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FROM: PROMSEX

TO: United Nations Office of the High Commissioner for Human Rights
Special Rapporteur on the Right to Privacy

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SUBJECT: Call for contributions: Privacy and Children



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I. Context

Children are regarded the most vulnerable age group, mainly because they are in a stage of physical, psychological, and emotional development, where they are highly dependent on their caregivers¹. This vulnerability² also increases when their caregivers and/or the State make decisions that affect them without listening to what they have to say, without taking into consideration their opinion³ and the best interests of the child⁴.

In Peru, there are serious deficiencies in preventing and addressing violence. Girls and female adolescents are the main victims of situations of violence and specifically, sexual violence⁵. In that sense, in the contexts of poverty, the difficulty to access services related to the attention of the violence, generates a situation of revictimization of childhood and adolescence.

To prevent this, it is important to reinforce the protection of the right to privacy and freedom of expression. An important role is played by officials who work in services related to access to justice, health, and education, who should have special consideration for the development of autonomy and mental health of children and adolescents.

¹ Mothers, fathers, guardian, etc.

² Other factors that intersect a situation of greater vulnerability are being a woman, indigenous person, person with a disability, migrant, person in poverty, person in street situation, etc.

³ Article 12 of the Convention on the Rights of the Child states that, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law. To guarantee this, it must duly take their opinions into account, depending on their age and maturity.

⁴ Article 3 of the Convention of the Child states that, in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

⁵ During the COVID-19 pandemic, violence against children in Peru has continued. According to the Ministry of Women and Vulnerable Populations, from March 17 to august 31, 2020, has been reported 4702 cases of violence against children, of which 817 cases correspond to rape. Latest accessed on 09/29/20, available in Spanish only: <https://portalestadistico.pe/cartillas-estadisticas/>



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In this sense, actions such as violence prevention through comprehensive sexual education should be adopted; through training and awareness on the right to be heard of children by adults who work with children and, having effective resources for the attention of cases of violence that ensure comprehensive care of victims, as well as proper investigation, punishment and reparation.

It should be noted that the protection of the right to privacy is fundamental to preventing situations that re-victimize this vulnerable group, inasmuch as it guarantees their right to personal privacy, family privacy, honor, reputation, voice and image, personal data, confidentiality, among others.

Unfortunately, the available data shows that this is not the case and we will present information to the Special Rapporteur that will demonstrate how that is not the case by exemplifying this situation with the case of a girl we will name “Camila”.

II. The right to privacy of children and adolescents in Peru

Peru is a state that has signed and ratified international human rights law instruments that recognize the right to privacy, such as the International Covenant on Civil and Political Rights (article 17), the American Convention on Human Rights (article 11), and the Convention on the Rights of the Child (article 8) ⁶.

Moreover, in its domestic legislation, it has developed a legal framework that protects these rights (see Appendix N° 1 on the applicable legal framework). In this regard, Article 2(6) of the Political Constitution of Peru recognizes unauthorized disclosure of information that affects personal and family privacy, and Article 2(7) recognizes the right to honor, good reputation, personal and family privacy, voice, and image. In addition,

⁶ Law N° 30466, which establishes procedural parameters and guarantees for the primary consideration of the Best Interest of the Child (2016), incorporates the principle of the best interests of child in relation to the right to privacy and freedom of expression.



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Article 14 of the Civil Code recognizes the right to personal and family privacy, Article 15 the right to voice and image protection, and Article 16 the right to confidentiality of correspondence and other communications.

Specifically, regarding to children's rights, the new Children's Code recognizes in its article 190 the principle of confidentiality and reserve of the process, in relation to adolescent offenders.

With regard to the attention to violence, Law N° 30364, Law to Prevent, Punish and Eradicate Violence against Women and household members by 2015, was enacted, and its regulation⁷ considers in its article 125, the guidelines of the media in relation to the victims. Precisely in its numeral 5 it is indicated that, they contribute to watch over the personal integrity of the victim and not to expose them to the judgments and/or prejudices of their community, for that reason it tries to refer to them with initials or pseudonyms. It is important to emphasize that, under responsibility, the operators must have strict respect for the victim's right to privacy, confidentiality, and a dignified treatment.

However, serious deficiencies have been identified in the compliance with these rules, especially regarding the attention to cases of sexual violence. Such non-compliance increases the vulnerability of girls and female adolescents, as can be seen in this case, which highlights a social problem in the country. Specifically, this has been warned by the Committee on the Rights of the Child in its Concluding observations to Peru in 2016⁸.

⁷ Regulation of law approved by Supreme Decree N° 009-2016-MIMP. Latest accessed on 09/29/20, available in Spanish only: <https://busquedas.elperuano.pe/download/url/decreto-supremo-que-aprueba-el-reglamento-de-la-ley-n-30364-decreto-supremo-n-009-2016-mimp-1409577-10>

⁸ The Committee on the Rights of the Child, in the Final Observations on the combined fourth and fifth periodic reports of Peru (CRC / C / PER / 4-5), of March 2, 2016, basis 55 literal "b", recommended to the Peruvian State to decriminalize abortion in all circumstances, ensure children's access to safe abortion and post-abortion care services, at least in cases of rape, incest and serious impairment of the fetus and in cases of risk to the life and health of mothers, and provide clear guidance to health practitioners and information to adolescents on safe abortion and post-abortion care. The views of pregnant girls should always be heard and respected in abortion decisions. Latest accessed on 09/29/20, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPER%2fCO%2f4-5&lang=es

III. Privacy from a Multiple Perspective: The Case of Camila

In the same spirit of the call made by the report, the name used to portray this case is a pseudonym, to protect the identity and personal privacy of the girl.

Camila is a girl who was in a situation of vulnerability due to multiple factors: for being a girl, for being a woman, for being indigenous (Quechua-speaking), for living in a rural area, for being in a situation of poverty, and also for human mobility⁹.

Since age of nine (09), Camila was a victim of sexual violence by her father. At the age of thirteen (13) she became pregnant because of rape and was subjected to a forced pregnancy.

This situation was noticed by a teacher at her school, after an evident impact of her physical and mental health. It should be noted that her right to privacy and freedom of expression was seriously violated during her access to the health and justice system in various ways.

Next to the 17th week of her pregnancy, Camila suffered a miscarriage. Following this event, accredited by a doctor, she was criminally prosecuted and sentenced for the crime of abortion. During this time, Camila was revictimized not only by the justice and health system, but also by her family and community.

⁹ It must be taken in consideration that Camila, was stigmatized and a victim of harassment by her community and family after the facts of the case became known by them. For that reason, she left her community and migrate to another city.



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The following pages will provide a more detailed description of how Camila's case demonstrates that children's rights in Peru are not guaranteed according to the General Principles on Online Privacy and Freedom of Expression¹⁰.

- a. Children have the right to privacy and the protection of their personal data

In family and community life

The prevalence of sexual violence towards children and teenagers points to the fact that many are not taken care of by their caregivers¹¹, which means that, in many cases, the family's private environment is not a safe space for them. Especially when the adults do not have the relevant information to be able to safeguard the best interest, the right to privacy and protection of personal data of this group, as well as to confront the stereotypes that lead to a stigmatization of girls and adolescents.

As previously mentioned, Camila is just one example of victims of violence in the family environment. This situation shows that the school is a key space to inform children about their rights and to warn them about situations where their rights are violated.

