL AND REPRODUCTIVE RIGHTS

# “Let them take us to courts [for sabotage or

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<sup>43</sup> *El País*, “A balazos contra el aborto”, 21 June 2009, available at [http://elpais.com/diario/2009/06/21/sociedad/1245535205\\_850215.html](http://elpais.com/diario/2009/06/21/sociedad/1245535205_850215.html) (last visited 21 October 2015).

<sup>44</sup> *Op cit*, *Defending human rights in the Americas: Necessary, legitimate and dangerous*.

something else]... We're ready. If they go for one of us, we will support her from the outside. But what happens if criminalization becomes massive? People could be sentenced to between eight and 16 years."

Sarahí Maldonado, Political Coalition of Youth for Gender Equality, Ecuador (Coordinadora Política Juvenil por la Equidad de Género)

In recent years, using the courts against human rights defenders has been one of the more sophisticated methods used to silence them.<sup>45</sup> Defenders of sexual and reproductive rights have been criminalized at various levels. They have been treated like criminals individually and collectively; their work has been compared to a criminal offence or terrorism. In addition, their organizations have been subjected to administrative investigations while the defenders themselves have faced criminal investigations directly related to their work promoting sexual and reproductive rights, and especially for distributing information about these rights.

This has occurred despite the fact that sexual and reproductive rights are human rights that must be respected, protected and fulfilled by states and that providing information, including on sexual and reproductive health, is also a human right that should be protected.<sup>46</sup>

## **THE CENTRE FOR THE PROMOTION AND DEFENCE OF SEXUAL AND REPRODUCTIVE RIGHTS - PERU**

**The Centre for the Promotion and Defence of Sexual and Reproductive Rights (Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos, PROMSEX) is an NGO working to ensure the full enjoyment of sexual and reproductive rights in Peru. It campaigns for public policies and legal frameworks that guarantee these rights, promotes**

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<sup>45</sup> Op cit, Report of the Special Rapporteur on the situation of human rights defenders, (A/HRC/25/55), 3 December 2013, para 59.

<sup>46</sup> European Court of Human Rights, Plenary, *Open Door and Dublin Well Woman v. Ireland*, (Application no. 14234/88; 14235/88), Strasbourg, 29 October 1992, available at [http://hudoc.echr.coe.int/eng?i=001-57789#{"itemid":\["001-57789"\]}](http://hudoc.echr.coe.int/eng?i=001-57789#{).

**accountability mechanisms and carries out activities aimed at improving the quality and accessibility of sexual and reproductive health services. It also works to influence public opinion and foster attitudes that encourage sexual equality and diversity, and defends the right to justice. Its work focuses mainly on victims of sexual violence, LGBTI people, victims of people trafficking and young people.**

On 7 May 2015, the Executive Director of PROMSEX, Susana Chávez, was notified by the Public Prosecutor's Office that she had been summonsed to make a statement as part of the investigation into a complaint that she allegedly advocated abortion in the book *Let's talk about abortion and Misoprostol*. According to documentation sent to and signed by officials at the Attorney General Office, the investigation was prompted by comments made by a Congressman on an article published in connection with the launch of this book. The book, according to the newspaper article, aimed to give information about different ways to have a safe abortion.<sup>47</sup> The book was not written by PROMSEX or Susana Chávez and neither was involved in its publication. The investigation was closed in the preliminary stages and the criminal case was dropped.

The investigation into PROMSEX and its Director was opened in the context of a smear campaign against them. The organization requested a right of reply in the Catholic press, which has described the organization as "promoting the dismemberment of innocent children".<sup>48</sup> However, at the time of writing, this misrepresentation has not been corrected. PROMSEX also requested retractions from individuals who had accused them in the media of being "paid to undermine the local authorities so that they can get their hands on huge sums of money."<sup>49</sup>

In August 2014, officials from the Peruvian Agency for International Cooperation (Agencia Peruana de Cooperación Internacional, APCI) arrived at the PROMSEX offices and announced that they had initiated an inspection of the organization's project entitled "Access to sexual and reproductive health care, focusing on rights in Peru: reducing stigma and enhancing the debate", known by its campaign title: "Let her decide" ("Déjala Decidir"). According to PROMSEX, the inspection of the organization was prompted by the Foreign Affairs Committee in Congress, which requested information on organizations in receipt of funds from abroad, with special emphasis on those working on reproductive rights.<sup>50</sup>

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<sup>47</sup> *Diario 16*, "Cómo abortar en El Perú y no morir en el intento", 21 August 2014, available at <http://diario16.pe/noticia/51817-como-abortar-peru-no-morir-intento> (last visited 22 October 2015).

