

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES  
POLICY DEPARTMENT



# Sexual violence against minors in Latin America

DROI



## STUDY

# Sexual violence against minors in Latin America

### ABSTRACT

Sexual violence against minors is a major problem in Latin America. Children are mostly at risk in their own homes, while adolescents are at risk in their homes but also in the wider community (for instance, schools or boyfriends). However, data is very limited due to silence around the issue. Latin America is highly patriarchal, is riven by inequalities within and between social groups, and has weak judicial institutions; these are all factors that impact on gender based violence. However, governments in Bolivia, Colombia, Ecuador, Mexico, Peru, and Paraguay are starting to see children as individuals with rights, rather than minors under the sole authority of fathers, and are designing laws and agencies to protect those rights. Civil society in the meantime is increasingly mobilising against violence against women, including violence against girls, two forms of violence that go hand in hand, at a time when the problem is increasingly recognised and acted upon globally. This report outlines possibilities for the EU to support these recent developments and initiatives to end violence against minors via the establishment of national action plans, in collaboration with national, regional and global partners.

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## Executive Summary

Persistent sexual violence towards women from a very young age is the most pernicious and destructive form of violence that affects girls' development as free human beings, and a major challenge to attempts to achieve gender equality. This report focuses on sexual violence against girls in Latin America and what interventions may help mitigate, and possibly eradicate, such violence.

This report highlights the severity and persistence of sexual violence against minors in Latin America by examining the cases of Bolivia, Colombia, Ecuador, Mexico, Paraguay and Peru. Despite some country-specific differences with regard to causes and impunity – e.g. Paraguay's system of child exploitation through *criadazgo*, the high levels of criminal violence and corruption in parts of Mexico, legacies of conflict-related gender-based violence in Colombia and Peru, the neglect of indigenous populations in Peru and Mexico, and the reliance on community-based justice systems in Ecuador and Bolivia- these countries have much in common as far as child sexual abuse is concerned:

- high levels of violence against women: 46.3% of Ecuadorian and 70% of Peruvian women experience physical, sexual and/or emotional violence in their lifetime;
- high levels of violence against minors, especially girls, in their own homes and communities;
- lack of data around incidence and prevalence of sexual violence against minors;
- lack of adequate service provision for victims of abuse;
- lack of accountability;
- lack of adequate prevention mechanisms.

Three major factors feed into the high prevalence of sexual violence against minors in Latin America:

1. patriarchy,
2. intersecting inequalities of gender, race, poverty, geography (rural/urban divide) and age,
3. impunity.

The patriarchal organisation of society facilitates and systematises gender inequality and increases the vulnerability of children and adolescents to violent adult men. Sexual violence actively produces, and reproduces, patriarchal relations based on the intersecting inequalities of gender, age, race and/or ethnicity, and sometimes class or socio-economic position. Patriarchal relations structure Latin American societies and shape key institutions. As a consequence, those who commit acts of sexual violence are rarely held accountable.

Nevertheless, in the last ten years, all countries surveyed in this report have established special legal codes that distinguish children's and adolescents' rights from the rights of families. All countries have also established governmental agencies that work to uphold the rights of children and adolescents, although success has been limited. The Global Partnership to End Violence against Children, set up in September 2015 in line with the Sustainable Development Goals, pledges to work with governments to develop comprehensive strategies to tackle all forms of violence against children. In addition, civil society in these countries is increasingly involved in powerful protests against high levels of gender-based violence and impunity, and in demanding accountability, services, and indeed, social change.

It is a propitious moment to promote policies and interventions that can help tackle sexual violence against minors, and to establish national action plans to address and prevent sexual violence against children and adolescents.

# 1 Introduction

Sexual violence against minors is a major problem throughout the world, with devastating consequences for individuals and communities. At an individual level, victim-survivors may experience long-term problems in mental health, such as depression and anxiety, influencing later access to and performance in education and wider society. Consequences for physical health include sexual and reproductive problems such as unwanted pregnancy, pregnancy and child birth complications, and sexually transmitted diseases, including HIV (Guedes et. al., 2016). There is also increasing awareness that sexual and physical violence during childhood heightens the risk of experiencing intimate partner violence in later life (WHO, 2005). A recent report published by the Pan American Health Organization (Guedes et. al., 2016), makes the explicit link between violence against children, sexual violence against and among adolescents, and violence against women. These are not separate problems; they reinforce each other, sustaining intergenerational patterns of inequality, violence, and suffering. Addressing sexual violence against children and adolescents is therefore not only necessary in order to protect the human rights of children, but also to challenge patterns of persistent gender inequality.

The necessary link between policies to benefit women on the one hand and girls on the other is increasingly recognised by development agencies globally, and is recognised in Sustainable Development Goal 5: Achieve gender equality and empower all women and girls, as well as in the European Commission's commitment to gender equality and women's empowerment<sup>1</sup>. However, the women-and-girls development agenda often focuses on girls as a resource for development, an 'investment' in the economic future of low and middle income countries (e.g. ODI, 2012<sup>2</sup>). Likewise, private sector corporations increasingly focus on girl's empowerment with the objective to draw more young women into labour and consumption markets (Barrientos and Evers, 2014; Calkin, 2016). Development initiatives such as these tend to overlook the structural and normative barriers that impede women and girls from making decisions over their own lives. The European Commission (EC), in a 2015 working paper, indicates that the EU understands that there are major injustices perpetrated against girls the increased access to education or labour markets achieved in the last 15 years have not solved<sup>3</sup>. Persistent sexual violence against women from a very young age is the most pernicious and destructive form of violence that affects girls' development as free human beings, and a major obstacle to achieving gender equality. This report focuses on sexual violence against girls in several Latin American countries and what interventions may help mitigate, and possibly eradicate, such violence.

## 1.1 Definitions

The report will look specifically at Latin America, with an emphasis on Bolivia, Colombia, Ecuador, Mexico, Paraguay and Peru. These countries exhibit different geographical, historical, and political characteristics that account for the prevalence of and response to sexual violence against minors. However, culturally and institutionally they have much in common. In all these countries, information is scarce and fragmented. This study aims to compile, compare, correlate and analyse existing information in order to provide a credible estimate of the scale of the problem, highlight the gaps in information, and suggest a way forward.

The study looks at sexual violence against children and adolescents. The study only focuses on girls. However, we need to be aware that sexual violence against boys, in homes as well as in institutions such as schools, is another hidden phenomenon in need of scrutiny. Nevertheless, all data indicate that the

<sup>1</sup> [http://ec.europa.eu/europeaid/sites/devco/files/staff-working-document-gender-2016-2020-20150922\\_en.pdf](http://ec.europa.eu/europeaid/sites/devco/files/staff-working-document-gender-2016-2020-20150922_en.pdf)

<sup>2</sup> <https://www.odi.org/projects/2590-transforming-lives-adolescent-girls>

<sup>3</sup> [http://ec.europa.eu/europeaid/sites/devco/files/staff-working-document-gender-2016-2020-20150922\\_en.pdf](http://ec.europa.eu/europeaid/sites/devco/files/staff-working-document-gender-2016-2020-20150922_en.pdf)

majority of victims of sexual violence against minors are female, and the majority of perpetrators are male (Finkelhor, 1994, Bott, Guedes and Güzemes, 2005).

The definition of minors is not straightforward; while a minor is someone 'below the age of legal responsibility', and, according to the UN Convention on the Rights of the Child (1989) a child is any human being under the age of 18, different countries still stipulate different ages for criminal responsibility, suffrage, and sexual consent. In the cases here studied all countries except Mexico fix the age of sexual consent at 14; in Mexico this varies by state and ranges from 12 to 18 years. In all country cases, the law stipulates that childhood ends at 12, and adulthood starts at 18. The 12-18 year age group is adolescence.

All country-level documents consulted speak of 'children and adolescents' instead of 'minors'. According to the Colombian Institute of Family Welfare<sup>4</sup>, this is an explicit departure from the time when minors were seen as inferior, passive, and property of the father. According to such an understanding, the word 'minor' denotes inferiority and submission to the authority of the parents, especially the father, which means that children and adolescents have no protection outside the family and are therefore vulnerable to abuse from parents. This indicates a concerted effort to move away from patriarchal understandings of the relationship between parents and children, allowing for a broader understanding of children's rights. In this document, the same terminology of 'children and adolescents' will be employed.

However, in most statistics of violence against women, the age group 15 to 49 (women of reproductive age) is used. Nevertheless, as we will see below, evidence suggests that girls between 15 and 18 are highly vulnerable to sexual violence from intimate partners, family members, and authority figures such as employers, teachers or medical personnel. The vulnerability of this age group highlights the interrelated nature of violence against minors and violence against women, as will be further discussed below.

