FROM: PROMSEX
TO: United Nations Office of the High Commissioner for Human Rights
DATE: 30 September 2020
SUBJECT: Call for contributions: Privacy and Children

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

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

III. Privacy from a multiple perspective: The Camila case.

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   d. Children have the right to freedom of expression and access to information from a diversity of sources.
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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 caregivers. This vulnerability 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 opinion and the best interests of the child.

In Peru, there are serious deficiencies in preventing and addressing violence. Girls and female adolescents are the main victims of situations of violence, specifically sexual violence. In that sense, in the context of poverty, the difficulties to access services related to the attention of violence and specially sexual violence, in that sense, in the contexts of poverty, the difficulties to access services related to the attention of violence and sexuality, and 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 opinion and the best interests of the child.

To guarantee 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.

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...
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 appropriate investigation, punishment and reparation.

It should be noted that the protection of the right to privacy is fundamental to prevent situations that re-victimize this vulnerable group, ensuring comprehensive care of victims, as well as appropriate investigation, punishment and reparation.

Moreover, in its domestic legislation, Peru has developed a legal framework that protects these rights (see Appendix N° 1 on the applicable legal framework). The Convention on the Rights of the Child (article 12), the American Convention on Human Rights (article 17), and the Covenant on Civil and Political Rights (article 21) recognize the right to privacy, personal and family privacy, voice, and image. In addition, the Convention on the Right to Privacy of Children and Adolescents in 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 17), and the Convention on the Rights of the Child (article 21).

The child (article 18).
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 violence, Law N° 30364, Law to Prevent, Punish and Eradicate Violence against Women and household members by 2015, was enacted, and its regulation 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 preconceptions of their community, for that reason it stresses the need 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 2016.

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/Add.2), of March 2, 2016, basis 55 literal “b”, indicated that they contribute to watch over the personal integrity of the victim and not to expose them to the judgments and/or preconceptions of their community, for that reason it stresses the need to emphasize that, under responsibility, the operators must have strict respect for the victim's right to privacy, confidentiality, and a dignified treatment.

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The right to confidentiality of correspondence and other communications.

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 personal and family privacy, Article 17 the right to protect and safeguard the right to voice and image protection, and Article 18 the right to personal and family privacy.
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 mobility. 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 pregnancy for being 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 mobility. 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 mobility. 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 mobility.

Next to the 17th week of her pregnancy, Camila suffered a miscarriage. Following this event, accredited by a doctor, she was criminally prosecuted. 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. Her right to privacy and freedom of expression was seriously violated during her access to the health and justice system in various ways.

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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 Expression.

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

According to the General Principles on Online Privacy and Freedom of Expression:

- Children have the right to privacy and the protection of their personal data. This information is to be safeguarded the best interests of the right to privacy and protection of personal data of this group, as well as to counter the stereotypes that lead to a stigmatization of girls and adolescents.

  - 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 caregivers, which means that, in many cases, the family’s private environment is not a safe place 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 counter the stereotypes that lead to the stigmatization of girls and adolescents.

  - Key space to inform children about their rights and to warn them about situations where their rights are violated.
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. She visited her home to be a mother.

Especially a worrying situation because Camila found herself in a forced pregnancy, even though she constantly expressed that she did not want to fall pregnant. After filing Camila’s rape, it was observed an absolute absence of comprehensive care by both health personnel and judicial officials. This is evident when the teacher is inserted in Camila’s housing and community, considering that the right to adequate housing, emphasizes that this also includes the right to live somewhere in security, peace, and dignity.

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

Integrated support in cases of victims of violence

For what happened, the facts increase the context of psychological violence in which Camila found herself.

In Camila’s case, the person who warned about the situation of sexual violence and forced pregnancy was a schoolteacher. She visited her home with the report of the facts.
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 circumstances, including children in poverty, children with low levels of education and indigenous children, living in vulnerable and marginalized situations. The Committee on the Rights of the Child, in its Final Observations on the combined fourth and fifth periodic reports of Peru, of March 2, 2016, basis 55 literal “e,” expresses concern regarding the disproportionate invasion to her privacy, calling her to testify on more than one occasion, violating her right to a single interview. 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 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.

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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 case.

To make matters worse, the person in charge leaked information related to the case to the media (see Annex No. 2 on the website news of Camila's case).

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

Public officials, they are subject to a duty of confidentiality, 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 evidenced, has been identified that in cases of violence against children, health and justice personnel have disseminated images and/or content exposing children, representing an evident violation of their right to privacy and intimacy, image and protection of personal data.

In this 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's name, and his relationship with the victim. All this collected data, made Camila's personal data easily identifiable, thus violating her right to privacy.

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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 is not to be published through the media.

In a report of the Children and Media Group, 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 rights.

The instrumentalization of cases of violence, especially by the media, is of great concern. 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, 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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Children have the right to freedom of expression and access to information from a diversity of sources in her family and community life.

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 him/her.