¹⁰ Latest accessed on 09/29/20, available at: [https://www.unicef.org/csr/files/UNICEF_Childrens_Online_Privacy_and_Freedom_of_Expression\(1\).pdf](https://www.unicef.org/csr/files/UNICEF_Childrens_Online_Privacy_and_Freedom_of_Expression(1).pdf)

¹¹ According to the Ministry of Women and Vulnerable Populations, from January to august 2020, in 81,9% of the cases of violence against children there is a family relationship. SHIP. I familiar. Latest accessed on 09/29/20, available in Spanish only: <https://portalestadistico.pe/tipos-de-poblacion-2020/>



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In school

In Camila's case, the person who warned about the situation of sexual violence and forced pregnancy was a schoolteacher. She visited her home so that she could talk to her mother about what had happened. When the facts were confirmed, the family members themselves blamed Camila for what happened. These facts increase the context of psychological violence in which Camila found herself.

Even though Camila is a child, the schoolteacher should have considered her progressive autonomy and evolving capacities. Instead of ignoring her rights and going directly to her relatives. The schoolteacher's approach had a negative outcome to Camila's private family life. This is evident when the teacher is inserted in Camila's housing and community, considering that the right to adequate housing, emphasizing that this also includes the right to live somewhere in security, peace, and dignity¹².

Currently in Peru, the Ministry of Education has guidelines for school coexistence that includes a specific protocol when suspecting and/or detecting a family violence. This protocol aims to prevent major risks a pond the child and safeguard their physical and mental wellbeing.

Integrated support in cases of victims of violence

After filing Camila's rape, it was observed an absolute absence of comprehensive care by both health personnel and judicial officials. This is especially a worrying situation because Camila found herself in a forced pregnancy, even though she constantly expressed that she did not want to be a mother.

¹² According to paragraph 7 of General Comment N° 4 on the right to adequate housing of the Committee on Economic, Social and Cultural Rights. Latest accessed on 09/29/2020, available at: <https://www.refworld.org/docid/47a7079a1.html>

Around the 17th week of pregnancy, Camila suffered a *miscarriage*, which was accredited by the doctor on duty. During this period, including after the miscarriage, health staff harassed Camila, with questions regarding the birth plan, including visits to her home with police personnel.

This disproportionate invasion to her privacy was exacerbated by the fact that Camila lived in a remote, rural community. To the extent that the entire community was aware of the sexual violence she had suffered and the situation of forced pregnancy. This led to accusations and harassment against her, so serious that forced Camila to leave her community.

In the judicial process for the crime of abortion

Camila was later charged with the crime of self-induced abortion. It is important to highlight that in Peru abortion is still punishable, despite the recommendations made by the Committee on the Rights of the Child, which expressly points out the concern for the high rate of teenage pregnancy and recommends the decriminalization of abortion in all circumstances¹³. It should be noted that in Camila's case this recommendation has not been complied with.

It is worth noting that the prosecutor's interference in Camila's private life is constant and her actions are loaded with stereotypes, calling her to testify on more than one occasion, violating her right to a single interview.

It is according to the stereotyped and adult-centered interpretation of the prosecutor regarding Camila's statements in Gesell chamber, that the information was sent to another prosecutor's office to further investigate for the crime of self-induced abortion.

¹³ The Committee on the Rights of the Child, in the Final Observations on the combined fourth and fifth periodic reports of Peru, of March 2, 2016, basis 55 literal "a", expresses concern regarding the high rate of teenage pregnancies, in particular among children in vulnerable and marginalized situations, including children living in poverty, children with low levels of education and indigenous children. Latest accessed on 09/29/20, available at: https://bitinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPER%2fCO%2f4-5&lang=es



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The follow up-process continued with an irregular action, not according to International Law and against Camila's best interest, asking for private information not necessary for the process. Besides medical reports and statements from medical personnel, the prosecutor requested reports on her school performance, the exhumation and necropsy of the remains of the fetus, and even requested a new on site verification of the place where Camila was raped, with her assailant being present.

Regarding the crime of self-induced abortion, when there are indications of a criminal abortion, the obligation and/or responsibility to communicate the facts relies on the medical personnel, who must inform to the competent authority. This was not Camila's case¹⁴.

To make matters worse, the person in charge leaked information related to the case to the media (see Annex N° 2 on the website news of Camila's case). Even though the full name of the victim was not given, the official revealed the name of the community where she lived, of the aggressor and his relationship with the victim. All this collected data, made Camila's personal data easily identifiable, thus violating her right to privacy.

There is concern that the media will publish details such as pictures, address information, and names of people close to victims of violence, exposing children, representing an evident violation of their right to privacy and intimacy, image and protection of personal data.

Likewise, it has been identified that in cases of violence against children, health and justice personnel have disseminated images and/or content corresponding to personal data to the media and/or on their own social networks, despite the fact that this is prohibited by law and that, as public officials, they are subject to a duty of confidentiality.

¹⁴ Article 30 of the General Law of Health. Latest accessed on 09/29/20, available in Spanish only: <http://www.essalud.gob.pe/transparencia/pdf/publicacion/ley26842.pdf>

Article 6 of the new Peruvian Children's Code states that when a child is involved as a victim, perpetrator, participant or witness of an infraction, misdemeanor or crime, his/her identity and/or image it is not to be published through the media¹⁵.

In a report of the Children and Media Group¹⁶, it is pointed out that the rights approach in the informative work implies the recognition and respect for the rights of children in the whole process of the construction of the news. When deciding what and how is going to be reported, who will be the sources, what images will be used, or the terms will be used to describe the facts or name the persons related to the news may protect or violate rights¹⁷.

The instrumentalization of cases of violence, especially by the media, is of great concern. The same report indicates that, of the total news monitored, situations of violence and violation of rights are the central theme of 69.6% of television reports, and 46.8% in the press¹⁸.

¹⁵ New Children's Code. Latest accessed on 09/29/20, available in Spanish only: <https://www.minp.gob.pe/files/direcciones/dga/nuevo-codigo-ninos-adolescentes.pdf>

¹⁶ Group made up of UNICEF, Save The Children, the National Society of Radio and Television, the Office for Children of the Ombudsman's Office, and Action for Children.

¹⁷ Children and Media Group (2018) "Children at the information center. Media monitoring results 2012-2017. Page 29. Latest accessed on 09/29/20, available in Spanish only: <https://www.unicef.org/peru/media/6201/file/Ni%C3%B1as.%20ni%C3%B1os%20y%20adolescentes%20en%20el%20centro%20de%20la%20informaci%C3%B3n.pdf>

¹⁸ The Committee on the Rights of the Child, in the Final Observations on the combined fourth and fifth periodic reports of Peru, of March 2, 2016, basis 37 literal "a", expresses concern regarding the media persist in propagating negative stereotypes of children, in particular adolescents and indigenous and Afro-Peruvian children. Latest accessed on 09/29/20, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPER%2fCO%2f4-5&lang=es



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- b. Children have the right to freedom of expression and access to information from a diversity of sources

In her family and community life

It is part of the right to freedom of expression, to be able to count on and have access to sufficient and appropriate information that allows the child and/or adolescent to form his/her own judgment and from this, be able to express his/her opinion, which must be taken into account by the adults in his/her environment who make decisions that affect them¹⁹.