For the purpose of this report, sexual abuse against children constitutes 'any physical contact or sexual suggestion that a child or adolescent is subjected to, even with its apparent consent, by seduction, intimidation, threats, deception, blackmail, or any other form'. This definition draws on the definition included in the Ecuadorian Code of Childhood and Adolescence, Art 68<sup>5</sup>, and reflects the legal understandings of child abuse in all country cases. Most often, perpetrators are family members, friends and neighbours of the family, and men in positions of authority, such as employers, teachers or medical doctors. This report does not consider sex trafficking in children, child pornography, prostitution, or sexual violence in conflict zones. Linked to shadow economies, such abuses are treated as separate issues although they are related to the same vulnerabilities that child-victims of sexual abuse at home or in state institutions such as schools may experience. Child trafficking in the Americas is investigated elsewhere (e.g. Phinney, 2001, UNODC, 2014). This report focuses on 'every day' sexual violence, the hidden violence that takes place in homes and communities, that is hushed away in children's silence and their fear for reprisal.

## 1.2 Methodology

This research is desk based and draws on available materials in English and Spanish. The scale of the problem has been established on the basis of, first, country reports, second, World Bank and UN data. A range of country sources have been used, including material drawn from national and international NGOs, women and children's rights organisations, and *defensorías del pueblo* (ombudsman's offices). The major gaps in data, as well as the reliability of sources, are commented on in sections 2.1 and 2.2.

The section on the causes of sexual violence towards minors is based on a broader academic literature on child sexual abuse, incest, and violence against women in Latin America. There is very little scholarship specifically on the causes of sexual violence against children and adolescents in Latin America. However, as such violence is strongly related to sexual violence against women, and is produced by the same social

<sup>4</sup> [http://www.icbf.gov.co/cargues/avance/docs/concepto\\_icbf\\_0027891\\_2010.htm](http://www.icbf.gov.co/cargues/avance/docs/concepto_icbf_0027891_2010.htm)

<sup>5</sup> [www.oei.es/quipu/ecuador/Cod\\_ninez.pdf](http://www.oei.es/quipu/ecuador/Cod_ninez.pdf)



structures, this section draws on the broader literature about gender based violence, as well as on literature regarding child sexual abuse elsewhere.

The third section, on policy and legislation, draws on government sources, and grey literature (reports by NGOs and multilateral organisations). Secondly, it draws on academic scholarship, in both English and Spanish.

### 1.3 Structure

The report is structured as follows: Section 2 discusses the scale of sexual violence perpetrated against minors in Latin America and identifies the gaps in knowledge of this problem. Section 3 turns to the structural causes underlying such violence, such as patriarchal social relations, intersecting inequalities, and impunity, followed by a country-by-country discussion of specific economic, social, and political factors that feed into impunity in relation to sexual violence. Section 4 of the report looks at the legal frameworks and policy programming that target sexual violence against children and adolescents in Latin America, with reference to the specified countries. It highlights what works and what does not. This section is followed by a discussion of recent national, regional, and global initiatives. The report concludes in Section 6 with recommendations that point to what the international community, specifically the European Union, could do to foment effective interventions to address this major problem.

## 2 The scale of violence against minors

Measuring sexual violence against minors is notoriously difficult. There are two types of data that estimate the number of children who are sexually abused: incidence (new cases in a given population) is estimated by recording the number of cases reported to police, health centres, and social workers, while prevalence (number of existing cases) is estimated through population based surveys that ask adults retrospectively about their experiences as children (Goldman & Padayachi, 2000).

### 2.1 Incidence

In the case of Latin America, neither of these measurements are readily available. Data that record denunciations does exist but cannot be used to calculate actual incidence because of underreporting. Underreporting occurs because:

- a) most children do not report their experience to adults;
- b) children are often not believed by adults, including their own mothers;
- c) girls who enter puberty are often perceived to provoke sexual encounters, in line with the double standard according to which women are often blamed for the promiscuity of men;
- d) reporting depends largely on the receptiveness of the state institutions that receive these reports (police, public prosecutor's office, defensoría del pueblo (ombudsman offices), medical institutions) (see also Aronson Fontes & Plummer, 2010).

Children are often 'groomed' into a sexual relationship that leads them to experience guilt, which raises a barrier against denouncing the perpetrator. Likewise, children are often threatened not to tell, or made to believe that there is a secret to be kept. Socio-cultural frameworks of gender and sexuality often allow for a suggestion of complicity on the part of the victim, stigmatising the victim, rather than the perpetrator (Herman, 1997). The legitimacy of cases that do get reported (never directly by the child, but by another family member) strongly depend on the age and gender of the victim: adolescent girls are often seen as complicit in their own abuse. Teenage girls are most vulnerable to sexual abuse, both within their families as well as beyond, due to their age. Norms and codes around appropriate sexual behaviour for girls and

the double standards for male sexuality leads to the widespread belief that young girls are to blame for the abuse they suffer.

As a result, police reports of sexual violence against minors tend to focus on the age group 0-14, not 15-18, further skewing the data. Of course, the different ways of keeping records and defining the offence, and of coordinating data between agencies (police, prosecutors' offices, other potential agencies where denunciations of abuse are reported) further weakens the data. So, in comparative terms, the number of reported cases of sexual violence does not accurately reflect a country's ranking on a list of sexual violence incidence statistics, it only reflects levels of reporting and the quality of recording.

As Mexico is a federal republic in which states have different laws against sexual violence, different ages of consent ranging from 12 years old to 18 years old, and different registration and documentation procedures, most observers do not trust nation-wide records (Frías and Erviti, 2014, González-López, 2015). In addition, a search for reliable data reveals that there are widely differing records and estimates of denunciations, which is attributable to how different institutions interpret data and use them for their own purpose. Thus, after having examined a range of statistical sources including those reported by national media, NGOs and governments, in table 2, the data of police reports of sexual violence against minors (0-14 years) as recorded by the United Nations Organisation for Drugs and Crime is presented. This database includes numbers for Bolivia, Colombia, Mexico and Peru for 2009, and we have added Ecuador and Paraguay with national sources. However, the latter two are for 2015 and show much higher rates, possibly thanks to improved recording.

It should be noted that the type of sources used in the UNODC database are not always unclear, and the report warns that 'when using the figures, any cross-national comparisons should be conducted with caution because of the differences that exist between the legal definitions of offences in countries, or the different methods of offence counting and recording'. As we can see in the table below, while Mexico claims to have the highest rates of child abuse, it has the lowest incidence rate per 100 000 people (Cámara de Diputados, 2014).

Table 2: Demographic indicators, sexual abuse denunciations\*, and rate per 100,000 population for the year 2009

	Population (millions)		Sexual Abuse Denunciations	
	Total	0-14 years	(Count)	(Rate per 100 000 population)
<b>Bolivia</b>	9.76	3.42	1429	14.6
<b>Colombia</b>	45.41	12.21	5378	11.8
<b>Ecuador</b>	15.90	4.61	3688*	23.2
<b>Mexico</b>	116.82	35.63	2555	2.3
<b>Paraguay</b>	6.55	2.05	1711*	26.12
<b>Peru</b>	29.00	8.64	2109	7.3

Source: Population figures World Bank (2016). Sexual abuse denunciations figures: Bolivia, Colombia, Mexico, and Peru (UNODC, n.a.), Ecuador- Extra.ec (n.a.), Paraguay- SNNA (2016).

\*Demographic indicators and sexual abuse figures for Ecuador and Paraguay are for the year 2015.

There is no sex disaggregation in these numbers between boys and girls. However, a report based on police denunciations of sexual violence between 2000-2009 in Peru observed that of all denunciations of sexual violence, 78 % concerned minors under 18 years of age while 93 % concerned female and 7 % male victims of sexual violence (Mujica, 2011). A Paraguayan analysis of denunciations received via the children’s emergency telephone line observed 85 % of denunciations came from girls and 15 % from boys (SNNA, 2016). Other sources indicate that perhaps 1 in 9 boys experience sexual abuse<sup>6</sup>, or 7.8 % (Fulu et. al., 2013). So while a significant proportion of boys might be victim of sexual violence, the majority of victims are female.