<sup>48</sup> *Aciprensa*, "Los corsarios del aborto", 7 August 2015, available at <https://www.aciprensa.com/blog/los-corsarios-del-aborto/> (last visited 22 October 2015).

<sup>49</sup> *Aciprensa*, "Planned Parenthood invirtió 3 millones de dólares para promover aborto en Perú", 23 July 2015, available at <https://www.aciprensa.com/noticias/planned-parenthood-invirtio-3-millones-de-dolares-para-promover-aborto-en-peru-97481/> (last visited 22 October 2015).

<sup>50</sup> *La República*, "Nueva ofensiva contra las ONG que defienden los derechos de la mujer", 10 October 2015, available

Amnesty International has documented a number of other ways in which the criminal justice system has been used against human rights defenders: 1) the use of vague charges, or the creation of offences specifically designed to prevent peaceful protest or the promotion of human rights;<sup>51</sup> and 2) laws that seek to restrict the creation of human rights organizations and the use of administrative measures by the authorities to put human rights organizations under surveillance or censure them. Both have hindered the work of defending human rights.

Criminalizing those who defend human rights has an impact on rights including the right to humane treatment, due process, effective remedy, honour and dignity, and to freedom of thought, to personal freedom and to freedom of assembly and association. It affects human rights defenders both at the personal and collective levels. It creates uncertainty as to whether the investigation or judicial proceedings against them will be pursued and whether or not it will end in a criminal sanction, including a prison sentence.

Human rights defenders and organizations are forced to expend time, money and energy in defending themselves in court. Criminalization not only wears down defenders, it also sends a message with a chilling effect to all those who were planning to report violations or who might have lodged complaints of violations of sexual and reproductive rights.<sup>52</sup>

Often when human rights defenders are criminalized, it shuts off channels of communication with agents of the state who fear that they will be linked with the defenders. This happened to a number of sexual and reproductive defenders in Ecuador following discussions about a new Criminal Code in which they tried unsuccessfully to include abortion for pregnancies that are the result of rape among those allowed by law.<sup>53</sup>

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at <http://larepublica.pe/impresia/en-portada/709446-nueva-ofensiva-contra-las-ong-que-defienden-los-derechos-de-la-mujer> (last visited 22 October 2015).

<sup>51</sup> Op Cit, Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas, para 81.

<sup>52</sup> Op Cit, Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas, para 79.

<sup>53</sup> Interview with Sarahí Maldonado of the Coordinadora Política Juvenil por la Equidad de Género en Ecuador, 8 October 2015.

In situations where public criticism of the policies or practices of state agents is viewed as problematic, the criminalization of defenders can be used to fragment efforts to mobilize and implicitly makes certain groups of defenders the targets of attack. Defenders of sexual and reproductive rights in Ecuador have highlighted that they were the second target – after the Indigenous People’s movement – of being branded criminals in the mind of the public and criminalized through the courts. Similarly in Bolivia, defenders of sexual and reproductive rights have drawn attention to the way the state treats them as the enemy.<sup>54</sup>

## HARASSED, INTIMIDATED AND THREATENED

**“Every time there is a debate in the National Congress about improving rights, we experience a lot of harassment.”**

Bia Galli, IPAS, Brazil

Defenders of sexual and reproductive rights have been threatened, harassed and intimidated, both physically and via the internet and social media. For example, their telephone calls and emails are regularly intercepted to intimidate them and keep a close watch on their activities.<sup>55</sup>

Harassment, intimidation and threats against defenders of sexual and reproductive rights constitute a violation of the right to humane treatment,<sup>56</sup> and can constitute torture and other cruel, inhuman or degrading treatment.<sup>57</sup> In a context where such

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<sup>54</sup> Meeting of defenders working on sexual and reproductive rights, Mexico City, 8 October 2015.

<sup>55</sup> Op cit, Report of the Special Rapporteur on the situation of human rights defenders, 30 July 2015 (A/70/217), paras 46 and 61.