It should be remembered that part of the right to freedom of expression and access to information from a variety of sources is access to digital technology, which should take into account linguistic diversity, literacy and the capacity of children and adolescents.

In the case of Camila, there were multiple obstacles that prevented her from making this right effective, having grown up in a Quechua-speaking rural community and in a rural and remote area with limited access to different services. Indigenous children, and particularly children and adolescents whose mother tongue is an indigenous language, have less access to telecommunications media such as the Internet²⁰.

These geographical, linguistic, and technological barriers have prevented access to information, since most of the establishments that provide services are in urban areas and are also provided only in Spanish.

¹⁹ The Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue of May 16, 2011, basis 53, states that the right to privacy is essential for individuals to express themselves freely. Latest accessed on 09/29/20, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/132/01/PDF/G1113201.pdf?OpenElement>

²⁰ According to the National Institute of Statistics and Informatics, in 2020 (April, May and June) it is estimated that 65.5% of children in Peru from 6 to 17 years old use the internet. In the case of children in minority languages, the use is 32.8%. Latest accessed on 09/29/20, available in Spanish only: <http://m.inei.gob.pe/media/MenuRecursivo/boletines/03-informe-tecnico-n03-ninez-y-adolescencia-abr-may-jun2020.pdf>

At school and the right to education

Gaps in access to information are bound to be reduced in the school environment, making it more necessary especially in impoverished areas²¹. In Peru, higher poverty rates are observed in all age groups in rural areas, mainly among children and adolescents, where more than 50% are poor²².

Remembering that Camila was in a situation of poverty²³ and the context of lack of protection it implies, the educational content²⁴ needs to be reinforced, especially on topics related to integral sexual education, in attention to the alarmingly high rate of pregnancy in adolescent women and girls.

Comprehensive sexual education and access to differentiated health services are necessary so that children may have available access to counseling services and be able to recognize warnings of sexual violence and know the routes of care for violence.

²¹ The Committee on the Rights of the Child, in the Final Observations on the combined fourth and fifth periodic reports of Peru, of March 2, 2016, basis 13 literal "c", expresses concern regarding the high corruption index in the State party and its negative impact on public resources, including resources allocated for children. Therefore, on its basis 14 literal "a" recommends conducting a comprehensive assessment of budget needs and establish transparent allocations to progressively address the disparities among resources allocated to the various sectors, in particular child protection and participation. Latest accessed on 09/29/20, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPER%2fCO%2f4-5&Lang=es

²² National Institute of Statistics and Informatics (2019) Evolution of Monetary Poverty 2007 - 2018. Page 58. Latest accessed on 09/29/2020, available in Spanish only: https://www.inel.gob.pe/media/MenuRecurso/publicaciones_digitales/Est/Lib1646/libro.pdf

²³ According to the National Institute of Statistics and Informatics, the incidence of poverty is high in the children, since the lack of resources in poor households is usually associated with specific risk situations for this population, such as malnutrition, school dropout or lack of access to medical services. These circumstances can affect the opportunities of children to develop in the future, hence the effects of poverty are difficult to overcome and even become irreversible. National Institute of Statistics and Informatics (2019) Evolution of Monetary Poverty 2007 - 2018. Page 57. Latest accessed on 09-29-2020, available in Spanish only: https://www.inel.gob.pe/media/MenuRecurso/publicaciones_digitales/Est/Lib1646/libro.pdf

²⁴ The Committee on the Rights of the Child, in the Final Observations on the combined fourth and fifth periodic reports of Peru, of March 2, 2016, basis 37 literal "b" expresses concern regarding the access to information for children in minority languages is limited; also on literal "c" expresses that measures taken to ensure access to, and address the risks for children posed by, digital media and information and communications technology are insufficient. Latest accessed on 09/29/20, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPER%2fCO%2f4-5&Lang=es

In this regard, the Peruvian Constitutional Court has pointed out that some of the most important manifestations of the right to health are related to the sexual and reproductive environment, that is, to those properties, among others, that allow men and women to exercise their normal sexual activity and to protect their physical and psychological integrity, self-determination in terms of reproductive possibilities, pre- and post-natal medical care (health care that allows for safe pregnancies and births regardless of social status or geographical location), as well as related to the rights to information and education, rapid and effective access to sex education²⁵.

In the integral attention when being a victim of violence

In the case of Camila, who was in a situation of forced pregnancy, she was not informed in an adequate manner, nor in a timely manner, nor using friendly language appropriate to her age, by the health personnel about the options she had in relation to this situation and was not informed precisely of the possibility of the termination of the pregnancy.

The Criminal Code states that, therapeutic abortion is legal in cases that put the health or life of the pregnant woman at risk. If the pregnant women is under 14 years of age, therapeutic abortion is a possibility given the impact of a forced pregnancy on the girl's physical and mental health. This is justified firstly because the highest mortality rate in young pregnant women is well documented²⁶; and, secondly, because as the minimum age for consent is 14 years old according to article 173 of the Criminal Code (*statutory rape*), any pregnant girl under 14 years of age

²⁵ Case of the Constitutional Court. File N ° 0008-2012-P/TC. Paragraph 85. Judgment of December 12, 2012. Latest accessed on 09-29-2020, available in Spanish only: <https://www.tc.gob.pe/jurisprudencia/2013/00008-2012-AI.html>

²⁶ World Health Organization (2019) Maternal mortality. Latest accessed on 09-29-2020, available in Spanish only: <https://www.who.int/news-room/fact-sheets/detail/maternal-mortality>. And Donoso, E., Carvajal, J., Vera, C. & Poblete, J. (2014). The age of women as a risk factor for maternal, fetal, neonatal, and infant mortality. Medical Journal of Chile. Latest accessed on 09-29-2020, available at: http://translate.google.com/translate?hl=es&sl=en&u=http%3A%2F%2Fscielo.conicyt.cl%2Fscielo.php%3Fscript%3Dsci_arttext%26pid%3D50034-98872014000200004%26lng%3Des%26nm%3Diso%26tng%3Des&sandbox=1



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must be treated under the presumption that she has been a victim of sexual violence, therefore, should receive information about the possibility of accessing to a therapeutic abortion.

The information available shows that these failures in the comprehensive care of victims of violence are not isolated events, especially in the case of girls and female adolescents²⁷. The Ombudsman's Office has warned on several occasions that personnel of health facilities do not deliver immediately and in a timely manner the kit for the attention of cases of sexual violence against children (that in Peru, includes evaluating the victim for a therapeutic abortion), which is indispensable to act on time and avoid forced pregnancies and/or sexually transmitted diseases. In addition, it has noticed deficiencies in the timely attention to the physical and mental health of the person who is the victim of the rape.

This is important in the case of Camila because she repeatedly stated that she did not want to continue with the pregnancy, an opinion that was not taken into account by the health system despite the fact that her physical and mental health was at risk, which was seriously damaged, which shows an absence of understanding of the principle of the best interest of the child.

All this happens, even though since 2014 there is a National Technical Guide for the Standardization of the Procedure of Integral Care of the Interruption of a Pregnancy under 22 weeks with informed consent in the framework of the provisions of article 119 of the Criminal Code²⁸, being an alternative that is considered when it is the only means to save the life of the pregnant woman or to avoid a serious or permanent evil in her health.

