

## **Committee of Experts express concern over resolution on ten-year-old female victim of sexual violence in El Salvador**

The [Committee of Experts](#) of the Follow-up Mechanism to the [Belém do Pará Convention \(MESECVI\)](#) expresses its concern in regards to the [resolution](#) (available in Spanish) issued by the Criminal Chamber of the First Section of the Center of San Salvador, concerning an accusation of sexual abuse against a Girl by a magistrate. The sentence re-qualifies the criminal charge of “sexual assault of a minor” for that of “acts contrary to good customs and public decency”, which is only a misdemeanor offense and does not reflect the seriousness of the act committed against the girl.

The sentence utilized arguments based on discriminatory sociocultural patterns and damages that seek to diminish, make invisible, and justify a sexual crime, because in addition to pointing out that touching the pubic region of the girl's body “lacks sufficient gravity and significance to injure [her ] sexual indemnity ”, it establishes false theories which lessen criminal accountability when affirming that the undue touching was not prolonged; that it was carried out in broad daylight, on public roads, making it impossible for “the degree of body invasiveness to be greater”; and that was performed above the clothes of the minor.

In this regard, the Inter-American Court has been emphatic in stating that “the objective and subjective elements [of the crime] do not refer either to the accumulation of facts or to the place where the act is carried out, but to the intentionality, the severity of the suffering and the purpose of the act”. On the other hand, the Law for the Comprehensive Protection of Children and Adolescents indicates that the principle of the best interest of girls, boys and adolescents is mandatory, in relation to ensuring their integral development and the enjoyment of their rights and guarantees, as well as guaranteeing all rights as a priority.

These types of judicial resolutions constitute institutional violence because they lack a gender and childhood perspective, they revictimize the girl, they expose a network of impunity that perpetuates and deepens violence against women and girls, and puts at risk the trust towards the justice system by victims of sexual crimes. In addition, this Committee emphasizes that El Salvador is the country in the region with the highest rates of violence against women, specifically sexual violence against girls, and that it has great restrictions for the guarantee of sexual and reproductive rights.

Therefore, this Committee urges the authorities to: a) the possible resolution of the challenge to the judgment be resolved in accordance with the highest international standards in the matter and with a gender and childhood perspective; b) sexual crimes are effectively, fairly, impartially and timely punished and impunity be avoided at all costs; c) an administrative process of responsibility is carried out as the offender is a public official; d) ensure that the victim is not revictimized and has access to means of protection, reparation and, if necessary, rehabilitation; e) the criminal norms that can be used as attenuators of sexual crimes are eliminated; and f) non-repetition measures are generated for these types of cases.

*The [Committee of Experts](#) is the technical body of the MESECVI responsible for the analysis and evaluation of the process of implementation of the Belém do Pará Convention. It is composed of independent experts, appointed by each of the States Parties among their nationals, who exercise their functions in their personal capacity.*