<sup>56</sup> Op Cit, Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas, para 44.

<sup>57</sup> Op Cit, Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in

attacks occur, the free exercise of the right to defend human rights is compromised and, as a result, other rights may also be violated, including the rights to freedom of expression, association and to peaceful protest.<sup>58</sup>

## LATIN AMERICAN AND CARIBBEAN COMMITTEE FOR THE DEFENCE OF WOMEN'S RIGHTS – CLADEM PARAGUAY

Latin American and Caribbean Committee for the Defence of Women's Rights (El Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer, CLADEM) is a network created in the 1980s that uses the law as an instrument of change in order to contribute to the full enjoyment of rights by women in the region. CLADEM has had consultative status at the UN since 1995 and has participated in the activities of the Organization of American States (OAS) since 2002. CLADEM Paraguay is part of this network.

Human rights defenders linked with CLADEM Paraguay have been the targets of sustained harassment and intimidation since April 2015. This began after they provided support to a 10-year-old girl known as Mainumby who was raped by her stepfather and became pregnant as a result. The defenders advised and supported the girl and her mother in seeking a termination of the pregnancy on the basis that it posed a risk to Mainumby's life and health. CLADEM Paraguay also provided support to Mainumby's mother who was the subject of a criminal investigation; she was accused of being an accomplice to the rape despite the fact that she had reported it to the authorities in 2014, but her complaint had been dismissed.<sup>59</sup>

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the Americas, para 41.

<sup>58</sup> Op Cit, Inter-American Commission on Human Rights, Second Report on the Situation of Human Rights Defenders in the Americas, para 46.

<sup>59</sup> For more information on the case, see *Paraguay: Life of a 10-year-old girl at risk* (Index: AMR 45/1554/2015), available at <https://www.amnesty.org/en/documents/amr45/1554/2015/en/>; *Paraguay: Raped 10-year-old pregnant girl still at risk* (Index: AMR 45/1586/2015) available at <https://www.amnesty.org/en/search/?q=AMR+45%2F1586%2F2015>; *Paraguay: Open letter from Amnesty International's Secretary General, Salil Shetty, to the President of the Republic of Paraguay, Horacio Cartes: Urgently protect the human rights of a pregnant 10-year-old girl* (Index: AMR 45/1658/2015), available at <https://www.amnesty.org/en/documents/amr45/1658/2015/en/>; *Paraguay insiste en desconocer el drama de niña de diez años violada y embarazada* (Index: AMR 45/1695/2015) available at <https://www.amnesty.org/en/documents/amr45/1695/2015/es/>; *Paraguay: Protect the rights of pregnant 10-year-old girl* (Index: AMR 45/1694/2015), available at <https://www.amnesty.org/en/documents/amr45/1694/2015/en/>; *Paraguay: Urgent call to Paraguay by Inter-American Commission on Human Rights to protect a raped pregnant girl* (AMR 45/1842/2015), available at <https://www.amnesty.org/en/documents/amr45/1842/2015/en/>; *Paraguay: 11-year-old rape survivor gives birth as Paraguay upholds draconian anti-abortion law*, 13 August 2015, available at <https://www.amnesty.org/en/latest/news/2015/08/11-year-old-rape-survivor-gives-birth-as-paraguay-upholds->

This case led to CLADEM Paraguay having their landlines and mobile phones intercepted. Computers were blocked for no apparent reason and emails were interfered with. The computers were analysed and 14 different types of malware were detected that could have been extracting information.

As she was waiting to do a media interview, a journalist told Elba Núñez, spokesperson for the organization, that the day after publishing an article on the case, her car had been scratched. During another interview, also about Mainumby's case, unidentified people deflated the car tyres of the CLADEM staff member.

An unidentified person took photographs of Elba Núñez and her family, including young children, while they were in a public place. When she went up to the person to ask why they were doing this, the woman replied: "you defend the culture of death, we defend life". Elba Núñez also received threatening calls about her children. An unidentified person called her on a private number while her children were out, but at a time when they should have returned home. She was asked: "Are you the mother of XXXX? Do you know how they are, what they are doing?" The call terrified Elba Núñez.