²⁷ Ombudsman's Office (2020) Problems in the Attention of cases of child sexual abuse, context of the health emergency caused by COVID-19. Page 21. Latest accessed on 09/29/2020, available in Spanish only: <https://www.defensoria.gob.pe/wp-content/uploads/2020/07/Serie-Informes-Especiales-N%C2%BA-021-2020-DP.pdf>

²⁸ Ministry of Health (2014) Ministerial Resolution N° 486-2014/MINSA. Latest accessed on 09/29/2020, available in Spanish only: https://cdn.www.gob.pe/uploads/document/file/201667/198435_RM486_2014_MINSA.pdf?20180926-32492-1730pgg.pdf



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In the judicial process for the crime of abortion

The Convention on the Rights of the Child states in article 40, paragraph 1, that every child alleged as, accused of, or recognized as having infringed the penal law shall have the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the importance of promoting the child's reintegration and the child's assuming a constructive role in society.

Along the same lines, the Criminal Responsibility of Adolescents Code²⁹, indicates in its article 20 that judges, prosecutors and police personnel have the obligation to inform adolescents about their rights, and that this must be done immediately, understandably, clearly and precise, one of these rights being that no coercive, intimidating or other means are used against your dignity.

The process against Camila for the crime of self-induced abortion is proof that Camila's rights under the Convention on the Rights of the Child have not been respected. In the sense that it was her own statements that were used as a basis for the process.

In the criminal proceedings, Camila was declared an adolescent offender. Her best interest, her right to be heard, was not taken into consideration. On the contrary, the prosecutor used information related to her private life to her detriment. Even though the Convention on the Rights of the Child states that, in the case of children who have violated the criminal law, it must be guaranteed that their privacy is fully respected at all stages of the proceedings. Furthermore, it is of great concern that the filing of a "proceso de amparo" to protect Camila's constitutionally protected rights was declared inadmissible on two occasions. Eventually, the criminal proceedings brought against Camila were dismissed.

²⁹ Criminal Responsibility of Adolescents Code approved by Legislative Decree N° 1348. Latest accessed on 09/29/2020, available in Spanish only: <https://busquedas.elperuano.pe/normaslegales/decreto-legislativo-que-aprueba-el-codigo-de-responsabilidad-decreto-legislativo-n-1348-1471548-8/>



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- c. Children have the right not to be subjected to attacks on their reputation

In their family and community life

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights has pointed out that the right to privacy protects at least four legal assets. One of them, referring to the right to privacy, protects the secrecy of all data produced in that reserved space, that is, it prohibits the disclosure or circulation of the captured information, without the consent of the owner, in that protection space reserved to the person. Furthermore, the protection of privacy protects the right to one's own image³⁰.

Regarding the above mentioned, the Criminal Code³¹ punishes the violation of the right to privacy of personal or family life in its article 154, it also states as aggravating in its article 155, when the violation is made by an official or public servant. Along these lines, article 156 sanctions the disclosure of personal and family privacy. However, this is not considered due to lack of knowledge of the legal framework and because there is no culture of respect for children's rights, especially those related to their privacy and freedom of expression.

In Camila's case, the adults responsible for her care did not tell or share with her information that could guide her in making appropriate decisions to protect her right to privacy. On the contrary, it was members of her family environment who, through discriminatory comments and opinions based on gender stereotypes, attacked her honor and reputation in the spheres of her private life (family, community, school, etc.).

³⁰ Office of the Special Rapporteur on Freedom of Expression of the Organization of American States (2015) Communication to the Permanent Mission of the Republic of Peru to the Organization of American States. Page 3. Latest accessed on 09/29/2020, available in Spanish only: https://hiperderecho.org/wp-content/uploads/2015/09/carta_relator_cdh_lev_stalker.pdf

³¹ Criminal Code (1991) Articles 154, 155 & 156. Latest accessed on 09/29/2020, available in Spanish only: http://spii.minijus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf



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At school and the right to education

Along these lines, it should be noted that the second priority objective of the National Policy on Gender Equality is to strengthen the implementation of comprehensive sex education in the educational system. In addition, it indicates that the individual topics included in comprehensive sex education consider also sexual and reproductive rights; equality between men and women; prevention of sexual violence, among others³².

Law N° 29719 promotes coexistence without violence in educational institutions³³, it indicates the need to assign a psychology professional in each educational institution. Moreover, the teachers and members of the auxiliary staff of the educational institution have the obligation to detect, attend and immediately report to the Institutional Educational Council the acts of violence, intimidation, harassment, discrimination, defamation, any manifestation that constitutes harassment between students.

In 2019, the Ombudsman's Office³⁴ carried out a national supervision of the management of school coexistence, the prevention and attention of violence in educational institutions. In his report, it was noticed that the protocol for dealing with violence among students (on physical and psychological violence and bullying) was the best known, but only by 58% of schools. On the other hand, the protocol for dealing with cases of sexual violence by educational personnel towards students was only known by 43% of the schools. Finally, 43% of schools did not know any protocol.

³² Ministry of Women and Vulnerable Populations (2019) National Gender Equality Policy. Footer 19. Latest accessed on 09/29/2020, available in Spanish only: https://cdn.www.gob.pe/uploads/document/file/305292/ds_008_2019_mimp.pdf

³³ Ley N° 29719, Law that promotes coexistence without violence in educational institutions (2014) Articles 3 & 6. Latest accessed on 09/29/2020, available in Spanish only: https://tutoria.minedu.gob.pe/assets/ley_29719-que_promueva_la_convivencia_sin_violencia_en_las_ie.pdf

³⁴ Ombudsman's Office (2019) National supervision of the management of school coexistence, prevention, and attention to violence in Educational Institutions of Regular Basic Education and Alternative Basic Education Centers. Page 6. Latest accessed on 09/29/2020, available in Spanish only: <https://www.defensoria.gob.pe/wp-content/uploads/2020/01/Informe-de-adjunt%C3%A1Da-CE-2019-ADM.pdf>

The lack of knowledge and promotion of these rights led to continued attacks on the reputation, the right to education, the right not to be subjected to any form of violence, among others, towards Camila. She was bullied at school, so she had to abandon classes because of the hostile environment and school violence. This was corroborated by a psychologist³⁵.

Repeated attacks on her reputation also forced Camila to move to another city with her aunt.

In the integral attention when being a victim of violence

The Convention on the Rights of the Child states in article 19 that states parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. This article has been developed by the Committee on the Rights of the Child in the General comment N° 13 on the right of the child to freedom from all forms of violence³⁶. This Committee has expressed concerns and recommendations regarding gender and patriarchal stereotypes that harm girls to a greater extent³⁷.