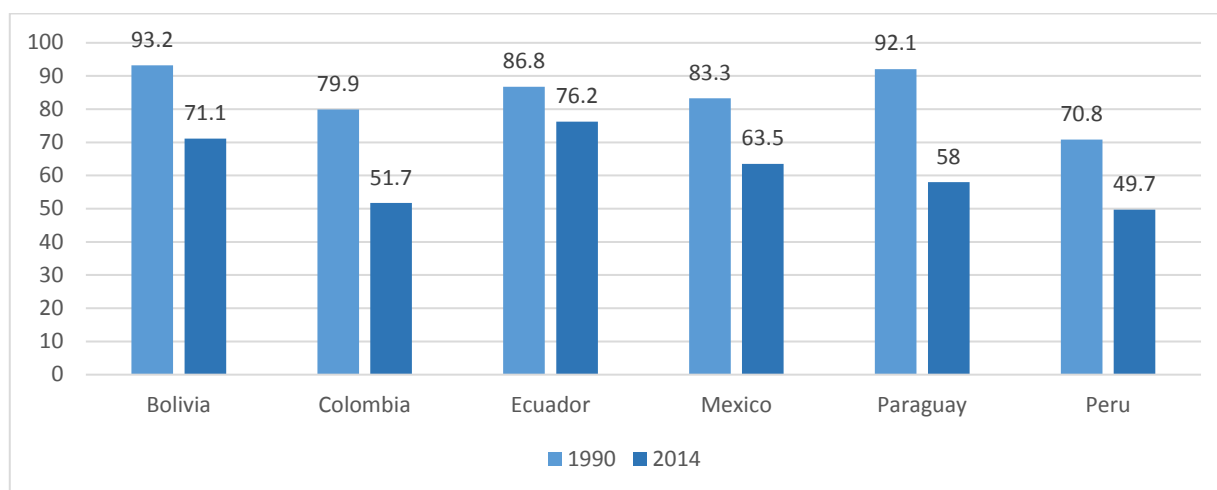
Once again, while these numbers are useful, we cannot know the extent to which they underestimate the actual problem. In addition, these denunciations seem only to record minors 14 years of age and younger, while girls between 15 and 18 are especially vulnerable to sexual abuse. Better data of denunciations are urgently required.

## 2.2 Prevalence

To measure prevalence, population-based surveys that include questions about childhood sexual experiences are usually examined. Unfortunately, these questions are not included in any of the national population surveys available. A survey for Peru, part of a World Health Organisation comparative research looking at violence against women in ten countries globally, provides some data. In this prevalence survey, urban Peru (Lima) had a prevalence rate of sexual violence before the age of 15 of 19.5 % and provincial Peru (Cusco) of 18.1 % of surveyed adult women. Only the rate for urban Namibia was higher at 21.3 % (WHO 2005: 50). The majority of perpetrators, according to the same survey, were family members (53 %). These figures correspond closely to a recent large-scale study, which concluded that 18 % of girls and 7.8 % boys world-wide experience sexual violence in childhood (Fulu et. al., 2013). The *Defensoría de la Niñez y la Adolescencia* estimates that a fifth (i.e., 20 %) of Bolivian girls experience sexual violence, although it is unclear on what data the estimate is based<sup>7</sup>.

Available evidence suggests that girls aged 12 to 18 are most vulnerable to sexual violence from intimate partners or family members. For example, data from Peru shows that 40 % of female adolescents considered their first sexual experience as ‘non-consensual’, i.e., as being of a coerced nature. Eleven percent of male interviewees reported their first sexual encounter to be non-consensual (Cáceres, 2005).

Figure 1: Adolescent Birth Rates (births per 1000 women, ages 15-19)



Source: Author’s elaboration with data from World Bank (2016)

<sup>6</sup> <http://www.dnamunicipal.cotas.net/abuso.htm>

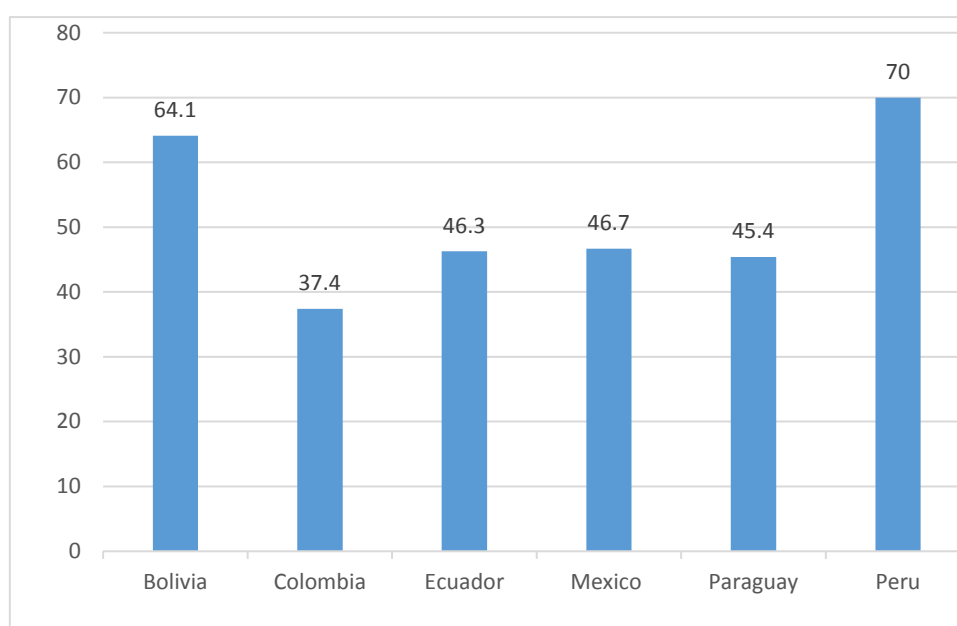
<sup>7</sup> <http://www.dnamunicipal.cotas.net/abuso.htm>

The adolescent birth rate can serve as an alternative source to estimate non-consensual sex among adolescent women. As Figure 1 shows, the adolescent birth rate has decreased in all countries. A reduction in teenage pregnancies could be the result of better access to contraceptives and reproductive healthcare, healthcare campaigns urging women not to have children before their eighteenth birthday, improved educational perspectives for girls, and better economic opportunities (according to UNICEF, teenage motherhood is higher among the poor, see UNICEF, 2007). However, whereas in most countries fertility rates have more than halved during the same period, adolescent fertility is decreasing at a slower pace. This is worrying, as it means that adolescent fertility poses a different problem than overall fertility. Available data on coerced sex and sexual violence in childhood and adolescence suggest that many girls have little control over their fertility. Interventions to reduce fertility in the general female population may prove insufficient to reduce fertility among adolescents. There is reason to believe that the high numbers of teenage pregnancies, and the difficulty of reducing such pregnancies, are related to high levels of sexual violence among children and adolescents. Cáceres' estimate (2005) that 40% first sexual experiences are unwanted, would appear to suggest that a very high proportion of teenage pregnancies are the product of sexual violence. In addition, evidence suggests that victims of sexual violence in childhood take greater sexual risks in adolescence, and start voluntary sexual relationships earlier than non-victims (WHO, 2005: 53). This would explain the difficulty of reducing the adolescent birth rate in tandem with the overall fertility rate in Latin America.

## 2.3 Sexual violence against minors as component of violence against women

There is increasing evidence that sexual violence against girls is strongly related to sexual violence against women. Both types of violence are related to similar patterns of vulnerability and risk (Guedes et al., 2016, WHO, 2005). In addition, sexual violence in minors is increasingly seen as a predictor of experiences of such violence in adulthood (Mujica, 2016).

Figure 2: Percentage of Intimate Partner Violence Against Women (15-49) during a Lifetime (2004-2011)\*



Source: Author's elaboration with data from UN Women (2014), CNCLVD-Paraguay (2013), and ENDES Peru (2014).

\*Figures for Bolivia, Ecuador, Mexico and Peru include emotional violence.

We do not have enough data regarding sexual violence in the adult population as a percentage of overall sexual violence, nor can we reliably estimate how many victims of intimate partner violence (IPV) have experienced sexual violence as children. However, we can safely say that it is very likely that a majority of women who experience physical IPV, also experience sexual IPV: according to a small sample of 11 women living in different shelters for battered women in Lima, all had been raped by their partners but none had included reported the rape to the police (Boesten, 2014).

A study of all reported cases of sexual violence in Peru concluded that 78 % of such denunciations concern girls 18 years and younger. Of these, 10 % concerns children aged 0 to 9, 25 % children aged 10 to 13, and 45 % represents adolescents aged 14 to 17 (Mujica 2011). Overall, it seems correct to infer that when intimate partner violence is high, sexual violence against children is also high –but available data do not provide an accurate rate.