As a result of their work on behalf of Mainumby, a website was created calling on the OAS to withdraw CLADEM's accreditation.<sup>60</sup> Another petition hosted by the same site was referred to on the website of the Ministry of Public Health and Social Welfare.<sup>61</sup>

States have an obligation to carry out prompt and thorough investigations into harassment, intimidation and threats against human rights defenders and to bring those responsible, whether they are state officials or private individuals, to justice.<sup>62</sup> It is even more urgent that the authorities fulfil this obligation when they are aware that defenders are operating in a hostile environment.

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[draconian-anti-abortion-law/](#).

<sup>60</sup> *CitizenGo*, "Exigimos que la OEA Retire la Acreditación a Amnistía Internacional y CLADEM", 17 August 2015, available at <http://citizenngo.org/es/28095-exigimos-que-comision-interamericana-derechos-humanos-recrimine-amnistia-internacional-y> (last visited 22 October 2015).

<sup>61</sup> Ministry of Public Health and Social Welfare, "Piden manifestarse a favor de la vida desde el momento de la concepción", 16 May 2015, available at <http://www.mspbs.gov.py/v3/piden-manifestarse-a-favor-de-la-vida-desde-el-momento-de-la-concepcion/> (last visited 22 October 2015).

<sup>62</sup> *Op cit*, Report of the Special Rapporteur on the situation of human rights defenders, (A/HRC/25/55), 3 December 2013, para 74.

Some contexts in which women defenders of sexual and reproductive rights are carrying out their work in support of women who have been imprisoned, convicted or accused of homicide for obstetric emergencies resulting in abortion are indeed highly polarized. This is the same environment in which interrupting a pregnancy or having a miscarriage can provoke abuse and threats of violence, assault or death against the women involved, as happened in El Salvador.<sup>63</sup>

In its judgment in the case of *Human rights defender et al. v. Guatemala*, the Inter-American Court of Human Rights ruled that the state has an increased obligation to guarantee the rights to life and humane treatment of human rights defenders, including those defending sexual and reproductive rights. This includes the obligation to create the legal and formal safeguards and to take steps to ensure that the conditions exist in practice that enable human rights defenders to freely carry out their work.<sup>64</sup> The Court also underlined the state's responsibility when it fails to act diligently in cases where it is aware there is a real danger to defenders and has reasonable possibilities of preventing the risk.<sup>65</sup>

## **HUMANITARIAN SEXUAL AND REPRODUCTIVE HEALTH SERVICES - MEXICO**

**Humanitarian Sexual and Reproductive Health Services (Servicios Humanitarios en Salud Sexual y Reproductiva, Servicios Humanitarios) in Yucatán, Mexico, was set up in 2000. The organization aim is to provide comprehensive sexual and reproductive health services for men and women, including terminations of pregnancy within the law, with a focus on human rights. It is the only organization providing these services from a sexual and reproductive rights perspective in the southeastern region of Mexico.**

Since the start of its activities, Servicios Humanitarios, has been the target of demonstrations and

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<sup>63</sup> *ContraPunto*, "Mirna: Perdí doce años de mi vida tras las rejas", 10 December 2014, available at <http://www.contrapunto.com.sv/reportajes/mirna-perdi-doce-anos-de-mi-vida-tras-las-rejas> (last visited 21 October 2015); *Voces*, "Director de Amnistía Internacional se reunió con víctimas de la ley contra el aborto", 25 de septiembre de 2014, disponible en: <http://voces.org.sv/2014/09/25/director-de-amnistia-internacional-se-reunio-con-victimas-de-la-ley-contra-el-aborto/> (last visited 21 October 2015).

<sup>64</sup> Inter-American Court of Human Rights, *Human rights defender et al. v. Guatemala: Judgment* of 28 August 2014, (Preliminary objections, merits, reparations and costs), para 142, available at [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_283\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_283_ing.pdf).

<sup>65</sup> *Op cit*, Inter-American Court of Human Rights, *Human rights defender et al. v. Guatemala: Judgment* of 28 August 2014, para 141.

sit-ins. Many front-line service staff have resigned for fear of being branded providers of abortion.

In 2009, in the context of discussions about changes to the law that would reduce the scope for legal terminations, Dr Sandra Peniche, founder and Director of Servicios Humanitarios, received death threats. She was subsequently forced to lower the visibility of her work, reducing the impact of her efforts in defence of human rights.