³⁵ The Committee on the Rights of the Child, in the Final Observations on the combined fourth and fifth periodic reports of Peru, of March 2, 2016, basis 40, recommends that the State party ensure effective implementation of the new law and strengthen its efforts to raise awareness on the harmful effects, both physical and psychological, of corporal punishment and promote positive, non-violent and participatory forms of childrearing and discipline. The State party should also provide training to principals, teachers and other persons working with and for children in order to ensure that they can identify and provide adequate support for child victims of corporal punishment. Latest accessed on 09/29/20, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPER%2fCO%2f4-5&lang=es

³⁶ Committee on the Rights of the Child (2011) General comment N° 13 on the right of the child to freedom from all forms of violence. Latest accessed on 09/29/20, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f13&lang=en forma de violencia. Disponible en: <https://www.acnur.org/fileadmin/Documentos/BDL/2012/8603.pdf>

³⁷ The Committee on the Rights of the Child, in the Final Observations on the combined fourth and fifth periodic reports of Peru, of March 2, 2016, basis 27, literal "a", points out the concern about the persistence of patriarchal attitudes and deep-rooted stereotypes that discriminate against girls, resulting in a high prevalence of violence against girls. Therefore, recommends to design

From the above, there is evidence that Camila did not receive comprehensive care when she was a victim of violence, especially from health personnel.

On constant occasions medical personnel harassed Camila under the pretext of her prenatal control. Even the company of police personnel improperly disclosed medical history information, thereby violating Camila's right to privacy. As has been noted, this led to finger pointing, taunting and harassment of Camila, which caused further damage to her mental health.

Consequently, this appearance has been irregular, insofar as it does not conform to any norm. This led to a complaint, as it was a form of intimidation and coercion against Camila.

In the judicial process for the crime of abortion

The Convention on the Rights of the Child states in article 16 that no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, or correspondence, nor to unlawful attacks on her honor and reputation. In the same vein, article 11 of the American Convention on Human Rights

and implement a comprehensive strategy, including awarenessraising programmes and educational campaigns, to eliminate patriarchal attitudes and gender stereotypes that discriminate against girls. Latest accessed on 09/29/20, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPER%2fCO%2f4-5&lang=es

In addition, the Committee on the Rights of the Child has pointed out that States should implement the Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime; confidentiality and privacy should be respected; and children should be informed about progress at all stages of the process, giving due weight to the child's maturity and any speech, language or communication difficulties he or she may have³⁸.

Law N° 30364³⁹, Law to Prevent, Punish and Eradicate Violence against Women and household members, states in its 10th article on the right to assistance and comprehensive protection that it is the duty of the Peruvian National Police, the Public Prosecutor's Office, the Judiciary and all justice operators to inform, under responsibility, with professionalism, impartiality and in strict respect of the victim's right to privacy and confidentiality, about his or her rights and the mechanism. Article 9.2 of the regulations of the same law⁴⁰ states that, in the case of children and adolescents involved in processes of violence, due reservation must be made regarding their identity.

Information regarding children who experience spontaneous abortions should not be communicated by health personnel to the authorities (police and prosecutors) by virtue of article 30 of the General Law of Health, with the aim of being prosecuted for the crime of self-induced abortion, which may violate the right to privacy and the privilege of doctor-patient confidentiality.

Sometimes, authorities investigating a given case, transfer information without respecting the privacy of the children data.

The judicial process for the crime of abortion against Camila, and the irregularities in it, give rise to arbitrary interference in her private life. And as described in these pages, it has led to attacks on her reputation, which in turn has damaged her right to life, survival, and development.

³⁸ Committee on the Rights of the Child (2013) General comment N° 16 on State obligations regarding the impact of the business sector on children's rights. Latest accessed on 09-29-2020, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f16&Lang=en

³⁹ Law N° 30364, Law to Prevent, Punish and Eradicate Violence against Women and household members. Latest accessed on 09/29/2020, available in Spanish only: <https://busquedas.elperuano.pe/normaslegales/ley-para-prevenir-sancionar-y-erradicar-la-violencia-contra-ley-n-30364-1314999-1/>

⁴⁰ Regulation of law approved by Supreme Decree N° 009-2016-MIMP. Latest accessed on 09/29/20, available in Spanish only: <https://busquedas.elperuano.pe/download/uri/decreto-supremo-que-aprueba-el-reglamento-de-la-ley-n-30364-decreto-supremo-n-009-2016-mimp-1409577-10>



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- d. Children's rights to privacy and freedom of expression should be protected and respected in accordance with their evolving capacities

In their family and community life

The Inter-American Court of Human Rights has pointed out in relation to children and teenagers that, because of their level of development and vulnerability, they require protection that guarantees the exercise of their rights within the family, society and with respect to the State. In this sense, the actions of the State and society in what regarding the protection of children and the promotion and preservation of their rights⁴¹.

The facts described in Camila's case show that her right to privacy and freedom of expression was not protected either in her family and community environment or by State agents. On the contrary, the actions carried out to date represent a constant violation of her rights.

The stigmas that exist around children tend to attribute a negative category to this group. This makes invisible the development of the progressive autonomy of children and adolescents and their capacities during the first 18 years of life. It is the State's obligation to be able to guarantee the availability of accessible information in their language so that they can form their opinions and make decisions in accordance with their evolving capacities.

For this reason, OAS Special Rapporteur for Freedom of Expression has also pointed out that the right to privacy protects the right to govern oneself, in that space of solitude, by one's own rules defined autonomously according to one's individual life project.

⁴¹ Inter-American Court of Human Rights (2014) Case of Veliz Franco et al. V. Guatemala. Judgment of May 19, 2014. Paragraph 133. Latest accessed on 09/29/2020, available in Spanish only: https://www.corteidh.or.cr/docs/Cases/articulos/seriec_277_esp.pdf



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In the school and their right to education

According to the Inter-American Court of Human Rights, the special measures for the protection of children and among the rights recognized to them in article 19 of the American Convention, the right to education figures prominently, which favors the possibility of enjoying a dignified life and contributes to preventing unfavorable situations for children and society itself⁴².

Camila's lack of protection of her right to education, by virtue of her right to privacy and freedom of expression, ended up by her dropping out of school, and moving to another school in a different city. This dropout was motivated by the situation of the forced pregnancy and by the school violence she was victim of after the facts of the case were disclosed. It should be remembered that this had a negative impact on mental health and integral development.

The Ombudsman's Office⁴³ has identified deficiencies in the compliance with the Protocols for the attention of violence against children and adolescents of the Guidelines for the Management of School Coexistence, Prevention and Attention to Violence against Children and Adolescents. It has noted its concern about the limited dissemination of the rules of coexistence to inform students with disabilities or who use a native language about their content.

Furthermore, it should be considered that Camila's poverty situation made it difficult not only to find adequate housing after the violence, but also to reintegrate into school.

⁴² Advisory Opinion OC-17/02 (2002). Juridical Condition and Human Rights of the Child. August 28, 2002, requested by the Inter-American Commission on Human Rights. Paragraph 84. Latest accessed on 09/29/2020, available at: https://www.corteidh.or.cr/docs/opiniones/seriea_17_ing.pdf

⁴³ Office of the Ombudsman (2019) Report of the Ombudsman for Child and Youth N° 01-2019-DP/ANA. Latest accessed on 09/29/2020, available in Spanish only: <https://www.defensoria.gob.pe/wp-content/uploads/2020/01/Informe-de-adjunt%C3%A1Da-CE-2019-ADM.pdf>



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In the integral attention of being a victim of violence

The Inter-American Court of Human Rights⁴⁴ has pointed out that essential components of the duty of enhanced due diligence and special protection imply that the justice system adapted to children and adolescents must guarantee accessible justice that takes into account not only the principle of the best interest, but also their right to participation based on their constantly evolving capacities, in accordance with their age, degree of maturity and level of understanding, without any discrimination.