## 2.4 Perpetrators

All studies confirm that in the majority of cases of sexual violence against minors the perpetrator is a member of the family but not necessarily a father (Mujica, 2011). The 2005 WHO study that compared ten countries globally concluded that ‘male family members other than fathers and stepfathers were by far the most common [perpetrators], followed by stepfathers, then fathers and female family members’ (WHO, 2005: 51). Acquaintances, – family friends, neighbours, community members – were second, while strangers were an important perpetrator category in some of the urban East Asian research sites, but not in Latin America.

There is a suspicion – because of several notorious cases<sup>8</sup> - that sexual violence against minors in institutions such as schools is widespread. However, reliable data is not available. Mexican data is available, but the difference between individual states, from 0 to 546 reported cases, suggests that reporting differs widely and is not a reliable estimate for incidence or prevalence (CNDH, 2014).

## 2.5 Conclusion

Though fragmented, the data do indicate that sexual violence against children and adolescents is common in the studied cases but also largely hidden in families and communities. Records of incidence of such violence are limited because of low reporting and weak recording. Likewise, we know little about actual prevalence: national population-based surveys are scarce, and for Latin America as a whole, only one reliable population based survey published by the WHO in 2005 is available, but it only includes Brazil and Peru. We know that the majority of victims are girls, and that the majority of perpetrators are men, especially men in positions of trust in relation to the victims. In addition, available data suggest that while girls are primarily the target of sexual violence, boys are also abused in families and communities.

## 3 Causes

There are three major factors that specifically facilitate and perpetuate sexual violence in Latin America:

- 1) patriarchy,
- 2) intersecting inequalities of gender, race, class, geography, age, and likely, disability,
- 3) impunity.

The patriarchal organisation of society facilitates and systematises gender inequality and increases the vulnerability of minors in relation to adult men. Sexual violence functions as a force that actively produces,

<sup>8</sup> See for example this recent scandal in Peru: <http://elcomercio.pe/sociedad/cajamarca/cajamarca-profesor-acusado-violar-al-menos-17-ninas-noticia-1910568>

and reproduces, patriarchal relations, male dominance, and authority based on the intersectional inequalities of gender, age, race and/or ethnicity, and class or socio-economic position. Patriarchal relations continue to be rooted in the overall social organisation of Latin American societies, which makes it difficult to hold perpetrators of sexual violence accountable. A strong belief in the male-headed family as cornerstone of society, for example, may prevail over the rights of other family members. In most Latin American countries, violence against women and children is dealt with by family courts, which often emphasise the unity of the family over the rights of individuals (Boesten, 2012, González-López, 2015). Specific political and economic contexts may reinforce impunity and/or perpetuate abusive regimes.

In addition, epidemiological research on child sexual abuse identifies a set of micro-level circumstances which contribute to the prevalence of such violence in homes, such as 'marital conflict, family disintegration, economic stress, male unemployment, norms of male dominance in the household, and the presence of non-biological father figures of children in the home' (Guedes, 2016). A further review of risk factors adds 'approval of corporal punishment, mental health problems, low educational achievement, alcohol and drug misuse, having been maltreated oneself as a child' to this list (Fulu, 2014). These factors indicate that macro-level socio-economic interventions (employment, social protection), social interventions (alcohol and drug policy, family support, mental healthcare and education) could have a mitigating effect on the prevalence of domestic violence, including sexual abuse of children. However, none of these factors are predictors, nor do they necessarily lead to domestic violence. For the purpose of understanding the underlying structures that facilitate sexual violence against children and adolescents, and indeed, women more generally, this report focuses first on patriarchal relations, second on inequalities, and third on impunity and country-specific contexts.

### 3.1 Patriarchy

"[They tell us] there are many abortions among young girls, but nobody has abused these girls. Often it is women who put themselves on display, provoking men."

Cardinal Juan Luis Cipriani, Archbishop of Lima, Peru, on national radio in response to campaigns against sexual violence and in favour of the legalisation of abortion in case of rape, 30 July 2016, RPP Radio.

Patriarchy is understood as a social system that organises power hierarchically based on gender and age: the term refers to the rule of the father over his family and to the subordination of women and children (Andermahr, Lovell and Wolkowitz, 2000). In Latin America, patriarchy has historically been associated with Catholicism on the one hand and colonial rule on the other. While Catholicism invests the social organisation of family life with a moral imperative that sets rules about sexuality as well as appropriate gender roles, colonial rule extended patriarchal relations beyond the family and added race to the mix of hierarchical power relations. Therefore, in Latin America, men have authority over their own families, but may be subordinated themselves by a more powerful 'patron', or boss, who is often whiter than themselves (class and racial hierarchies often overlap in the region). As such, race –often identified by skin colour and other physical characteristics such as height, colour of the eyes and hair, level of education or mother tongue- help structure power relations between men, but also between men and women.

In Latin America, patriarchal authority over the family was not necessarily weakened by the growth of republican institutions that sought to wrest control of key functions from the Church, such as education, public health, and oversight of births, deaths, and marriages, after independence. States attempted to modernise patriarchal rule, including domestic patriarchal rule, but not abolish it (Dore, 2000). Existing colonial legislation was often only modified or accommodated to exist side by side with republican legislation, creating a civil law riddled with contradictions. Family law regulated gender relations and was still heavily influenced by the Catholic Church and existing patriarchal rule, despite nineteenth-century liberalisation (McKinley, 2006, González-López, 2015).

In the twentieth century, under pressure from feminist social movements, much of the legal framework of patriarchal rule over women in Latin America (such as inheritance rights, parental rights, reproductive health, and “crimes against the honour of the family”) was overhauled in ways that aimed to favour women (Molyneux, 2000). However, a strong and influential Church still shapes politics and policy in issues related to family and sexuality in the twenty-first century (Blofield, 2008). The political opposition to the expansion of reproductive and sexual rights and more equitable and liberal sex education in schools throughout Latin America is strongly related to the influence that the Catholic Church still has on politics and society; an influence that so far has not been vastly diminished by processes of secularisation, the rise of competing religious organisations (particularly Protestant Churches) or by scandals involving sexual abuse of minors by Catholic clergy and laity (e.g. Salinas and Ugaz 2015). Catholic values maintain the family unit at the centre of pro-gender equity policy and legislation, while neglecting women’s or children’s rights. In this way patriarchal authority is kept in place (Boesten, 2014, González-López, 2015).

Hence, it is important to understand what patriarchy means and does when thinking about the persistent silence around the sexual abuse of children within families and institutions (see also Carter, 2015). Psychiatrist Judith Herman, in her ground-breaking work on incest (1977, and 2015 [1992]), attributes the high prevalence of incest to the persistence of patriarchy in homes and beyond. She explicitly attributes the possibility of father-daughter incest to the social roles assigned to women and men and views the persistent inequality and subordination of women to male power as the underlying cause of such relationships. Herman also finds a strong relationship between domestic chores and sexual abuse: in most of cases studied by Herman, girls were coerced into sexual relationships with a male carer (father, stepfather, uncle) and often also took care of household chores, including caring for children, in effect assuming the role of the mother-wife in the family structure. While not suggesting that doing household chores leads to sexual abuse, Herman does show that sexual and domestic subservience often go hand in hand. She concludes that in this patriarchal constellation of family and society, women and girls are extremely vulnerable to sexual and domestic abuse by men in their households, and by extension, by men in wider society (1977).

Sociologist and family therapist Gloria González-López, in a recent – and unique – study of incestuous relationships in Mexican families (2015), uses the term ‘conjugal daughters’ to refer to girls who replace their mothers in serving their fathers or stepfathers sexually and the term ‘marital servants’ in cases where children do so with the complicity of the mother. Just as Herman before her in the US context, González-López identifies patriarchal norms according to which girls are socialised to serve men in their family and according to which marriage is established to serve the sexual needs of married men. In this same patriarchal arrangement that sees women serving men sexually, sisters or cousins may become the objects of the sexual experimentation of brothers or male cousins. From a very young age, the assumed ‘natural’ passivity and servitude of women is used to satisfy the assumed ‘natural’ sexual needs of men. As both Herman and González-López conclude, sexual abuse is thus reproduced by and through the sexual division of labour in households and societies at large.

The subordination of children to the rule of their fathers also exposes boys to sexual abuse, albeit in a different manner. Their silence is obtained not by ‘normalisation’ of abuse, as might be the case with girls, but by employing shame, guilt, and homophobia (González-López, 2015).

In a similar vein, young women and girls who work as domestic servants are highly vulnerable to sexual abuse because of patriarchal gender roles that serve to establish strong links between domestic and sexual servitude, as we will see below.