The organization was once again the target of harassment in 2014. Between March and November 2014, a series of protests took place outside the clinic. Human rights defender Amelia Ojeda Sosa is a member of a sister organization of Servicios Humanitarios providing sexual and reproductive health education, the Support Unit for Psychology, Sexology and Education for Personal Growth (Unidad de Atención Sicológica, Sexológica y Educativa para el Crecimiento Personal). She saw the protests and told Amnesty International that the demonstrators were praying for the “dead women” and the “murdered babies”.

Sandra Peniche has reported that at the time of writing, she and her colleagues at Servicios Humanitarios are the targets of phone tapping and that on several occasions she has returned to her car to find objects have been moved. She believes this is intended to intimidate her and let her know that they can break into her personal spaces.

## 2. PROMOTING SEXUAL AND REPRODUCTIVE RIGHTS IS DEFENDING HUMAN RIGHTS

In International human rights law, sexual and reproductive rights are based on the rights to life, humane treatment, equality and non-discrimination, liberty, health and to freedom from torture and other cruel, inhuman or degrading treatment. These rights are recognized in international and regional human rights instruments.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) explicitly recognizes reproductive rights (Article 16.1.e). It provides that all states must ensure, on a basis of equality between men and women: “The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights”.

Sexual and reproductive rights are shaped by the respect, protection and fulfilment of other traditionally recognized human rights. There are two aspects of these rights: 1) sexual and reproductive freedom, that is ensuring that every individual is able to make free and informed decisions about their sexuality and reproductive life; and 2) access to health services that ensure the highest attainable standard of sexual and reproductive health. States have obligations in respect of both aspects.

The UN Committee on Economic, Social and Cultural Rights is the body responsible for monitoring states’ fulfilment of the International Convention on Economic, Social and Cultural Rights. It has referred to sexual and reproductive health in the context of the right to health set out in Article 12 of the Convention. According to the Committee, the right to health includes the freedom “to control one's health and body, including sexual and reproductive freedom” and the right to “a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health”.<sup>66</sup>

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<sup>66</sup> Committee on Economic, Social and Cultural Rights, General Comment No.14 (2000), The right to the highest attainable standard of health (Article 12 of the International Covenant on Economic, Social and Cultural Rights),

The World Health Organization defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”<sup>67</sup> and sexual health as the highest standard of well-being in relation to sexuality, not merely the absence of infirmity. Sexual health requires a positive and respectful approach to sexuality as well as the possibility of having pleasurable and safe sexual experiences, free of coercion and discrimination.<sup>68</sup>

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders), recognizes and protects the right to defend human rights as a separate and independent right.<sup>69</sup> The right to defend human rights can be exercised individually or collectively and through a wide range of activities that may be interconnected and that themselves involve the enjoyment and exercise of other rights.

Based on the rights set out in international human rights treaties, defenders of sexual and reproductive rights promote and defend rights including:

- The right to comprehensive sexuality education, based on scientific evidence that is non-discriminatory and counters gender stereotypes;
- The right to choose whether or not to have sexual relations, free from coercion;
- The right to choose the person with whom to have sexual relations;
- The right to choose whether or not to marry, when and to whom;
- The right to decide whether or not to have children and when;

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Geneva, 25 April to 12 May 2000 (E/C.12/2000/4), para 8. The Comment also refers to sexual and reproductive freedom and access to sexual and reproductive health services in paras 14, 16, 18, 21, 23, 24 and 36.

<sup>67</sup> The Constitution of the World Health Organization was adopted by the International Health Conference held in New York from 19 June to 22 July 1946. It was signed on 22 July 1946 by the representatives of 61 States and entered into force on 7 April 1948.

<sup>68</sup> World Health Organization, *Sexual health, human rights and the law*, Geneva, 2015, p 5, available at [http://apps.who.int/iris/bitstream/10665/175556/1/9789241564984\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/175556/1/9789241564984_eng.pdf).

<sup>69</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES//53/144), 8 March 1999.