Particularly, concerns that in the context of the COVID-19 pandemic, a series of deficiencies in dealing with cases of violence have been warned through a report by the Ombudsman's Office⁴⁵. For example, the delay in the communication of the police to the family courts, the delay in the issuance of protection measures by said courts, or the failure to require coercive measures against the aggressor by the Prosecutor's Office; in addition, the failure to deliver the kit for care in cases of rape by the Ministry of Health, which revictimizes affected children.

In short, the integral health care that Camila received from the health personnel implied a context of revictimization and not consideration of her superior interest and right to be heard (principle of participation) due to the development of her autonomy. It has been pointed out that the harassment she received also implied a violation of her right to privacy and confidentiality of health information. For that reason, the girl had to leave school and later move to another city to live with her aunt.

⁴⁴ Inter-American Court of Human Rights (2018) Case of V.R.P., V.P.C. et. al. v. Nicaragua. Judgment of March 8, 2018. Paragraph 158. Latest accessed on 09/29/2020, available in Spanish only: https://www.corteidh.or.cr/docs/articulos/seriec_350_esp.pdf

⁴⁵ Ombudsman's Office (2020) Problems in the Attention of cases of child sexual abuse in the context of the health emergency caused by COVID-19. Special Reports Series N ° 021-2020-DP. Available at: <https://www.defensoria.gob.pe/wp-content/uploads/2020/07/Serie-Informes-Especiales-N%C2%BA-021-2020-DP.pdf>



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In the judicial process of the crime of abortion

The Inter-American Court of Human Rights⁴⁶ points out that the participation of child and adolescent victims of crimes in a criminal process may be necessary to contribute to the effective development of that process, especially when there are no other witnesses to the commission of the crime. However, it also points out that to conceive such participation only in terms of the evidence they can provide does not respond to their status as subjects of law, since they should be entitled to act in their own interest as participants in the process. To this end, it is necessary that the child or adolescent be provided, from the beginning of the process and throughout its duration, with information regarding its procedure, as well as the legal assistance, health and other protection measures available.

As it has been reported in this communication, the protection of Camila's right to privacy, the observance of her best interest, participation and access to information accessible in a friendly language and in her original language, has not been fulfilled.

There is concern about the re-victimization of girls and female adolescents when they are prosecuted for the crime of abortion. It has been identified that during the years 2015 to 2018 the Public Ministry promoted 961 complaints for auto-abortion in Peru, taking 312 to court. However, there is no available data disaggregated by age (see Annex N° 3 on request for information on complaints to children for the crime of self-induced abortion), since this scenario is more detrimental to the right to life, survival and development of girls and female adolescents, since they are in a more vulnerable situation⁴⁷.

⁴⁶ Inter-American Court of Human Rights (2018) Case of V.R.P., V.P.C. et. al. v. Nicaragua. Judgment of March 8, 2018. Paragraph 160. Latest accessed on 09/29/2020, available in Spanish only: https://www.corteidh.or.cr/docs/cases/articulos/seriec_350_esp.pdf

⁴⁷ Ojo Público (2019) Abortion in Peru: when victim and relatives are taken to jail. Latest accessed on 09/29/2020, available in Spanish only: <https://ojo-publico.com/1411/abortar-en-peru-victima-y-familiares-son-llevados-carcel>

- e. Children have the right to access remedies for violations and abuses of their rights to privacy and freedom of expression, and attacks on their reputation.

In their family and community life

The protection of the right to privacy and freedom of expression also implies the availability and accessibility of legal mechanisms to which one can turn in the face of interference and attacks on one's reputation⁴⁸.

The Committee on the Rights of the Child⁴⁹ has pointed out that effective remedies must be available to redress violations of the rights of children and adolescents. It also points out that, the special and dependent situation of children creates real difficulties for them when children want to file remedies for the violation of their rights. Therefore, States should particularly seek to achieve that children and their representatives have access to effective procedures that are child sensitive.

In the case of Camila, during the years she was a victim of sexual violence, she did not have available and accessible information to be able to report to the competent authorities. It should be remembered that it is not necessary for a child or adolescent to have an adult present to report acts of violence. In this circumstance, police personnel must guarantee their safety until the protection measure is issued⁵⁰.

⁴⁸ The Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue of May 16, 2011, basis 57. Latest accessed on 09/29/20, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/132/01/PDF/G1113201.pdf?OpenElement>

⁴⁹ Committee on the Rights of the Child (2003) General Comment N° 5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) Paragraph 24. Latest accessed on 09/29/2020, available at: https://tinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f5&Lang=en

⁵⁰ National Police of Peru (2016) Procedures Guide for the Intervention of the National Police within the framework of Law N° 30364, Law to prevent, punish and eradicate violence against women and household members and its regulations. Latest accessed on 09/29/2020, available in Spanish only: <https://repositorio.pncv.fis.pe/?product=guia.png>



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At school and the right to education

The Committee on the Rights of the Child⁵¹ has pointed out that sectoral national plans of action, for example, for education and health, which set out specific objectives, should provide for targeted implementation measures and should be provided with financial and human resources.

In Camila's school, it was not until the pregnancy resulting from the rape that she was warned that she was a victim of violence. In this regard, a strategic objective of the National Plan of Action for Children - PNAlA⁵² is the reduction of the number of children and adolescents who are victims of family and school violence.

It is worrying that the changes in Camila's behavior during these years were not noticed or detected and that this could not be noticed by the teaching staff. In this sense, it is necessary to have an integral sexual education, as the Committee on the Rights of the Child has recommended. This must not be directed only towards children, but also to adults responsible of the care and all people who work with children⁵³.

In the integral attention when being a victim of violence

According to the Committee on the Rights of the Child⁵⁴, in the case of indigenous children, measures should be taken to ensure that an interpreter is provided free of charge if required and that the child is guaranteed legal assistance, in a culturally sensitive manner. In addition,

⁵¹ Committee on the Rights of the Child (2003) General Comment N° 5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) Paragraph 32-33. Latest accessed on 09/29/2020, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CR%2fGC%2f2003%2f5&lang=en

⁵² Ministry of Women and Vulnerable Populations (2012) National Plan of Action for Children and Youth 2012 - 2021. Page 62. Latest accessed on 09/29/2020, available in Spanish only: https://www.mimp.gob.pe/files/planes/Plan_Nacional_PNAIA_2012_2021.pdf

⁵³ Family members, teachers, prosecutors, lawyers, police members, medical staff, journalists, etc.

⁵⁴ Committee on the Rights of the Child (2009) General Comment N° 11 General Indigenous children and their rights under the Convention. Paragraph 76. Latest accessed on 09/29/2020, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CR%2fGC%2f2009%2f11&lang=en

where rights are found to have been breached, effective remedies must be available to redress violations. There should be appropriate reparation and compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation, and reintegration⁵⁵. In the case of Camila, access to legal mechanisms after being a victim of violence and in the face of abuses related to her right to privacy, The procedures carried out in response to the irregularities and the violation of their rights were not effective. Camila did not receive prompt responses to the complaints filed or clarification about the decisions taken that affected her. Thus, all internal resources were exhausted.

In the judicial process for the crime of abortion

The Convention on the Rights of the Child, in article 12, paragraph 2, states that every child alleged as, accused of, or recognized as having infringed the penal law has the right to be heard.