## 3.2 Intersecting inequalities

Gender inequality clearly facilitates sexual violence. However, there are other factors, such as poverty, perceptions of race and ethnicity, age, sexuality and disability which feed into hierarchies between people.

People at the intersection of several inequalities –poor children, girls with disabilities, darker skinned girls, homosexual boys, or any combination of such factors- can make certain children and adolescents more vulnerable to abuse than others.

In Latin America, the colonial organisation of land, labour, and capital saw European rulers dominate indigenous people and Afro-descendants, an organisation of society that persisted into the post-independence era, and that is only slowly, and often violently, being dismantled and reformed. Hence, to date, the intersection of class, race, and gender informs structural violence in much of Latin America, and determines individual and group access to resources, services, political voice, and justice (Boesten, 2010, Cabrera Muñoz, 2010). In addition, structural and intersecting inequalities are reproduced even in intimate relationships and violence is often used to maintain and perpetuate hierarchies (Alcalde, 2010). As such, perceptions of racial inferiority can make some children more vulnerable to violence from parents and siblings –for example, if they are perceived as less-white. Disability is another specific dimension that is under-researched, but is likely to intersect with gender in making some children extra vulnerable to abuse (González-López 2015).

Domestic workers are particularly vulnerable to sexual abuse throughout Latin America. While domestic workers have gained considerable social protection through legislation, historical vulnerabilities continue to jeopardise their safety and wellbeing. Domestic servants are often young girls from poor rural and indigenous backgrounds, with few educational opportunities or social capital in the communities and homes where they work. This makes it difficult for young women working as domestic servants to defend themselves or seek help and support when they feel threatened or are abused. Their ethnic background renders them inferior, and even legitimate sexual targets, in the eyes of whiter middle and upper classes who employ them. Sexual abuse of young domestic workers is so normalised and silenced that it is rarely seen as an issue worth addressing (Bezarés Cobar, 2007 & 2008, Boesten, 2014, González-López, 2015, Ojeda Parra, 2005, Stephenson, 1999).

Poverty can make children more vulnerable to violence in their own homes as well (Guedes et. al., 2016). There is a popular belief in Latin America that small spaces, especially when parents and children share beds, may contribute to the sexual abuse of minors. Such perceptions also reflect assumptions about the behaviour of certain lower class groups, and groups racialised as non-white, that form an essential part of their social othering and criminalisation. Overcrowding and poor housing in neglected communities certainly do not favour children's rights and girls' safety. But more importantly, poverty may lead to limited access to education, health and other social services, including the police and judiciary. Distance to services, formal or informal fees to access services, lack of information regarding rights, and institutional discrimination hinder poorer people from accessing such essential services (Cabrera Muñoz, 2010, Crisóstomo, 2016).

The patriarchal organisation of society, in which men dominate women and children, also feeds into sexual abuse in schools and health centres, especially towards adolescent girls, and especially in poorer areas and regions where children are more vulnerable. Men in positions of authority over children who perform the role of a father figure in different contexts –a priest, a teacher, a community doctor- may appeal to the same feelings of entitlement to girls' sexual servitude as biological family members do, or to boys' submission to adult male authority (González-López, 2015). A gender regime in which women and girls are often blamed for the abuse they suffer helps legitimise such abuse. Sexual violence, then, serves to humiliate and assign place in a male dominated hierarchy (Herman, 2015, epilogue). Studies clearly show that girls are more vulnerable to sexual harassment and violence in schools than boys, while poverty and ethnicity tends to increase girls' vulnerability (see: Pinheiro, 2006, WHO, 2005). In institutions such as schools, much as within a family structure, gender, race/ethnicity, and poverty can heighten vulnerability to sexual violence.



### 3.3 Impunity

There are several major factors that prevent accountability for sexual violence in Latin America: weak and absent states, corruption and criminality, and normative ideas about gender, race, and class that shape the actions of state agents.

The absence of the state in many rural areas in all studied countries obstructs accountability for sexual violence. Many rural areas rely on either geographically far removed institutions based in provincial towns, or they rely on some form of community justice or conciliation practices. While the latter is certainly better than nothing, customary justice generally disadvantages cases of sexual violence because of the shame surrounding such experiences, and the desire to keep intimate abuse private. Social norms that tolerate sexual violence against girls and discourage help-seeking also tend to be stronger at community level, where gender roles might be more socially policed and kinship ties extend to the community (e.g., see Maldonado et. al., 2008, Crisóstomo, 2016, Guedes et. al., 2016).

Corruption within the security forces and judiciary is another factor feeding into impunity. In Peru, researchers observed the bribing of police officers by wife batterers (Boesten, 2006, 2012). There is no reason to believe that those who abuse children would not be able to do the same. Local-level corruption is facilitated by weak institutions, lack of decent salaries, training, and oversight of front line personnel such as police officers, as well as by the gendered normative frameworks described above which blame the victim and support the powerful (Boesten, 2012). As discussed above, few girls report sexual violence and law enforcement authorities tend to blame girls and let male perpetrators escape punishment (Boesten, 2014). This, in turn, produces a vicious circle: girls and their families will not trust the police and judiciary, and hence, will not report cases of abuse, while the police will insist that sexual violence is not a problem in their community, because nobody reports incidents of sexual violence (Merry, 2003). Such normative frameworks maintain cultures of impunity.

Impunity is supported by social, political and economic factors which may implicate security forces in illegal activities and corrupt practices. Impunity also helps to facilitate and tolerate the trafficking of minors into sex industries. Unclear legal frameworks, poor law enforcement, corruption and a lack of visibility/attention for trafficking due to prevailing understandings of sex and gender, feed into impunity and facilitate the demand for and supply of young impoverished children in a shadow economy of prostitution and pornography (Phinney, 2001). Some of the worst affected countries can be found in Central America, where poverty, socio-political instability, and continuing contexts of widespread crime, impunity and corruption present particular challenges. But beyond the trafficking of minors into sex industries, these specific contexts may also feed into the de-legitimation of local law enforcement and accountability systems, and thereby, further weakening adequate responses to the abuse of minors. In Bolivia, Colombia, Ecuador, Mexico, Paraguay and Peru, the structures of the specific shadow economies differ in each country as they link up to specific legal and illegal political economies. Below I briefly outline the specific contexts of impunity of each country.

#### 3.3.1 Bolivia

Under President Evo Morales, Bolivia has improved the position of the impoverished indigenous population considerably. The indigenous population has gained much more political capital and some improvements in social protection over the last decade or so (Barrientos, 2016). The main problem feeding into impunity in relation to gender based violence in Bolivia is the overall weakness of the judicial system. As in other Andean countries the ethnic and class divide is most urgently pronounced in a geographical divide that separates urban from rural communities, indigenous from mestizo communities, those with access to state services and those without. Indigenous people living in rural communities do not attend courts in urban centres. In part, this is because the justice system in Bolivia is inefficient and overloaded, and discriminates along lines of ethnicity, class, and gender. Indigenous communities, mindful of historical

neglect and discrimination, may be reluctant to involve state institutions in case of family violence. Few cases of child sexual abuse are reported to the state authorities; instead, cases might be solved among kinship and community networks, often without consideration of the welfare of the child (see in-set).

### Community justice in Bolivia

“One night when I was on duty at the health care centre in a rural community in the province of Omasuyos, Bolivia, a woman in her fifties brought in her distressed 11 year-old daughter. The girl was haemorrhaging and needed immediate surgical attention, so she was brought to a hospital in La Paz. The girl was too upset to tell us what had happened, so her mother did: at carnival festivities in their community, the girl had walked home earlier than her parents and older siblings to go and rest. Along the way, a neighbour joined the girl supposedly to walk her home, but he entered her home and raped her repeatedly. Her parents found her severely bleeding when they came home later that evening. They did not want to denounce the crime to the authorities, but instead, while the girl recuperated in the hospital, the family negotiated a deal with the perpetrator. They called this common barter practices as part of community level justice. Indeed, during my time at the health centre various such severe rape cases of children were bought off this way. The community considered this culturally more appropriate than denouncing at authorities they did not consider their own, even if there were sexual violence services within their local municipal offices.”

María Fernanda Morales Jáuregu, MSc in Medicine, Universidad Mayor de San Andrés, La Paz, Bolivia. Interviewed via email, July 2016.

