

Inter-American Commission on Human Rights
Hearing on
Sexual Violence and Human Rights of Girls and Adolescents in Paraguay

Title	Sexual Violence and Human Rights of Girls and Adolescents in Paraguay
Forum	Inter-American Commission on Human Rights (IACHR)
Session	157 Period of Sessions
Type of Hearing	Thematic Hearing
Date	4 April 2016
Time	6:00 p.m. – 7:00 p.m. EST
Location	Organization of American States Rubén Darío Room (8th floor) 1889 F St. NW Washington, D.C., 20006 U.S.A.
Petitioners	Equality Now Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres (CLADEM)
Respondent State	Paraguay
Commissioners	OAS Rapporteur on the Rights of Women OAS Rapporteur on the Rights of the Child OAS Rapporteur on Human Rights Defenders OAS Rapporteur on the Rights of Migrants OAS Commissioner for the Unit on Economic, Social and Cultural Rights
Video Recording	www.youtube.com/watch?v=jcTdc1SLnro
Photos	www.flickr.com/photos/cidh/sets/7215766669226431

Context of Sexual Violence against Adolescent Girls in Paraguay

Sexual violence against girls is widespread in Paraguay. Nearly one in three girls will suffer physical, emotional or sexual abuse by age 19. Between January and May 2015, the Department of Criminal Complaints of the Public Ministry had already received reports of 421 cases of child sexual abuse, though the actual number of victims is likely to be much higher due to under-reporting. Even though the Penal Code criminalizes forced sexual acts, sexual abuse of minors, and incest, the laws are poorly implemented.

Furthermore, adolescent pregnancies resulting from sexual abuse are very common in Paraguay. The Ministry of Health reported that in 2014, 684 girls between ages 10 and 14 gave birth in Paraguay and there are reports of even higher numbers in 2015. Even though Article 109 of Paraguay’s Penal Code allows for an abortion in cases where the life of the pregnant woman is at risk, there are no guidelines clarifying how or when this exception can be utilized and it is rare that women and girls are actually able to access abortion under this provision.

Paraguay’s Obligations Under International Human Rights Law

Sexual abuse of girls and forced pregnancy are gross human rights violations and recognized forms of torture. Paraguay has ratified the core international and regional human rights treaties and must uphold its commitments. The Belém do Pará Convention; Protocol of San Salvador; Convention on the Elimination of All Forms of Discrimination against Women; International Covenant on Civil and Political

Rights; International Covenant on Economic, Social and Cultural Rights; Convention against Torture; and the Convention on the Rights of the Child require Paraguay to prevent and punish violence against girls. The American Convention on Human Rights and the International Covenant on Civil and Political Rights both require Paraguay to guarantee access to effective remedies, which include access to justice, services, and other support and remedies.

Case Study: “Mainumby”

One 2015 case exemplified the problem of sexual violence in Paraguay. A 10-year-old girl, “[Mainumby](#),” became pregnant as a result of years of sexual abuse, allegedly by her stepfather. Her mother reported the abuse in January 2014—but no governmental agency took any measures to remove the stepfather from the home or to follow up on the case. There was no investigation or prosecution; the Prosecutor in the case dismissed the complaint in October 2014. The sexual abuse continued, and Mainumby became pregnant as a result. Doctors determined that her life was at risk if she carried the pregnancy to term, and recommended an abortion in conformity with the law. Although Paraguayan law permits abortions when a woman or girl’s life is at risk, the Minister of Health intervened, preventing her from obtaining the procedure. Following a C-section in August 2015, Mainumby and her baby survived, but not without costs to her health, physical and psychological integrity, well-being, and other human rights. She has been forced to become an 11-year-old mother, and still has not seen justice against her rapist. Though her stepfather was arrested and jailed, a trial still has not taken place. Mainumby is just one of hundreds of young girls who have endured forced pregnancy and motherhood as a result of sexual violence.