According to the Committee on the Rights of the Child⁵⁶, this right has to be fully observed during all stages of the judicial process, from the pre-trial stage, when the child has the right to remain silent, to the right to be heard by the police, the prosecutor and the investigating judge. It also applicable at the the stages of adjudication and disposition, as well as implementation of the imposed measures.

Furthermore, article 40, paragraph 3, of the Convention on the Rights of the Child provides that States parties should seek to promote, inter alia, the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law. In Peru, the minimum age is 14 years old. This means children who commit an offence at an age below 14 years old cannot be held responsible in a penal law

⁵⁵ Committee on the Rights of the Child (2003) General Comment N° 5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) Paragraph 24. Latest accessed on 09/29/2020, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f5&lang=en

⁵⁶ Committee on the Rights of the Child (2009) General Comment N° 12. The right of the child to be heard Paragraph 58. Latest accessed on 09/29/2020, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f12&lang=en

procedure⁵⁷. Thus, the new Children's Code states that until that age, no criminal sanctions are applied but rather protective measures, which may include restrictions on some of their rights, treatment for rehabilitation and/or modification of their living conditions⁵⁸.

The judicial process against Camila for the crime of self-induced abortion has not only implied a prejudice to her right to access legal mechanisms against violations and abuses of her rights to privacy and freedom of expression, and attacks on her reputation, but also to other rights set forth in the Convention on the Rights of the Child related to her best interest, right to be heard, and to the administration of justice for children and adolescents, among others.

IV. Conclusions

Although the Peruvian legal framework incorporates consideration of the principle of the best interests of the child in relation to the right to privacy and freedom of expression, this is not fulfilled in the actions of the State.

In this communication it has been made clear that this particularly affects the right to privacy of children, and that this is related to the violation of other human rights.

It should be taken into consideration that Camila's case is not isolated but reflects a general situation, since the high rates of violence against children have been constant during the COVID-19 pandemic. In this context, between January and September 2020, more than 33,000 births

⁵⁷ Committee on the Rights of the Child (2007) General Comment N° 10. Children's rights in juvenile justice. Paragraph 31. Latest accessed on 09/29/2020, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2F%21GC%2110&Lang=en

⁵⁸ Criminal Responsibility of Adolescents Code approved by Legislative Decree N° 1348. Latest accessed on 09/29/2020, available in Spanish only: <https://busquedas.elperuano.pe/normaslegales/decreto-legislativo-que-aprueba-el-codigo-de-responsabilidad-decreto-legislativo-n-1348-1471548-8/>



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have been attended in Peru where the mother was a teenager or a child, according to the Ministry of Health's Living Birth Certificate Registry⁵⁹. It is particularly worrisome that 20 girls under 10 years old have forced to become mothers between January and September of 2020.

All this makes it necessary to strengthen the comprehensive care of children victims of violence and, to train the staff of all sectors, both private and public, in the protection of the rights of children and adolescents.

The Camila case is an example of how in Peru, children in vulnerable situations, particularly indigenous children and victims of sexual violence, see their rights unprotected and violated in their access to State services, such as education, health and access to justice.

⁵⁹ Ojo Público (2020) Child Mothers: the emergency suspended by the pandemic. Latest accessed on 09/29/2020, available in Spanish only: <https://ojo-publico.com/2139/ninas-madres-la-emergencia-suspendida-por-la-pandemia>

V. Appendices

Appendix N° 1 National and international legal framework for the right to privacy

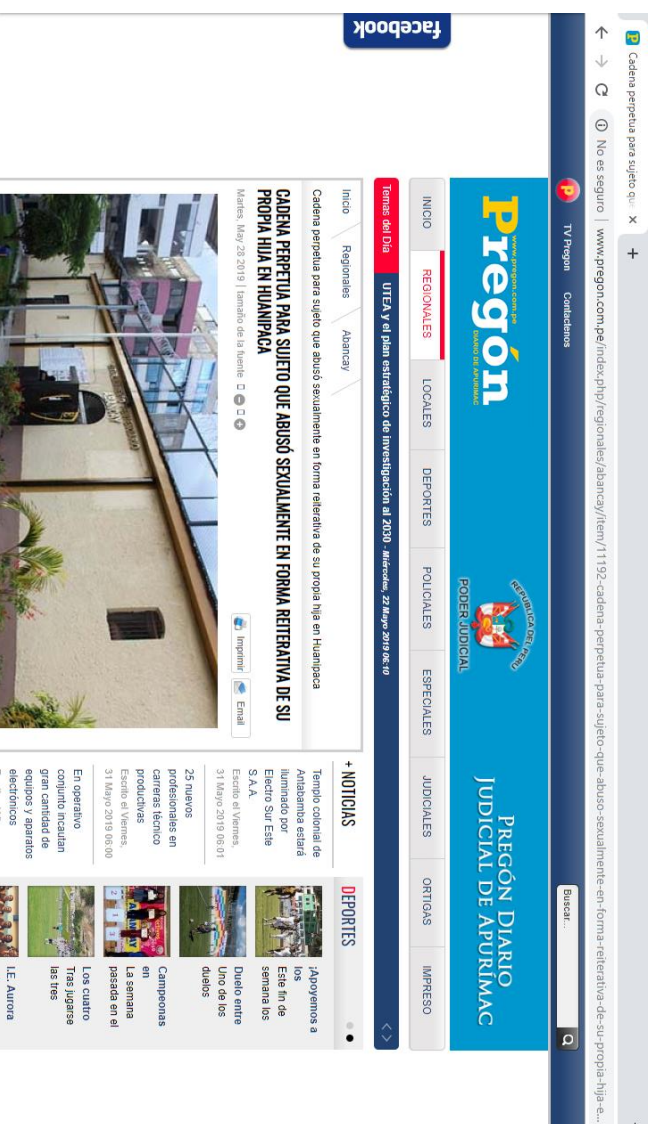
Source	Articles
International Covenant on Civil and Political Rights (1966)	Article 17 (Privacy / Privacy) Article 19 (Participation) Article 25 (Health)
International Covenant on Economic, Social and Cultural Rights (1966)	Article 11 (Adequate Housing) Article 12 (Enjoy the highest attainable standard of health) Article 13 and 15 (Participation)
American Convention on Human Rights (1969)	Article 8 (Right to a Fair Trial) Article 11 (Privacy) Article 23 (To Participate in Government)
Convention on the Rights of the Child (1989)	Article 8.e (Protection of privacy and identity in criminal proceedings) Article 12 (Right to be heard and are enabled to participate in all matters affecting them) Article 13 (Freedom of expression) Article 17 (Access to information) Article 12 (Highest attainable standard of health)
International	

National	Indigenous and Tribal Peoples Convention – International Labour Organization (1989)	Article 22 (Vulnerability)
	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)	Article 14 (no migrant worker or family member of yours will be subjected to arbitrary or illegal interference in your private life)
	Political Constitution of Peru (1993)	Article 2.6 (Failure to supply information that affects personal and family privacy), Article 2.7 (Honor, good reputation, personal and family privacy, voice, and image) Article 2.17 (Participation) Article 7 (Health)
	Civil Code (1984)	Article 14 (Personal and family privacy) Article 15 (Image and voice) Article 16 (Confidentiality of correspondence and other communications)
	Criminal Code (191)	Article 135.2 (Inadmissibility of evidence on any charge that regarding to personal and family privacy, or a crime of violation of sexual freedom) Article 154 (Violation of privacy) Article 155 (Aggravating by reason of the function) Article 156 (Disclosure of personal and family privacy)
	Children's Code (2000)	Article 21 (Comprehensive health care)