## 3.3.2 Colombia

Colombia finds itself in a period of transition after more than 50 years of internal conflict between the FARC (Revolutionary Armed Forces of Colombia), the ELN (National Liberation Army), right-wing paramilitaries, the state counter-insurgency forces, and criminal networks and drug traffickers. Since the mid-2000s, the Colombian state has sought to bring about peace using transitional justice mechanisms alongside demobilisation, disarmament and reintegration policies as well as negotiations with FARC and ELN (Theidon, 2007). A strong gender lens in these efforts is leading to legal reforms and new policy making that recognises women’s and girls’ rights, and that explicitly seeks to address sexual violence (Mantilla, 2016). The peace agreement signed in August 2016 recognises the need to address persistent gender inequality and provide redress for victims of conflict-related sexual violence. Combined with strong economic growth and redistributive measures, Colombia is rapidly changing the landscape of gender justice. However, UNICEF, drawing on United Nations and national data, also points out that children continue to be victims of conflict-related violence, including sexual violence<sup>9</sup>.

## 3.3.3 Ecuador

Ecuador went through an economic and political crisis, with negative effects on vulnerable populations (between 1997 and 2007 Ecuador had eight different presidents). The current government has stabilised the country to some extent, although it is also accused of curtailing the freedom of expression. As in Peru, social conflicts over large-scale mining concessions on or near land used for agriculture continue to pose challenges, and Ecuador is also on a drug-trafficking route, which increasingly undermines security. Ecuador’s main characteristic could well be its large and well-organised indigenous population. In 2008, the Ecuadorian state formally recognised indigenous people’s rights to their own customary law, bypassing statutory law. In other Latin American countries customary law in remote areas is exercised as a

<sup>9</sup> [http://www.unicef.org/infobycountry/media\\_90565.html](http://www.unicef.org/infobycountry/media_90565.html)

first option, and often to fill the gaps of an absent state. But in Ecuador indigenous law has become a key dimension of cultural autonomy and has legal value. While rape cases are covered by criminal law, and hence, statutory law, many minor and not-so-minor offenses leading up to sexual violence may be dealt with at community level, which is unlikely to be to the benefit of victims. In addition, some cases of statutory rape are known to be dealt with through indigenous customary law with the approval of the national judiciary. There was one notorious case reported in 2013, when man convicted of raping a 13 year-old girl by an ordinary court claimed indigenous status to be re-tried by an indigenous tribunal and escaped incarceration<sup>10</sup>. Indigenous customary law tends to favour conciliation processes instead of punitive measures, which, in the case of violence between unequal partners such as adults and children, or men and women, disadvantages the aggrieved party (see also on Peru, Boesten, 2010, chapter 5). In addition, considering the secrecy and ambiguity surrounding SV in general, the proximity of community authorities to victims' families is an additional obstacle to speaking out and seeking justice.

### 3.3.4 Mexico

Due to its proximity to the US border and the free trade agreement with its northern neighbour, in Mexico the borderlands have become notorious for its maquiladoras, or factories, that employ young girls for little money. Borderland production cities such as Ciudad Juárez have also become sites of extreme violence against women, with high levels of sexual violence and femicide (Fregoso and Bejarano, 2010). Young women from rural areas aged 15 to 25 with little education and often few economic resources are most likely to become victims of such crimes. The same is true of femicides throughout Central America (Fregoso and Bejarano, 2010, Cabrera Muñoz, 2010). In addition to the specific coordinates of violence related to the neoliberal restructuring of borderland economies, Mexico is embroiled in a war between criminal gangs and the state, which is ongoing. Often, it is unclear who spreads terror: criminal groups or the state forces. This situation clearly feeds into impunity for violence throughout the country, but it also reinforces masculinities that rely on violence and misogyny (Cabrera Muñoz, 2010), thereby further legitimising and silencing patterns of violence against women and girls. Lastly, Mexico is divided in federal states that have their own legislation, which hinders national consistency in how cases of sexual abuse against minors are addressed. As elsewhere in Latin America, rural and/or indigenous areas are neglected by the state, and often local common law presides over state law, further jeopardising gender justice (Sieder et al., 2013).

### 3.3.5 Paraguay

Paraguay is, together with Bolivia, the poorest country of those studied (World Bank, 2016). Paraguay has a legacy of about 40 years of authoritarian rule from 1954 to 1989, or 1992 when the first democratic elections were held. But the post-authoritarian period did not establish stable democratic politics and solid institutions, due to what some call a 'privatised state' controlled by a very small elite (Lambert and Nickson, 2002). The country is locked in a status quo of 'insufficient service coverage, systematic corruption, gross inefficiency and rampant political influence in the public sector' (p172). Drug trafficking, money laundering, illegal logging and land grabbing seem more institutionalised than healthcare services or judicial independence (Dizar et. al., 2012). These factors obviously feed into impunity in relation to child sexual abuse and gender-based violence more broadly. Most particular to Paraguay is a system of *criadazgo*, whereby children from poor families are sent to richer families to work in the household in exchange for care and education. In practice, this often constitutes child exploitation. Children in *criadazgo* are very vulnerable to violence, including sexual violence, and many end up in sexual exploitation networks<sup>11</sup>. While similar systems of 'adoption' and child domestic service exist throughout Latin America,

<sup>10</sup> <http://www.eluniverso.com/noticias/2013/05/19/nota/938616/acusado-violacion-se-declaro-indigena-evitar-justicia-ordinaria>  
<http://www.letelegrafo.com.ec/noticias/judicial/13/la-lucha-entre-la-justicia-indigena-y-ordinaria>

<sup>11</sup> 'Adoptar' niños como empleados domésticos: Criadazgo, una polémica práctica en Paraguay, 16 jun 2016 [accessed 5/8/16]  
<https://actualidad.rt.com/sociedad/210525-criadazgo-esclavitud-infantil-paraguay>

nowhere is the system so institutionalised as in Paraguay, where between 40.000 and 47.000 children aged 6 to 12 are thought to live as domestic servants (Petit, 2004). Despite pressure from the international community as well as local NGOs, nothing had yet been done to counter this mass exploitation of children.

### 3.3.6 Peru

Peru emerged from an internal conflict between Shining Path, MRTA (Tupac Amaru Revolutionary Movement), and the state that lasted twenty years (1980-2000). As in the case of Colombia, the war saw the use of sexual violence as a conflict-related strategy with strong sequels into peacetime. Girls aged 15 and older were particularly vulnerable to 'casual' sexual abuse, intimidation and rape (TRC, 2003, Boesten, 2014). During and after the conflict interpersonal violence increased (Boesten, 2014). In areas highly affected by political violence, surveys show that corporal punishment of children, as well as domestic violence against children and women, is high (ENDES, 2014). Apart from post-conflict social fragmentation in certain areas of Peru, the expansion of extractive industries since the 2000s in the context of neoliberal restructuring has played into the hands of private security companies, and contributed to the creation of local unregulated mining economies and illegal gold mining activities. This situation has led to social conflict over land, water, and political decision-making processes (de Echave, 2009), as well as child sex trafficking, labour exploitation and violence (Boyd, 2013). The privatisation of security suggests that the security of some (such as the mining companies) is more important than the security of others. In addition, local and national politicians as well as law enforcers are drawn into a corrupting narco-economy, which further undermines the rule of law. Lastly, similar to Mexico, Ecuador or Bolivia, the division between urban and rural areas in terms of state presence and citizenship means that in rural areas much violence perceived as private is dealt with at family or community level, greatly disadvantaging women and girls (Crisóstomo, 2016).

## 3.4 Conclusion

Sexual violence against minors is facilitated by patriarchal social relations in which the male headed family is central. In practice this means that women, girls, and children more broadly, are expected to serve men, and more broadly male figures in authority. A double moral in which men's sexual needs are perceived as natural, while women's sexuality is seen as passive and receiving, legitimises men's sexual demands. Such patriarchal norms, grounded in a historically shaped colonial and religious social organisation, persist throughout Latin America, in its institutions and families alike. Inequalities based on race, class, gender, sexuality, age, rural/urban geography, and possibly, disability, further feed into children's vulnerability to violence. Specific social, political, and economic factors, such as high levels of crime, corruption, pluri-legal systems, legacies of political violence, and poverty, further feed into impunity in specific contexts. These factors, in turn, help shape the personal histories of both victims and perpetrators, as epidemiologists observe (Heise, 1998).

## 4 Existing laws, policies and actions

All countries except Somalia and the United States have ratified the UN Convention on Rights of the Child, which in principle forms the basis of national level legislation against sexual violence. Article 19 states that:

1. 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.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment

and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement<sup>12</sup>.

All the case studies discussed here recognise sexual violence against children in their penal codes and have implemented social policies to protect the rights of children and adolescents in place. Some countries are more pro-active than others. This section looks at existing legal and policy frameworks in order to point to promising practices as well as failures.