- The right to freedom from discrimination on grounds of sexual orientation or gender identity or expression;
- The right to decide whether to use contraception, including emergency contraception, and to have access to contraception without having to overcome arbitrary obstacles;
- The right to services to prevent and treat sexually transmitted infections, including HIV/AIDS;
- The right to have access to health-care services in cases of rape, including access to emergency contraception to prevent pregnancy;
- The right not to be subjected to forced sterilization or abortion against your will;
- The right to access reliable, timely information based on scientific evidence on sexual and reproductive health;
- The right to access medical check-ups and services before, during and after pregnancy;
- The right to access safe, legal abortion services as a minimum in cases where the life or health of the woman or girl is at risk, when the pregnancy is a result of rape or incest and in cases of severe or fatal foetal impairment.<sup>70</sup>

## **SEXUAL AND REPRODUCTIVE RIGHTS IN THE INTERNATIONAL HUMAN RIGHTS SYSTEM**

**The committees responsible for monitoring the fulfilment of UN international human rights treaties have stated that the criminalization and total ban on abortion which deny women access to health services and force them to seek clandestine abortions that put their lives and health at risk constitutes a human rights violation. They have made this clear in General Comments to individual states and in their consideration of individual cases.**

The various Committees have made recommendations to states, calling on them to take measures to prevent unwanted pregnancies and to ensure that women were not forced to resort to

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<sup>70</sup> For more information on human rights standards regarding abortion, see *She is not a criminal: The impact of Ireland's abortion law* (Index: EUR 29/1598/2015), available at <https://www.amnesty.org/en/documents/eur29/1598/2015/en/>.

clandestine abortions that put their health or lives at risk. They have also called on states to ensure access to abortion for rape survivors and to take steps to end forced abortion.<sup>71</sup>

The Committees have highlighted the obligation to reduce maternal mortality; many pregnancy-related deaths are linked to unsafe abortions. They have also recommended that states with highly restrictive legislation on abortion review their laws in order to bring them into line with the human rights of women and girls.<sup>72</sup> The Committees have urged states to take steps to abolish criminal sanctions against women for having abortions and to ensure women's right to patient confidentiality, including in relation to sexual and reproductive health.<sup>73</sup>

According to the Committees, the denial of access to abortion in circumstances allowed by law is a violation of the right to a private life and to humane treatment. It is also discriminatory and constitutes torture or other cruel, inhuman or degrading treatment.<sup>74</sup> Denying girls access to these services is a violation of their rights.<sup>75</sup> States have an obligation to ensure that girls and teenagers are able to take decisions about their health independently of their parents, including HIV tests, sexual health education and sexual orientation, contraception and safe abortion.<sup>76</sup>

At the regional level, the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights have also established clear standards relating to the protection of sexual and reproductive rights.<sup>77</sup>

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<sup>71</sup> Human Rights Committee, General Comment 28, Equality of rights between men and women (Article 3), 29 March 2000, HRI/GEN/1/Rev.9 (Vol 1), paras 10 and 11.

<sup>72</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations on the fourth period report of Paraguay, (E/C.12/PRY/CO/4) 20 March 2015, para 29; and Concluding Observations on the third periodic report of Guatemala, (E/C.12/GTM/CO/39) December 2014, para 23.

<sup>73</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 24: Article 12 of the Convention (women and health), paras 12 and 31.

<sup>74</sup> Human Rights Committee, *Karen Noelia Llantoy Huamán vs Peru*, Communication No. 1153/2003, (CCPR/C/85/D/1153/2003), 22 November 2005.

<sup>75</sup> Human Rights Committee, *V.D.A. vs Argentina*, Comunicación 1608/2007, (CCPR/C/101/D/1608/2007), 28 April 2011; and Committee for the Elimination of Discrimination against Women, *T.P.F. vs Peru*, Communication No. 22/2009, (CEDAW/C/50/D/22/2009), 4 November 2011.

<sup>76</sup> Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (Art. 24), (CRC/C/GC/15), 17 April 2013, para 31.

<sup>77</sup> See for example: Inter-American Commission on Human Rights, *Baby Boy vs United States of America*, Case 2141, Resolution No. 23/81, 6 March 1981; MC 270/09 – X and XX, Colombia, 21 September 2009; MC 43-10 – “Amelia”, Nicaragua, 26 February 2010; MC 340/10 – Mujeres y niñas residentes en 22 campos para desplazados internos en

In 2012, the Inter-American Court of Human Rights ruled in the case of *Artavia Murillo et al. ("in vitro fertilization") vs. Costa Rica* that sexual and reproductive rights are protected by the American Convention on Human Rights. It stated that the respect, protection and fulfilment of sexual and reproductive rights are rooted in various rights set out in the Convention, including the right to personal liberty, to a private life, to humane treatment and to non-discrimination.<sup>78</sup>