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. It is essential for individuals to express their views and opinions, and for this right to be effective, having grown up in a Quechua-speaking community and in a rural area, Camila and her family and community have faced multiple obstacles that prevented her from making her right to freedom of expression 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 Internet.

According to the National Institute of Statistics and Informatics, in 2020 (April, May and June), it is estimated that 82.9% of children in Peru from 6 to 17 years old use the Internet. In the case of Camila, who grew up in a Quechua-speaking rural community and in a rural and remote area with limited access to different services, she has had less access to telecommunications media such as the Internet.

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 him/her, according to the National Institute of Statistics and Informatics, in 2020 (April, May and June), it is estimated that 82.9% of children in Peru from 6 to 17 years old use the Internet. In the case of Camila, who grew up in a Quechua-speaking rural community and in a rural and remote area with limited access to different services, she has had less access to telecommunications media such as the Internet.


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, having grown up in a Quechua-speaking rural community and in a rural and remote area with limited access to different services, she has had less access to telecommunications media such as the Internet.

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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 areas.

In Peru, higher poverty rates are observed in all age groups in rural areas, mainly among children and adolescents, where more than 50% are poor.

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

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.

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.

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

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 7 literal "a", 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.
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, as well as related sexual activity and protection of their physical and psychological integrity.


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 documented; and, secondly, because as the minimum age for consent is 14 years old according to article 173 of the Criminal Code, any pregnant girl under 14 years of age is 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 of the options she had in relation to this situation and was not informed precisely of the possibility of the termination of the pregnancy.

In the integral attention when being a victim of violence
must be treated under the presumption that she has been a victim of sexual violence, therefore, should receive information about the possibility of accessing 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 adolescents. 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 the immediate and in a timely manner the kit for the attention of cases of sexual violence against children. 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 adolescents.

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.

In addition, it has noticed deficiencies in the timely attention to the physical and mental health of the person who is the victim of rape. The information available in Spanish only:


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 maturity. 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.

Along the same lines, the Criminal Responsibility of Adolescents Code approved by Legislative Decree No. 1348. Latest accessed on 09/29/2020, available in Spanish only: [http://busquedas.elperuano.pe/normaslegales/decreto-legislativo-que-aprueba-el-codigo-de-responsabilidad-decreto-legislativo-n-1348-1471548-8/]

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.

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The importance of promoting the child’s participation and the child’s assumption of a constructive role in society, 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 maturity, are recognized as having

In the judicial process for the crime of abortion
Children have the right not to be subjected to attacks on their reputation in their family and community life.

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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 others.

Law N° 29719 promotes coexistence without violence in educational institutions, 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, among others.

In 2019, the Ombudsman’s Office carried out a national supervision of the management of school coexistence, prevention, and attention to violence in educational institutions. In this report, it was noticed that the protocol for dealing with cases of sexual violence by educational personnel towards students was only known by 43% of schools. Finally, 43% of schools did not know any protocol for dealing with cases of psychological violence and bullying. The absence of these protocols was only known by 58% of schools. On the other hand, the protocol for dealing with cases of violence in educational institutions is the best known, but only by 43% of schools. On physical and psychological violence between students (on physical and psychological violence). In 2019, the Ombudsman’s Office carried out a national supervision of the management of school coexistence, the prevention and attention of harassment between students, sexual violence by educational personnel towards students was only known by 43% of schools. Finally, 43% of schools did not know any protocol for dealing with cases of psychological violence and bullying. The absence of these protocols was only known 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 schools. Finally, 43% of schools did not know any protocol for dealing with cases of psychological violence and bullying. The absence of these protocols was only known by 58% of schools. On the other hand, the protocol for dealing with cases of psychological violence and bullying. The absence of these protocols was only known by 58% of schools. On the other hand, the protocol for dealing with cases of psychological violence and bullying.
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 psychologist.

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

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.


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. The Committee recommends the State party to 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, so that they can identify and provide adequate support for child victims of corporal punishment.
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.

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 harassment of Camila, which caused further damage to her mental health.

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 12 of the American Convention on Human Rights states that no child shall be subjected to arbitrary or unlawful interference with his or her honor and reputation. In the same vein, article 11 of the American Convention on Human Rights states that no child shall be subjected to arbitrary or unlawful interference with his or her honor and reputation.

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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 have. 

Law N° 30364, 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 law 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.


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 actions of the State and society in what regarding the protection of children and the promotion and preservation of their rights, their evolving capacities, and the availability of accessible information in their language so that they can form their opinions and make decisions in accordance with their evolving capacities, guarantee the exercise of children and adolescents’ rights, including the right to privacy and freedom of expression, in their family, society, and with respect to the State.

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 Inter-American Court of Human Rights has 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.

For this reason, the Special Rapporteur for Freedom of Expression has also pointed out that the right to privacy protects the right to privately protect the right to govern.

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.

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For this reason, the 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.
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 itself.