## 4.1 Legal frameworks

In Bolivia, Colombia, Ecuador, Mexico, Paraguay and Peru legislation regarding children's rights stipulates that childhood refers to the age group 0-12, adolescence to age group 13-18<sup>13</sup>. In all countries except Mexico the age of sexual consent is 14, in Mexico this differs between states and stands somewhere ages 12 to 18.

In most statistics of violence against women, the age group 15 to 49 (women of reproductive age) is used. These age brackets already indicate the first problem in the legal judgements around consent and coercion: all children under 14 are minors in terms of sexual consent, and hence, their consent is voided. But girls aged 15 to 18 are perceived as sexually mature, or at least, sufficiently autonomous to make their own decisions. However, this does not consider adolescents' vulnerability to coercion. It creates an ambiguous legal framework in which girls are still children and dependent on adults and are extremely vulnerable to sexual abuse and manipulation, especially, if not only, from men in positions of authority. Of course, the difficulty of determining an accurate age of consent is not unique to Latin America (e.g. Waites 2005), and indicates how difficult it is to legislate sexuality.

Legal definitions of sexual violence against children and adolescents are most problematic in Mexico, as the 32 federal states have 32 different penal codes. According to González-López (2015, p14), as of July 2013, more than half of the states define incest as a 'crime against the family', as opposed to a crime against the child's individual integrity and rights. Such familial perspectives serve to maintain family cohesion to the detriment of the individual's safety, and may lead to high judicial tolerance towards sexual violence against minors in families (see also Boesten, 2012). In Colombia, Ecuador, Peru, Bolivia and Paraguay, relatively new legal codes for children and adolescents are much more explicit about sexual abuse, generally adopting definitions of sexual violence against children and adolescents that comply with international standards<sup>14</sup>. Nevertheless, the blurred understanding in practice of what constitutes consent,

<sup>12</sup> [http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC\\_PRESS200910web.pdf](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf)

<sup>13</sup> **Bolivia**, law 549 (2014) <http://www.migracion.gob.bo/upload/l548.pdf>

**Colombia**, law 1098 (2006): [http://www.secretariassenado.gov.co/senado/basedoc/ley\\_1098\\_2006.html](http://www.secretariassenado.gov.co/senado/basedoc/ley_1098_2006.html)

**Ecuador**, law 2002-100 (2003): <http://www.ecuadorlegalonline.com/biblioteca/codigo-de-la-ninez-y-adolescencia/> **Paraguay**, law 1.680/01 (2001) : <http://www.bacn.gov.py/Njl2&ley-n-1680>

**Peru**, law 27337 (2000): [http://www.mimp.gob.pe/yachay/files/Ley\\_27337.pdf](http://www.mimp.gob.pe/yachay/files/Ley_27337.pdf)

**Mexico**, (2014) [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5374143&fecha=04/12/2014](http://www.dof.gob.mx/nota_detalle.php?codigo=5374143&fecha=04/12/2014)

<sup>14</sup> International standard following WHO: 'Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person'.

[http://www.who.int/violence\\_injury\\_prevention/resources/publications/en/guidelines\\_chap7.pdf](http://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap7.pdf)

For **Mexican** penal codes in respect to sexual abuse of minors, see: Gloria González-López (2015) appendix C, pp271-273.

**Colombia**: Penal Code: [alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6388](http://alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6388), and Código del niño, niña y adolescente (2006) [unifr.ch/ddp1/derechopenal/legislacion/l\\_20101107\\_01.pdf](http://unifr.ch/ddp1/derechopenal/legislacion/l_20101107_01.pdf)

**Ecuador**: Penal Code [http://noticias.juridicas.com/base\\_datos/Penal/lo10-1995.l2t21.html](http://noticias.juridicas.com/base_datos/Penal/lo10-1995.l2t21.html) and Código del niño, niña y adolescente (2003), [oei.es/quipu/ecuador/Cod\\_ninez.pdf](http://oei.es/quipu/ecuador/Cod_ninez.pdf)

**Bolivia**: Penal Code: [unodc.org/res/cld/document/bol/codigo-penal\\_html/Bolivia\\_Codigo\\_Penal.pdf](http://unodc.org/res/cld/document/bol/codigo-penal_html/Bolivia_Codigo_Penal.pdf) [Codigo del niño, niña y adolescente \(2014\), unicef.org/bolivia/Codigo\\_NNA - Ley 548 .pdf](http://unodc.org/res/cld/document/bol/codigo-penal_html/Bolivia_Codigo_Penal.pdf)

what the age of consent is, and who the perpetrators of violence are in relation to consent and age of consent, makes implementation difficult, especially for girls aged 12 to 18.

González-López's assessment of Mexican laws in relation to sexual violence and especially incest, is highly critical. She states that 'incest remains partially or totally invisible in these Mexican penal codes' as Mexican policy makers do not want to criminalise the servitude demanded from women and girls within families (González-López, 2015: 247). Nevertheless, in 2014, Mexico issued a new national law on the rights of the child and adolescent, which explicitly states the rights of children as individuals and supersedes federal laws<sup>15</sup>. It remains to be seen whether the law can overcome patriarchal attitudes in its implementation.

Differences between urban and rural areas, between indigenous communities and non-indigenous communities, further complicate the implementation of the law. The historical neglect by the central state of indigenous or rural communities throughout Latin America, but particularly in the discussed countries that have relatively large indigenous populations (in contrast to, for example, Chile or Argentina), has created formal and informal paralegal systems. As discussed above, Ecuador formalised a plural legal system that gives indigenous communities a degree of judicial autonomy, including in cases of family violence and child abuse. Beyond ideals of multicultural respect towards different conceptions of justice, the policy also aims to bring justice to communities otherwise neglected. This existing gap in access to justice does indeed need attention, as most cases do not reach state authorities, and stay within families or wider kinship and community networks where they will be hushed up and endured, as we saw with the Bolivian cases where severe sexual abuse is bartered against material gains. The problem is that, so far, there is no evidence that the Ecuadorian solution of an indigenous common law deals more adequately with cases of domestic violence, and by extension, violence against minors, than statutory law.

In the late 1990s, Peru established a compulsory paralegal conciliation policy for cases of family violence in an attempt to decongest local courts, but this was soon challenged and revoked. Primary research in Peru's highlands shows that a majority of cases of family violence that are reported in rural communities and towns do often still receive the 'conciliation treatment' presided by either paralegal justices of the peace or by judges (Boesten, 2014). In 2014, to address the same problem, Bolivia issued Law 586, 'Decongest and Effectuation of the Penal Law Procedures', which stipulates a series of interventions to help speed up cases through the legal process. The new procedures have proved particularly valuable and effective in cases of sexual violence against minors as these sensitive cases benefit from quick resolution. In addition, they allow victims from more remote areas to travel to provincial towns and stay for the duration of their trial, instead of having to deal with years of waiting and traveling back and forth before a case is resolved (IJM, 2015).

## 4.2 Frontline services

Most existing services that address violence against minors are embedded in services that address violence against women and domestic violence. This has the disadvantage that violence against minors is often dealt with as a problem for the family unit, rather than as a problem for the individual child.

For example, in the mid-1990s Peru set up multiple-service centres where cases of violence against women and family violence, including violence against children, are received and addressed. By 2012, Peru had 162 Centros de Emergencia Mujer (CEM) (Llave 2012: 42). In principle, these centres provide psychological, legal, medical and social services. In 2011, the CEMs reported that 3 645 children and adolescents attended

**Peru:** Penal Code [unifr.ch/ddp1/derechopenal/legislacion/l\\_20080616\\_75.pdf](http://unifr.ch/ddp1/derechopenal/legislacion/l_20080616_75.pdf), and Código del niño, niña y adolescente, (2000) [mimp.gob.pe/yachay/files/Ley\\_27337.pdf](http://mimp.gob.pe/yachay/files/Ley_27337.pdf)

**Paraguay:** Código Penal de la Republica del Paraguay, Ley N1160/97 [mre.gov.py/v1/Adjuntos/Privacidad/Ley1160.pdf](http://mre.gov.py/v1/Adjuntos/Privacidad/Ley1160.pdf),

And Código de la Niñez y la Adolescencia (2005) [http://www.oas.org/dil/esp/Ley\\_de\\_Adopcion\\_Paraguay.pdf](http://www.oas.org/dil/esp/Ley_de_Adopcion_Paraguay.pdf)

<sup>15</sup> Ley para la Protección de los Derechos de Niñas, Niños y Adolescentes, issued in 2014: [diputados.gob.mx/LeyesBiblio/pdf/LGDNNA\\_041214.pdf](http://diputados.gob.mx/LeyesBiblio/pdf/LGDNNA_041214.pdf)

reporting different types of sexual abuse (Llave 2012: 5). However, in practice, the CEMs often have only one or two members of staff and are clearly not able to provide all the different services. While the CEM is able to collaborate with and refer people to different services within a community, in practice, this does not always happen. Research shows that CEMs are very much appreciated, but they are chronically under staffed and under resourced, which severely undermines their effectiveness (Crisóstomo, 2016, Boesten, 2006, 2012 & 2014, Macassi et. al., 2010).