Sexual and reproductive rights are protected by the right to personal liberty; that is, "the right to organize, in keeping with the law, his or her individual and social life according to his or her own choices and beliefs".<sup>79</sup> They are also guaranteed by the rights to a private life and the dignity of the individual which encompasses personal development, personal autonomy and the right to establish relationships with others. These rights are at the core of the decision on whether or not to have children.<sup>80</sup>

The Inter-American Court of Human Rights has stated that: "the right to private life is related to: (i) reproductive autonomy, and (ii) access to reproductive health services, which includes the right to have access to the medical technology necessary to exercise this right."<sup>81</sup>

The Court has also affirmed that no domestic regulation, decision or practice by state authorities or private individuals, should in any way diminish or restrict the rights of an individual based on his or her sexual orientation.<sup>82</sup>

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Puerto Príncipe, Haití, 22 December 2010; MC 114/13 – B, El Salvador.

Inter-American Court of Human Rights, *De La Cruz Flores vs. Peru*: Judgment of 18 November 2004 (Merits, Reparations and Costs); *Comunidad Indígena Xákmok Kásek vs. Paraguay* Judgment of 24 August 2004 (Merits, Reparations and Costs); *Gelman vs. Uruguay* Judgment of 24 February 2011 (Merits and Costs); and *González Lluy y otros vs. Ecuador*, Sentencia de 1 de Septiembre de 2015, (Excepciones Preliminares, Fondo, Reparaciones y Costas).

<sup>78</sup> Inter-American Court of Human Rights, *Artavia Murillo et al. ("in vitro fertilization") vs. Costa Rica*: Judgment of 28 November 2012 (Preliminary objections, merits, reparations and costs).

<sup>79</sup> *Artavia Murillo et al. ("in vitro fertilization") vs. Costa Rica*, para 142.

<sup>80</sup> *Artavia Murillo et al. ("in vitro fertilization") vs. Costa Rica*, para 143.

<sup>81</sup> *Artavia Murillo et al. ("in vitro fertilization") vs. Costa Rica*, para 146.

<sup>82</sup> Inter-American Court of Human Rights. *Atala Riffo and daughters vs. Chile*. Judgment of 24 February 2012, (Merits, Reparations and Costs), para 91.



### 3. CONCLUSIONS AND RECOMMENDATIONS

Defenders of sexual and reproductive rights are the targets of attacks and violence of many kinds: stigmatization, criminalization, harassment and intimidation and threats.

The attacks against them intensify in the context of public debates and proposed law reforms that seek to promote these rights, as well as when they are providing assistance to individuals whose sexual and reproductive rights have been violated.

The dangers of exercising the right to defend these rights increase in a context where sexuality and reproduction continue to be taboo subjects and where gender stereotypes and prejudices persist, or where there is a pattern of violent opposition to the exercise of sexual and reproductive freedoms. In such environments, victims of violations of the right to make decisions about one's sexual and reproductive life are revictimized by justice system that often reproduce the same stereotypes and routinely violate the right to justice.

These attacks also have repercussions on the families of sexual and reproductive rights defenders, as well as those who promote women's rights or gender equality also experience repercussions as a result of these attacks.

These attacks take place repeatedly over a period of years while the authorities continue to fail to take the necessary action to ensure a safe and supportive environment where these defenders can carry out their human rights work. As a result, defenders of sexual and reproductive rights have taken steps to prepare their family for such attacks and strengthened their links with other networks of human rights defenders. They remain committed to ensuring the rights of those whose rights have been denied, ignored and violated and they continue to devise their own strategies to protect themselves and those around them despite the lack of action by the authorities.

The continuous threats, attacks and violence that sexual and reproductive rights defenders face has at times forced them to adopt a lower profile and reduce the public aspect of their activities in order to protect themselves. However, they believe that in general their primary strategy must be to make their activities as defenders visible and make public the attacks against them.

The best way for states to counter hostility towards defenders must include investigating and punishing those responsible for the attacks against them. In the meantime, defenders of human rights violations will continue to remind society and the state that they are and will continue to promote the defence of human rights, including sexual and reproductive rights, for everyone.

