**LAC imput on Call for contributions: Violence and its impact on the right to health.**

**Dec 23rd 2021**

1. **On question No. 1 [[1]](#footnote-1)**

**Brazil.** We consider the lack of access to appropriate maternal health services as a form of violence against pregnant women. In Brazil, the situation on maternal mortality has been aggravated even more during the pandemic, both by the disease itself, that has disproportionately affected pregnant women, and the lack of quality healthcare and polices adopted in response, which were not able to mitigate and prevent the aggravated risks during pregnancy. In June 2020, a study found that 124 pregnant or postpartum women died in Brazil due to Covid-19 (representing a 12.7% mortality rate among pregnant or postpartum women infected with Covid-19), and representing 77.5% of all maternal deaths reported in the literature at that point[[2]](#endnote-1). The same study noted that 22.6% of the women who died were not admitted to the ICU, and only 64.0% had invasive ventilation. [[3]](#endnote-2) Ventilatory support was not offered to 14.6% of all fatal cases, while the remaining 21.4% received only noninvasive ventilation[[4]](#endnote-3) . Decisions about who receives what kind of care have been shown elsewhere to be highly race, class and gender sensitive in discriminatory ways: in these cases, one can say women died less from the virus, than from discriminatory decisions taken in response[[5]](#endnote-4). Despite the high maternal mortality rates associated with Covid-19 identified in 2020, effective actions to protect pregnant women were not adopted and, between January and May 2021, 575 deaths were registered among pregnant and postpartum women, a number higher than during the period from March to December of the previous year[[6]](#endnote-5). It should be noted, in this regard, that the maternal mortality of Covid-19 in black women has been almost twice as high compared to that of white women[[7]](#endnote-6).

Even in cases with less serious complications, the Covid-19 pandemic served as a pretext for violations of a set of rights to humane care during childbirth, including those provided by law, such as the right to the presence of a companion during childbirth[[8]](#endnote-7). In this context, another factor that merits attention is a pattern of increase in the already high rates of cesarean sections, despite the high risks of contracting Covid-19 by the mother and baby due to the longer hospital stay and greater contact with health professionals required by such operations. UN Human Rights bodies have specifically pointed to the overuse of the caesarean section procedure as evidence of the over medicalization of birth and have suggested that “women are not given a free choice between different ways of giving birth”[[9]](#endnote-8). The Special Rapporteur on violence against women, its causes and consequences has considered that, when practiced without a woman’s consent, caesarian sections may amount to gender-based violence against women and even torture.[[10]](#endnote-9)

**El Salvador**: The lack of access to abortions, specifically when the pregnancy is a result of rape, is a form of revictimization of women. The criminalization of abortions, and the subsequent increase of unsafe abortions can lead to a range of harms that affect women’s quality of life and well-being, including the potential for life-threatening complications,[[11]](#endnote-10) such as incomplete abortion, infection, uterine perforation, pelvic inflammatory disease, hemorrhage, or other injury to internal organs, all of which may result in death, permanent injury or infertility.[[12]](#endnote-11) The restrictive regimes regarding abortion can lead to a violent treatment by States they focus on criminalizing women, even in cases of obstetric emergencies. Between January 2005 and December 2008, the Ministry of Health’s Information, Monitoring and Evaluation Unit reported that 19,290 abortions took place in El Salvador, with 27.6% of those abortions being performed on adolescents.[[13]](#endnote-12) The actual figures are likely however, to be much higher as, due to the criminalization of abortion, it is impossible to obtain reliable data.

El Salvador's total criminalization of abortion puts pregnant women at significant risk as the law compels them to carry to full term even if there are potentially grave implications for their health and their babies' health. Some of them are victims of sexual and gender based violence, and before receiving any kind of access to health or justice, they are criminalized, interrogated, and in some cases, they are handcuffed to hospital beds, even when their health is at risk and should be prioritized. [[14]](#endnote-13) According to El Salvador's Human Rights Ombudsman's Office, these women are not prosecuted for the crime of abortion, but for homicide. [[15]](#endnote-14)

Women who are suffering from obstetric complications have died from lack of medical treatment because they have been afraid to attend public hospitals or because medical providers are unable to terminate their pregnancies.[[16]](#endnote-15) Between 2000 and 2019, 54% of formal complaints to the authorities regarding potential breaches of anti-abortion legislation came from staff in public hospitals and from the Salvadoran Social Security Institute. [[17]](#endnote-16) It is notable that there were no complaints at all made by private hospitals or private healthcare centers and physicians[[18]](#endnote-17). This cannot be coincidental, and demonstrates that these laws operate in a way that discriminates against poor women in particular[[19]](#endnote-18). The effect of having to carry an unwanted pregnancy to full term is also damning on women’s mental health, with many pregnant women resorting to suicide.[[20]](#endnote-19) In fact, according to the Maternal Death Surveillance System of the Ministry of Health of El Salvador, the most common cause of death amongst teenage mothers in El Salvador is suicide.[[21]](#endnote-20)