Criminal Responsibility of Adolescents Code (2017)		Article 190 (Principle of confidentiality and reservation of the process, regarding to adolescent offenders)
		Article XIII (Approaches for the application of the Code: gender, rights, interculturality, restorative, disability)
		Artículo 20 (Obligations of judges, prosecutors, and police to inform on the rights of adolescents)
	Law N° 30364, Law to Prevent, Punish and Eradicate Violence against Women household members (2015)	Article 2.2 (Best interests of child) Article 10 (Right to assistance and comprehensive protection) Article 19 (Statement and single interview)
Law N° 30466, Law that establishes procedural parameters and guarantees for the primary consideration of the Best Interest of the Child (2016)		Article 2 (Best interests of the child, as a right, principle, and rule of procedure) Article 4 (Procedural guarantees) Section 4.1. (Express opinion) Section 4.2. (Determination of the facts with the participation of trained professionals) Section 4.4. (Participation of qualified professionals) Article 5 (Grounds for the decision)
		Article 15 (Rights of the user of health services)
	Law N° 26842, General Law of Health (1997)	Article 120 (Information on health matters is in the public domain, except that which may affect personal and family privacy or self-image, etc.)

	Ministerial Resolution N° 486-2014/MINSA, that approves the “National Technical Guide for the standardization of the procedure of the Comprehensive Care of the pregnant woman in the Voluntary Interruption by Therapeutic Indication of the Pregnancy under 22 weeks with informed consent within the framework of the provided in article 119 of the Penal Code (2014)	Article 6.1.11. Any other maternal pathology that puts the life of the pregnant woman at risk or generates a serious and permanent illness in her health, duly supported by the Medical Board. Article 6.5 (Information and guidance / counseling, which considers respect for dignity, privacy, and confidentiality)
	Law N° 29719, Law that promotes coexistence without violence in educational institutions (2011)	Article 8.2.4. (Participation of children)
	Administrative Resolution N° 277-2019-CE-PJ, Single Interview Protocol for Children in Gesell Chamber (2019)	Article 2.3.3. (Confidentiality) Article 2.3.8. (Intimacy and privacy) Article. 2.3.11. (Participation and the right to be heard)

Appendix N ° 2 Web news on the case of Camila



Screenshot of the web new

On may 28, 2019, an article published on the local newspaper “Pregón” (Apurímac), contained information regarding the rape case of Camila, both on its printed version and in the digital version⁶⁰, using unauthorized information given by the the Prosecutor.

⁶⁰ Article in the web version of the newspaper. Latest accessed on 05/29/2019, available in Spanish only: <http://www.pregon.com.pe/index.php/regionales/abancay/item/11192-cadena-perpetua-para-sujeto-que-abuso-sexualmente-en-forma-reiterativa-de-su-propia-hija-e...>



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The article stated:

LIFE SENTENCE FOR MAN WHO CONTINUOUSLY SEXUALLY ABUSED HIS OWN DAUGHTER IN HUANIPACA
Tuesday, May 28, 2019

The First Office of the Second Provincial Criminal Corporate Prosecutor's Office of Abancay, has managed to obtain a life sentence for Julio Solís Gonzales, for the crime of rape of a minor under 13 years old, to the detriment of his own daughter, for events that occurred on September 2017, at the sector known as Pacpiri, District of Huainipaca, Abancay Apurímac, being that, the accused used a handkerchief with an unknown substance at the height of the girl's nose and mouth until she fainted, then continued to sexually abused repeatedly the minor, who later became pregnant.

The prosecutorial investigation and support of the oral trial were overseen by the Provincial Deputy Prosecutor, Diana Beatriz Arcaya Pancca, who in oral trial supported her theory of the case, managing to demonstrate the criminal responsibility of the accused.

The Collegiate Criminal Court of Abancay, sentenced on May 7, 2019, and fully announced on May 17, 2019, declared Julio Solís Gonzales guilty of the crime of Rape of a Minor under 13 years, provided for in article 173 numeral 2) of the Criminal Code, with the aggravation of the last paragraph of the given article imposing a life sentence effective immediately, the accused is already in preventive detention in the Abancay Penitentiary Establishment, the sentence included a civil compensation of fifty thousand Peruvian soles⁶¹ in favor of the injured minor.

⁶¹ Approximately, 14 000 US dollars.



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As can be noticed, the article presents detailed information of the case, as well as the identity of the accused, who can be easily associated to Camila. Currently, the article has been withdrawn and is no longer available online.



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Appendix N° 3 on request for information on complaints to children for the crime of self-induced abortion



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OFICINA CENTRAL DE PLANIFICACIÓN Y PRESUPUESTO
OFICINA DE RACIONALIZACIÓN Y ESTADÍSTICA

Lima, 20 FEB 2018

OFICIO N° 0125 -2018-MP-FN-GG-OCPLA/P03 C/P-18- 22446.

Señor Doctor

MIGUEL ANGEL VEGAS VACCARO

Presidente de la Junta de Fiscales Superiores
Distrito Fiscal de Lima.

Presente.-

ASUNTO : Solicitud de transparencia

REF : Oficio N° 2044-2018-PJ-FS/DL-MP-FN



Tengo el agrado de dirigirme a usted, con el fin de saludarlo cordialmente y dar respuesta al documento de la referencia, mediante el cual solicita información sobre el número de denuncias registradas en las fiscalías provinciales de familia y mixtas contra adolescentes de 18 años de edad por infracción a la ley penal, durante los años 2016 y 2017 en cada distrito fiscal a nivel nacional.

Al respecto informarle, que no se cuenta información desagregada por grupos de edad es por ello, que se remite al presente la información estadística disponible, la misma que ha sido elaborada en base a los reportes obtenidos del Sistema de Información de Apoyo Fiscal – SI-AFT.

Sin otro particular, hago propia la oportunidad para reiterarle los sentimientos de mi especial consideración y estima.

Atentamente,

Erick Pedro María Chambliz Díaz
Gerente Central
Oficina Central de Planificación y Presupuesto

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Screenshot of the Public Ministry's response (Prosecutor's Office)

The response of the Public Ministry (prosecutor's office) states:

SUBJECT: Request for transparency

Reference: Official Letter N ° 2044-2018-PJFS/DFL-MP-FN

I have the pleasure of writing to you, in order to greet you cordially and respond to the referenced document, through which you request information regarding the number of registered complaints in the provincial family and mixed prosecutor's offices against adolescents of 18 years old by violation of criminal law violations, between years 2016 and 2017 in each fiscal district nationwide.

In this regard, I must inform you that there is no information by age groups, which is why I'm sending you the available statistical information⁶², it has been prepared based on the reports given by the Prosecutors Support Information System - SIAFT.

Without further ado, I take the opportunity to reiterate my special consideration and esteem.

⁶² The information provided by the Public Ministry (Prosecutor's office) states that in 2016, 113 cases were registered for the crime of self-induced abortion and, in 2017, 174 cases were registered.