Equality Now and our partner CLADEM requested that the IACHR call on the Paraguayan government to take urgent measures to save Mainumby’s life. On 8 June 2015, the IACHR responded by issuing “[Precautionary Measures](#),” which call for emergency actions in situations where there is a risk of grave human rights violations, to protect Mainumby’s human rights. Paraguay’s Ministry of Foreign Relations objected to the Precautionary Measures, [claiming](#) that the government was already in compliance with its human rights obligations. The State has failed to implement them. The IACHR scheduled a working meeting between Equality Now, CLADEM and Paraguay on 21 October 2015. However, in flagrant disregard for the IACHR’s authority and Mainumby’s wellbeing, Paraguay refused to attend.

Summary of Thematic Hearing

Equality Now and CLADEM requested a thematic hearing at the IACHR during its recent 157 Period of Sessions in order to elevate the issue of sexual violence against girls, and place additional pressure on the Paraguayan government to protect young girls from sexual abuse and its consequences. The request was granted, and the hearing took place on 4 April 2016. We were pleased that Paraguay, which did not show up for the October 2015 IACHR working meeting on the Mainumby case, participated in this hearing. Our April 2016 hearing was a major step toward getting justice for girls.

Equality Now and CLADEM presented evidence on the extent of sexual violence and forced pregnancy and motherhood of 10 - 14 year old girls in Paraguay and highlighted Paraguay's obligations under international and regional human rights law as well as its own national laws. Equality Now and CLADEM made several recommendations to the State of Paraguay to ensure the protection of adolescent girls, as listed below.

Key representatives of the State of Paraguay included Minister Carlos Enrique Zárate Fleitas, Executive Secretary of the National Secretariat for Children and Adolescents; Minister Juan Miguel González Bibolini, Director of Human Rights of the Ministry of Foreign Affairs; H. E. Elisa Ruiz Diaz Bareiro, Ambassador of the Permanent Mission of Paraguay to the Organization of American States (OAS); and Dr. Inés Martínez Valinotti, Alternative Representative of the Permanent Mission of Paraguay to the

OAS. They presented on Paraguay's work to address the sexual exploitation of children, trafficking and sex tourism and promised to share more comprehensive data on gender issues. They acknowledged that protocols in their country need to be more rigorously enforced, and said they are open to working with civil society. They also noted they have an open invitation to any regional and international human rights experts to visit Paraguay.

Five of the seven Commissioners – Commissioners Margarete May Macaulay, OAS Rapporteur on the Rights of Women; Esmeralda Arosemena de Troitiño, OAS Rapporteur on the Rights of the Child; Paulo Vannuchi, Commissioner entrusted to the Unit on Economic, Social and Cultural Rights; Enrique Gil Botero, OAS Rapporteur on the Rights of Migrants; and José de Jesús Orozco Henríquez, OAS Rapporteur on Human Rights Defenders – participated in the hearing. Paraguayan officials faced intense questioning on the issues and on why they had not implemented the [Precautionary Measures](#) in Mainumby's case. Commissioner de Troitiño and Commissioner Botero noted Precautionary Measures are binding, and must be implemented. Supporting our calls, the Commissioners reaffirmed Paraguay's obligations to protect children's best interests and noted the apparent lack of protocols in place to do so. Commissioners Botero and Macaulay highlighted the importance of informed consent of children, and that children should be involved in any decisions regarding their medical treatment. Commissioner Macaulay encouraged that violence by a family member or caretaker should be treated as particularly egregious as it violates the trust of a child. She recommended that Paraguay review its legislation and explore options that would quickly remove abusers from the homes of their victims, and requested detailed disaggregated data on sexual violence and early pregnancies. Commissioner Macaulay concluded by acknowledging Paraguay's Constitution and that it protects life from conception, but reminded Paraguay that it has international human rights obligations.