**On question No. 3[[22]](#footnote-2)**

The context of criminalization of abortions in several countries of LAC can be considered as institutional and structural violence against women, specifically when they are criminalized as the try to access the health system in their countries. That is the case of Dominican Republic, El Salvador and Honduras, that had profoundly restrictive legislations on abortion, that put women at risk of being criminalized even in cases of obstetric emergencies, if health providers suspect they had an abortion. [[23]](#endnote-21) Some of those women have spent over 10 years in jail, and have been sentenced to over 30 years. This, in spite of several recommendations of UN treaty bodies and Human Rights organizations that called for a revision of local criminal law in countries such as El Salvador. [[24]](#endnote-22) This situation affects specifically women without access to proper legal representation, those living in poverty, and adolescents.[[25]](#endnote-23)

As well, the lack of access to emergency contraception (From now on EC) in some LAC countries can be considered as a form of violence, as some of the users of this contraception methods are women and girls that have suffered sexual violence, and because of the prohibition in their countries, don’t have access to EC that might prevent unwanted and violent pregnancies. The international standards on attention of sexual violence cases include immediate access to EC and other medicines. [[26]](#endnote-24) Denying the provision of this basic attention in cases of violence can produce re victimization and constitutes institutional violence.

**On question No 7 [[27]](#footnote-3)**

In LAC, we have identified the need of survivors to have proper access to health services that respect a gender approach and help them to deal with permanent effects of the human rights violations they have lived. In the case of Colombia, for instance, some women recruited by illegal groups forced them to have unwanted abortions, that took place in unsanitary conditions. The permanent effects of those unsanitary procedures on their lives are still to be determined and will make them need long term treatments that have to be guaranteed by the State. [[28]](#endnote-25) As well, the need of justice and recognition of their experience as a form of sexual and reproductive violence is a must, as it allows them to apply to reparations and all sort of redress programmes.

In the case of women subject to unfair imprisonment because of obstetric emergencies, as happens in El Salvador, their main need, besides access to justice, is mental health attention, so they can recover from the impacts of their time in jail.

**On question No 8 [[29]](#footnote-4)**

Some countries in Latin America and the Caribbean have decided to create technical guides on abortion, so this reproductive health procedure is guaranteed and have proper guidelines and standards. We found this practice useful in order to allow healthcare personnel to have clear step by step procedures to attend women asking for abortion within the legal framework of each country..[[30]](#endnote-26)

**Special note: Integral sex education as a human right and a way to prevent violence**

The Inter-American Human Rights System has incorporated an standard on Integral Sexual Education as a way to prevent all forms of sexual violence and provide scientific information that allow potential victims to avoid risks, and help women and girls that have been subject of sexual violence to have appropriate knowledge.

The *Guzman Albarracin et al v. Ecuador* case issued by the Inter-American Court was a landmark decision on Sex Education as a fundamental right and a way to prevent violence, specifically against girls, and the subsequent sequels on their health and lives. The given standard can be an example to other regions, to focus on preventing violence against women and girls through education and information provided timely and with a scientific base.[[31]](#endnote-27)

1. Please describe, share data and information on the characteristics, number of cases, and the profile of victims and perpetrators in your country/ies or region(s) regarding:

   * 1. gender based violence against women
     2. gender based violence and other forms of violence against children:
     3. gender based violence against LGBTI or other persons based on real or imputed sexual orientation, sex characteristics, and gender identity:
     4. violence against persons with disabilities, including GBV.
     5. gender based violence against men
     6. conflict gender based violence, including sexual violence
     7. Please share analysis and available evidence on the impact of COVID on the above