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, moving to another school in a different city. This dropout was motivated by the situation of forced pregnancy and 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 Office has identified deficiencies in the dissemination of the rules of coexistence to inform students with disabilities or who use a native language 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 Protocols for the attention of violence against children and adolescents.

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.

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.
In the integral attention of being a victim of violence

The Inter-American Court of Human Rights 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 participate 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 pointed out that the girl had to leave school and later move to another city to live with her aunt. The 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. Available in Spanish only:

https://www.corteidh.or.cr/docs/canes/articulos/seriec_350_esp.pdf

In the judicial process of the crime of abortion


They are in a more vulnerable situation. Since this scenario is more detrimental to the rights to life, survival and development of girls and female adolescents, since self-induced abortion, and hence, the right to privacy, the observance of their best interests, participation and access to information accessible in a friendly language and in their original language, has not been fulfilled.

As it has been reported in this communication, the protection of Camila's right to privacy, the observance of her best interests, participation and access to information accessible in a friendly language and in her original language, has not been fulfilled. The 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. Available in Spanish only: www.corteidh.or.cr/docs/canes/articulos/seriec_350_esp.pdf

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. The Office of the Public Defender submitted a request for information on complaints to children for the crime of self-induced abortion, but there is no available data disaggregated by age (see Annex N° 3 on request for information on complaints to children for the crime of auto-abortion in Peru, taking 312 to court). There is concern about the re-victimization of girls and female adolescents when they are prosecuted for the crime of abortion.

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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 the rights of the child (arts. 42, 44, and 46 of the Protocol of 2003).

The 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. 42, 44, and 46) has pointed out that effective remedies must be available to redress violations of the rights of children and adolescents. 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 issued.

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 issued.

The Committee 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
can run in the face of interference and attacks on one's reputation.

The protection of the right to privacy and freedom of expression also implies the availability and accessibility of legal mechanisms to which one
At school and the right to education

The Committee on the Rights of the Child 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 - PNAIA 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 children.

In the integral attention when being a victim of violence

According to the Committee on the Rights of the Child, 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, measures to prevent and respond to violence against indigenous children should be provided.

This is especially important as indigenous children often face discrimination and are at risk of violence due to their ethnicity.

The Committee on the Rights of the Child, in its General Comment No. 11 (2009) on indigenous children and their rights under the Convention, emphasizes the importance of providing legal representation to indigenous children.

In this context, it is essential to ensure that indigenous children have access to a qualified legal representative and that their rights are respected.

Furthermore, the Committee has highlighted the importance of ensuring that indigenous children have access to education and that their cultural identity is respected.

The Committee on the Rights of the Child has recommended that states parties ensure that indigenous children have access to education in their own language and that their cultural identity is respected.

This is particularly important for indigenous children, who often face discrimination and are at risk of violence due to their ethnicity.

In this regard, 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 children.
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 reintegration.

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 her 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. 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 suit. 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 applies at the stages of adjudication and disposition, as well as implementation of the imposed measures. According to the Committee on the Rights of the Child, this right has to be fully observed during all stages of the judicial process, from the pre...

In the judicial process for the crime of abortion...
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 conditions.

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.

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.

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.

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 of children have been registered. In this context, the high rates of violence against children, and that this is related to the violation of other human rights.

IV. Conclusions

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.

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It is particularly worrisome that 20 girls under 18 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 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.
Appendices

V. National and International Legal Framework for the Right to Privacy

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<td>Law N° 30364, Law to Prevent, Punish and Eradicate Violence against Women household members (2015)</td>
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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).”

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<th>Article 2.3.11. (Participation and the right to be heard)</th>
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<td>Article 2.3.3. (Confidentiality)</td>
<td>Educational Institutions (2011)</td>
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<td>Article 8.2.4. (Participation of children)</td>
<td>Law N° 29719, Law that promotes coexistence without violence in framework of the provided in article 119 of the Penal Code (2014).</td>
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- Article 6.1.1. 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.)
- Article 6.3. (Information and consultation / counseling, which considers the voluntary interruption of the pregnancy under 22 weeks with informed consent within the framework of the comprehensive care of the pregnant woman in risk of generating a serious and permanent 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 6.11. 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.
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 version, using unauthorized information given by the Prosecutor.

Screenshot of the web new...
The article stated:

LIFE SENTENCE FOR MAN WHO CONTINUOUSLY SEXUALLY ABUSED HIS OWN DAUGHTER IN HUANIPACA

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 Huanipaca, 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 abuse 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 Araujo, 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 crime of rape of a minor under 13 years, provided for in the last paragraph of article 173 of the Criminal Code.

The sentence included a civil compensation of fifty thousand Peruvian soles in favor of the injured minor.

Tuesday, May 28, 2019
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.
Appendix N° 3 on request for information on complaints to children for the crime of self-induced abortion.
The response of 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 by the Prosecutors Support Information System - SIAFT.

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


SUBJECT: Request for Transparency

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

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