These hearings are vital in surfacing and shining a light on what had been a hidden issue, and holding Paraguay accountable to ensure human rights of women and girls are protected. These hearings put the voices of girls who have been raped, isolated and forced into motherhood on the record. We are committed to taking these issues forward to ensure that Paraguay prioritizes and implements its obligations so that more girls do not fall through the cracks like Mainumby.

Key Recommendations for Paraguay

- Enforce and implement laws against sexual abuse of girls (particularly those under 14), including through the development of protocols guiding law enforcement to effectively and promptly respond to, investigate, and prosecute cases of rape and statutory rape.
- Put in place measures to prevent sexual violence such as through public awareness raising and education campaigns in schools, and for those working with child victims of abuse (e.g. law enforcement, judges, prosecutors, medical professionals, counsellors, etc.) on how to respond to cases of sexual abuse.
- Ensure girls who are victims of sexual abuse can effectively access holistic rehabilitative services including legal, medical, and psychosocial services.
- Develop and enforce clear guidelines and protocols explaining how determinations are made to allow abortions when there is a threat to the life of the pregnant woman or girl under Penal Code Article 109.
- Amend the Penal Code to include exceptions to the ban on abortion to take into consideration girls' physical and mental health and that they have been raped.
- Protect human rights defenders from harassment, threats and intimidation.
- Improve collection and dissemination of data on sexual abuse and pregnancy of girls.

Petitioners' Resources

Equality Now, <i>Urgent Alert - Paraguay: Protect the rights of 11-year-old rape victim and give her justice</i> (18 May 2015, updated 8 April 2016)	English	Español
Request for Thematic Hearing	English	Español
Outline of Presentation Key Points	English	Español
Index of Resources	English	-
CLADEM, <i>Balance Regional - Niñas Madres: Embarazo y maternidad infantil forzada en América Latina y el Caribe</i> (March 2016)	-	Español
CLADEM, <i>Resumen Ejecutivo - Niñas Madres: Embarazo y maternidad infantil forzada en América Latina y el Caribe</i> (March 2016)	English	Español
Best Practices Around Laws and Protocols Addressing Sexual Violence and Incest Involving Girls	English	Español
International and Regional Best Practices Around Laws and Protocols for Determining When a Woman or Girl's Life is at Risk Due to Pregnancy	English	Español
Sexual Violence, Incest, and Forced Pregnancy Involving Girls and Adolescents in Paraguay	English	Español
Access to Abortion Under the Law in Paraguay	English	Español

Key International Resources

Inter-American Commission on Human Rights, <i>Precautionary Measures No. 178/15 in the Case of Mainumby</i> (8 June 2015)	-	Español
Joint Statement by UN human rights experts, the Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights and the Special Rapporteurs on the Rights of Women and Human Rights Defenders of the African Commission on Human and Peoples' Rights (24 Sept. 2015)	English	-
Country Visit to Paraguay, 23 September to 6 October 2015 by the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health Mr. Dainius Pūras, <i>Preliminary Observations</i> (6 Oct. 2015)	English	Español
European Parliament, <i>Press Release, Human rights: child pregnancies in Paraguay; Palmyra; children in Nepal</i> (6 Nov. 2015)	English	Español
UN Special Rapporteur on the situation of human rights defenders Michael Forst, <i>High time to protect sexual and reproductive rights defenders in the Americas</i> (29 Nov. 2015)	English	Español
<i>Human rights: Paraguay has failed to protect a 10-year-old girl child who became pregnant after being raped, say UN experts</i> (11 May 2015)	English	Español
• Communication from UN experts to Paraguay (8 May 2015)	-	Español
• Reply of Paraguay (12 May 2015)	-	Español
• Follow up reply of Paraguay transmitting Press Release of Paraguay's Ministry of Foreign Affairs (20 May 2015)	-	Español
• Follow up communication from UN experts to Paraguay (5 June 2015)	-	Español
• Communications report of Special Procedures (4 Sept. 2015)	-	Español
• Communications report of Special Procedures (19 Feb. 2016)	-	Español