   [↑](#footnote-ref-1)
2. M Nakamura-Pereira et al. Worldwide maternal deaths due to COVID‐19: A brief review. IJGO. v.151, Issue, October 2020, 148-150 [↑](#endnote-ref-1)
3. *Id.* [↑](#endnote-ref-2)
4. *Id.*  [↑](#endnote-ref-3)
5. See, for example: S. Hargreaves, "Inequalities in clinical decision making for low-cost treatments" (2000) 356 (12 August) *The Lancet* 1 at 1. H.J. Geiger, "Racial stereotyping and medicine: the need for cultural competence" (2001) 164:12 *Canadian Medical Association Journal* 1699 at 1700. Institute of Medicine. 2003. *Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care*. Washington, DC: The National Academies Press. [↑](#endnote-ref-4)
6. A Rodrigues, L Lacerda, RPV Francisco. 'Brazilian Obstetric Observatory', 2021. [↑](#endnote-ref-5)
7. DS Santos et al. Disproportionate Impact of Coronavirus Disease 2019 (COVID-19) Among Pregnant and Postpartum Black Women in Brazil Through Structural Racism Lens, Clinical Infectious Diseases, Volume 72, Issue 11, 1 June 2021, Pages 2068–2069 [↑](#endnote-ref-6)
8. D Rattner et al. Sobre a defesa dos direitos das mulheres e dos bebês em temos de pandemia de Covid-19. In: População e Desenvolvimento em debate: impactos multidimensionais da pandemia de Covid-19 no Brasil. Campinas/SP: Traço Publicações e Design/Associação Brasileira de Estudos Populacionais, 2021, p. 30. [↑](#endnote-ref-7)
9. Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/32/44, para. 74; Report of the Special Rapporteur on violence against women, its causes and consequences on a human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence. A/74/137, para. 24. [↑](#endnote-ref-8)
10. *Id.*  [↑](#endnote-ref-9)
11. WHO Fact Sheet, Preventing unsafe abortion (reviewed February 2019). [↑](#endnote-ref-10)
12. Human Rights Watch, International human rights law and abortion in Latin America, July 2005, p. 5; Amnesty International, On the brink of death - Violence against women and the abortion ban in El Salvador, 25 September 2014, p. 33. [↑](#endnote-ref-11)
13. Center for Reproductive Rights ("CRR"), Marginalized, persecuted, and imprisoned – The effects of El Salvador’s total criminalization of abortion, 2014, p. 21. [↑](#endnote-ref-12)
14. Working Group on Arbitrary Detention. Opinion No. 68/2019 concerning Sara del Rosario Rogel García, Berta Margarita Arana Hernández and Evelyn Beatriz Hernández Cruz (El Salvador). A/HRC/WGAD/2019/68, para. 101. [↑](#endnote-ref-13)
15. Inter-American Commission on Human Rights. Situation of human rights human rights situation in El Salvador. OEA/Ser.L/V/II, para 198. [↑](#endnote-ref-14)
16. Inter-American Commission on Human Rights. Situation of human rights human rights situation in El Salvador. OEA/Ser.L/V/II, para 196. [↑](#endnote-ref-15)
17. Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico, *Del hospital a la cárcel: consecuencias para las mujeres por la penalización sin excepciones, de la interupción del embarazo en El Salvador*, 2020 (“Citizen’s Coalition for the Decriminalisation of Abortion on Grounds of Health, Ethics and Fetal Anomaly, *From Hospital to Jail: the Impact on Women of El Salvador’s Total Criminalisation of Abortion’, Reproductive Health Matters*, Vol. 22 (44) (2020)”), p. 54 (hereinafter “*From Hospital to Jail Report*”). [↑](#endnote-ref-16)
18. CCPR, *Report on Violation of Women’s Human Rights due to the Complete Criminalisation of Abortion – In Response to the Periodic Report of El Salvador*, (99th Session) (2010), Annex A, p. 1. See also CEDAW, *Concluding Observations*, U.N. Doc. A/54/38/Rev.1 (1999) (Ireland), ¶ 185. [↑](#endnote-ref-17)
19. Working Group on Arbitrary Detention. Opinion No. 68/2019 concerning Sara del Rosario Rogel García, Berta Margarita Arana Hernández and Evelyn Beatriz Hernández Cruz (El Salvador). A/HRC/WGAD/2019/68, para. 114; OHCHR, Statement at the end of the mission to El Salvador, 17 November 2017. [↑](#endnote-ref-18)
20. *From Hospital to Jail Report*,p. 53, citing research from the Guttmacher Institute and the International Family Planning Federation Western Hemisphere Region, which estimates that the rate of unsafe abortions in El Salvador is about 25 per 1,000 women of childbearing age, such that over 35,000 unsafe abortions take place in El Salvador every year. Additionally, according to the Maternal Death Surveillance System of the Ministry of Health of El Salvador, the suicide rate among pregnant women was the third largest cause of maternal deaths in 2011, after hypertensive disorders and obstetric hemorrhage. [↑](#endnote-ref-19)