**Regarding defenders of sexual and reproductive rights, Amnesty International calls on governments in the Americas to:**

- Stop attacks, violence and other abuses by state officials and private individuals against defenders.
- Take all necessary steps to ensure that defenders are able to freely carry out their legitimate work.
- Take all necessary measures to protect defenders effectively, ensuring that the measures adopted are appropriate, gender sensitive and respectful of diversity.
- Publicly and unequivocally recognize sexual and reproductive rights as human rights and ensure they are respected, protected and guaranteed.
- Review and repeal laws and regulations that infringe sexual and reproductive rights and protect and ensure these rights in practice. This may involve measures such as: implementing regulations that guarantee comprehensive sexuality education based on scientific evidence; repealing laws that criminalize all abortion; guaranteeing access to comprehensive sexual and reproductive health services to all, without discrimination on the basis of sexual orientation, gender identity or expression, age, ethnic origin or any other factor; and ending forced sterilization.
- Publicly and unequivocally recognize that defenders of sexual and reproductive rights are human rights defenders and that their work is legitimate. This recognition may involve measures such as: campaigns, public statements and devising special laws and public policy to protect human rights defenders.
- Take effective measures to eliminate gender stereotypes and discrimination against women and LGBTI people.
- Issue directives to state officials and all arms of government at all levels designed to eradicate gender stereotypes and to ensure that state agents do not replicate or

reinforce such stereotypes.

- Investigate and, where appropriate, punish state officials who through laws, regulations, policies or practices create, reinforce or reproduce gender stereotypes.
- Receive and deal promptly with reports and complaints of actions designed to stigmatize defenders.
- Investigate and, where appropriate, punish using the relevant procedures any state officials who support, promote or facilitate acts designed to stigmatize defenders or who make statements vilifying them.
- Refrain from initiating baseless investigations and judicial proceedings in reprisal for the activities of defenders.
- Repeal or reform criminal laws that do not fulfil the principle of legality or that are designed to suppress the defence of sexual and reproductive rights.
- Investigate and, where appropriate, punish state officials who promote, instigate or open baseless investigations or criminal proceedings against defenders or in reprisal for the promotion of rights.
- Refrain from using administrative measures aimed at arbitrarily restricting freedom of association and ensure that organizations dedicated to the defence and promotion of sexual and reproductive rights are able to carry out their work in a supportive environment.
- Investigate thoroughly harassment, intimidation, threats and attacks on the integrity and lives of defenders and bring those responsible to justice. Investigations into such attacks must take into account the possibility that they have been carried out in reprisal for work defending sexual and reproductive rights.
- Open channels of communication so that defenders of sexual and reproductive rights can report harassment, intimidation, and threats or attacks on their physical integrity and lives.
- Reinforce or establish, in consultation with defenders, protection mechanisms for reproductive rights defenders that are appropriate, effective, gender-sensitive and that take into account the needs of relatives.

**Amnesty International calls on international human rights institutions, ombudspersons, public defenders and their networks to:**

- Publicly and explicitly recognize defenders of sexual and reproductive rights as human rights defenders and acknowledge the legitimacy of their work.
- Include the defence of sexual and reproductive rights as part of their human rights defence agenda.
- Make available to defenders of sexual and reproductive rights mechanisms at their disposal for the promotion and protection of human rights and for the protection of human rights defenders.

**Amnesty International calls on international human rights organizations to:**

- Clearly and categorically recognize the legitimacy of the work undertaken by those promoting sexual and reproductive rights.
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# DEFENDERS UNDER ATTACK!

## PROMOTING SEXUAL AND REPRODUCTIVE RIGHTS IN THE AMERICAS

Exercising the right to defend and promote human rights remains a dangerous activity in the Americas. In this report, Amnesty International looks at the specific situation of sexual and reproductive rights defenders in the region. This group of defenders face particular challenges in their work which challenges traditional socio-cultural norms on the roles of women and men and on gender identity and sexual orientation and because they address issues that are still considered taboo.

States that fail to explicitly and unequivocally recognize the importance of the role played by these defenders encourage physical, psychological and symbolic violence against them, as does their failure to take measures to punish and prevent the various types of attacks they face.

The best way for states to begin to fulfil their obligation to counter the hostile environment faced by defenders of sexual and reproductive rights is to publicly acknowledge the legitimacy and importance of this work, and investigate and punish those responsible for attacks against them.