21. International Planned Parenthood Federation ("**IPPF**"), *Over-protected and under-served - A multi-country study on legal barriers to young people’s access to sexual and reproductive health services – El Salvador case study*, 8 July 2014, p. 17, ¶3.5; see also “Citizen’s Coalition for the Decriminalisation of Abortion on Grounds of Health, Ethics and Fetal Anomaly, *From Hospital to Jail: the Impact on Women of El Salvador’s Total Criminalisation of Abortion’, Reproductive Health Matters*, Vol. 22 (44) (November 2014)”), p. 54, citing research from the Guttmacher Institute and the International Family Planning Federation Western Hemisphere Region, which estimates that the rate of unsafe abortions in El Salvador is about 25 per 1,000 women of childbearing age, such that over 35,000 unsafe abortions take place in El Salvador every year. Additionally, according to the Maternal Death Surveillance System of the Ministry of Health of El Salvador, the suicide rate among pregnant women was the third largest cause of maternal deaths in 2011, after hypertensive disorders and obstetric hemorrhage; UNFPA. *Out of options? Maternal deaths by suicide.* 2019. Available at: <https://elsalvador.unfpa.org/sites/default/files/pub-pdf/SIN_OPCIONES_MuertesMarternasSuicidio_30may2019_br.pdf> [↑](#endnote-ref-20)
22. Please share examples of the types of structural and institutional violence with origins within the State, (perpetrated or condoned by the State) or perpetrated by those not representing or affiliated to the state in your country/ies of region, and who is affected. In particular, describe structural/institutional violence in medical settings against women and girls, LGBTI persons and persons with disabilities or any other individuals or groups relevant in your country/ies or regions. [↑](#footnote-ref-2)
23. *From Hospital to Jail Report,* p. 62; García, E. *et al. The criminalization of women for abortion in Honduras.* 2020. Available at: <https://clacaidigital.info/handle/123456789/1315> [↑](#endnote-ref-21)
24. Inter-American Commission on Human Rights. Situation of human rights human rights situation in El Salvador. OEA/Ser.L/V/II, para 203; Human Rights Committee. Concluding observations on the seventh periodic report of El Salvador. CCPR/C/SLV/CO/7, para 16; Committee on the Elimination of Discrimination against Women. Concluding observations on the combined eighth and ninth periodic reports of El Salvador. CEDAW/C/SLV/CO/8-9, para 39. [↑](#endnote-ref-22)
25. Inter-American Commission on Human Rights. Situation of human rights human rights situation in El Salvador. OEA/Ser.L/V/II, para 200. [↑](#endnote-ref-23)
26. Joint Statement by CEDAW and CRC- Ensuring prevention, protection and assistance for children born of conflict related rape and their mothers. 2021. Available at: https://www.ohchr.org/\_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/HRBodies/CRC/Statements/Joint-CEDAW-CRC-joint-Statment-on-Children-Born-of-Rape.doc&action=default&DefaultItemOpen=; Inter-American Commission on Human Rights. *The IACHR Urges States to Ensure Adequate Services to Preserve the Sexual and Reproductive Health of Women and Girls During the COVID-19 Pandemic.* 2020. Available at: <https://www.oas.org/en/iachr/media_center/PReleases/2020/217.asp>; Follow-up Mechanism of the Convention of Belém do Pará (MESECVI). *Hemispheric Report on Sexual Violence and Child Pregnancy in the States Parties to the Belém do Pará Convention. States Parties to the Belém do Pará Convention*. 2016, para 57. [↑](#endnote-ref-24)
27. Please describe the needs of survivors of the abovementioned forms of violence as identified by your State/institution. Please share survivor-self identified needs and those of their families, with a focus on health emergency and long-term needs. [↑](#footnote-ref-3)
28. Center for Reproductive Rights. *An examination of Reproductive Violence against women and girls during the Armed Conflict in Colombia*. 2020, para 26. Available at: https://reproductiverights.org/wp-content/uploads/2021/09/ENG-FULL-Reproductive-Violence-Conflict-Colombia.pdf [↑](#endnote-ref-25)
29. Please share examples of good practices and examples of comprehensive health responses to survivors of violence and indicate efficient multi-sectorial efforts at the community, national, regional and international levels by State or non-State actors. [↑](#footnote-ref-4)
30. Ministry of Health of Argentina. Directorate of Sexual and Reproductive Health. Protocol for the integral atention of people that have the right to legal abortion. 2021. Available at: <https://bancos.salud.gob.ar/sites/default/files/2021-05/protocolo-IVE_ILE-2021-26-05-2021.pdf> [↑](#endnote-ref-26)
31. Inter-American Court of Human Rights.*Guzman Albarracin et al v. Ecuador*. Judgment of June 20, 2020. Merits, reparations and costs, para 139. [↑](#endnote-ref-27)