Peru also has special police stations for women, where cases of violence against girls can also be reported. As reports indicate, the police often re-victimise the victims of violence because of their prejudicial attitudes towards denunciations of sexual violence against minors and because of the lack of training and resources they receive (Defensoría del Pueblo, 2007). Similarly, the *Defensoría del Pueblo* of Colombia considers that one of the main problems in Colombia is re-victimisation by service providers such as police, medical personnel, social workers, and indeed, the judiciary, when dealing with children and families who report sexual abuse. Frontline personnel are often not trained properly to deal sensitively with children. Moreover, the guidelines on how to approach such cases are often unclear. The *Defensoría* emphasises that frontline personnel should never minimise or normalise the experiences of children reporting sexual violence (Defensoría del Pueblo Colombia, 2016). The *Defensoría* of Peru has gone as far as to indicate that frontline personnel should stop asking girls inappropriate questions, such as what they wore or what they did and if they protested sufficiently loudly (Defensoría del Pueblo Peru, 2007). González-López (2015) reports the same problems with regard to attitudes and capacities of frontline personnel among Mexican service providers.

In 1997, Ecuador set up a Special Police Committee for Children and Adolescents (Dirección Nacional de Policía Especializada para Niños, Niñas y Adolescentes, DINAPEN). According to its website<sup>16</sup>, the committee works to protect children's rights as well as prevent crime. It disseminates information and works with schools and communities. However, the website does not mention sexual violence. Other countries have similar specialised units, based in the police force, municipalities or in ministries<sup>17</sup>. The websites of these units often provide a section on sexual abuse, and an outline of children's rights (see section 5.1). However, in line with the analysis above, these agencies give priority to the family unit; the rights of women and/or children are considered secondary. According to the Peruvian municipal agencies in defence of the rights of children and adolescents (DEMUNA), these agencies aim to 'promote the family unit, and to do so [they] may seek conciliation between parents or other family members, or intervene to organize child support or other arrangements, if there are no criminal cases outstanding'<sup>18</sup>. The second part of the phrasing indicates an awareness of the problems raised by conciliation in violent families, but, ultimately, prevents victims from seeking institutional help. Clearly, such a policy emphasises family cohesion over individuals' safety. In practice, research shows that DEMUNAS helps impoverished battered women who seek an agreement over child support payments, rather than addressing a more wide variety of children's rights (Luttrell-Rowland, 2012).

On the positive side, most countries have set up specialised and confidential telephone lines to report violence against women and/or violence against minors. These state-run initiatives follow successful initiatives by NGOs such as ANAR, Ayuda a Niños y Adolescentes en Riesgo, a Spanish NGO with branches in Colombia, Mexico, Peru and Chile. ANAR operates telephone lines that help children and young people

<sup>16</sup> Ecuador: <http://www.policiaecuador.gob.ec/dinapen/>

<sup>17</sup> Mexico: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5437707&fecha=18/05/2016](http://www.dof.gob.mx/nota_detalle.php?codigo=5437707&fecha=18/05/2016)

Bolivia: <http://www.dnamunicipal.cotas.net/servicios.htm>; Paraguay: <http://www.snaa.gov.py/>;

Colombia: <http://www.icbf.gov.co/portal/page/portal/ICBFNinos/>;

Peru: [http://www.mimp.gob.pe/portalmimp2014/index.php?option=com\\_content&view=article&id=134&Itemid=272](http://www.mimp.gob.pe/portalmimp2014/index.php?option=com_content&view=article&id=134&Itemid=272)

<sup>18</sup> [http://www.3i.com.pe/imperial/municipio/demuna/que\\_es.htm](http://www.3i.com.pe/imperial/municipio/demuna/que_es.htm)

to seek confidential support (ANAR 2005). Telephone lines, if and when linked to actual services, are a good way to increase reporting and support for children at risk<sup>19</sup>; unfortunately, they do not always link up adequately with service provision, and if they do, complainants still have to deal with the same prejudiced staff in the police, health, and legal services.

### 4.3 Reproductive health care and education

As briefly discussed above, the influence of the Church and patriarchal values prevent many governments in Latin America from providing safe reproductive health care services to women and girls. Abortion in cases of rape and incest is only legal in Bolivia, Colombia and Mexico, while in Ecuador, Paraguay and Peru, abortion is only allowed if a pregnancy threatens the life of the mother<sup>20</sup>. This is very problematic, as both unwanted pregnancies and illegal abortions after rape have a profound emotional and physical impact on young girls. However, the battle for better and legal access to abortion services is ongoing and hindered by conservative Catholic views on the life of the foetus and of ideas about women's sexuality, even in cases where children raped by much older men are involved.

Debates about the morning-after pill were largely won in the late 2000s and the emergency contraceptive is now officially available in pharmacies and some healthcare systems throughout the region. Such contraceptives are useful –though not always free–, but must be accompanied by decent sex education in schools that respects the rights of boys and girls. And sex education is again very much part of the debates and struggles between progressive and conservative forces. Multiple attempts to provide more open and equal sex education in schools and public sex education campaigns are consistently obstructed by conservative forces.

For example, between 2012 and 2014, the Ecuadorian government designed and implemented an extensive public education and access to contraceptives programme to counter teenage pregnancies (ENIPLA, 2013). This was a promising plan that emphasised the reproductive and sexual rights of adolescents, but the programme was reversed in 2014 when President Correa, to gain electoral support, criticised the progressive programme and called upon young people to rely on their own families for advice regarding sexuality. A new programme was designed that reversed the public campaigns and re-emphasised abstinence and family-based education (Presidencia de Ecuador, 2014). As feminist groups at the time observed, the government overlooked the fact that most of the teenage pregnancies, especially those among children 15 years and younger, were the product of sexual violence within those same families.

Between 2008 and 2015, a coalition of multilateral and local NGOs<sup>21</sup>, in collaboration with ministries of education and health in 30 Latin American countries, including all those here included, made a commitment to radically improve sex education and access to reproductive health care for adolescents and young people by 2015. The project was motivated by a need to control the spread of HIV among young people, and took sexual violence into account as an important risk factor. The evaluative report of the project, published by International Planned Parenthood Federation (IPPF) in 2015, praises the commitment of civil society organisations and ministries, but at the same time, laments the lack of funding for both gender and sex education in schools and for reproductive healthcare. In addition, the report notices that where both have indeed been implemented, it has been done inadequately, often lacking sensitivity and gender training for teachers and medical personnel and without the required materials (i.e. information and contraceptives) (IPPF, 2015 p16). None of the countries under review performed well as far as gender and sexuality education in schools is concerned.

<sup>19</sup> <https://sustainabledevelopment.un.org/partnership/?p=9061>

<sup>20</sup> <http://www.20minutos.es/noticia/1620644/0/aborto-america/latina-panoramica/>

<sup>21</sup> UNFPA, IPPF/WHR, UNICEF, plus national NGOs throughout the region. See IPPF/WHR 2015.



The report written by IPPF includes an overview of services provided and needed in each country, which, in general terms, include better coordination, consultation, training, implementation of prevention-through-education programme, and improved access to reproductive healthcare. The report shows that (apart from access to contraceptives and abortion, which is clearly inadequate in several countries, especially Ecuador, Peru, and Paraguay), the improvement in reproductive healthcare services is superior to the improvement in gender and sexuality education in schools. The observed improvement in general reproductive healthcare reflects improved maternal healthcare, an area which has received consistent attention during the last 15 years under the influence of the Millennium Development Goals. However, these services are not specific to young people or to issues of violence against minors. In the end, as the report also highlights, health providers suffer from the same prejudice as we find in wider society towards young people's sexuality and their experiences of violence, and do not have the tools to detect or address sexual violence against minors (IPPF, 2015, Bott, Guedes and Güzemes, 2005).

According to the IPPF evaluative report, Ecuador does best in terms of gender and sexuality education, with a score between 'good', and 'can be improved', while the other countries under review were deemed 'deficient' and 'can be improved' (see IPPF 2015). As discussed above, Ecuador briefly implemented a comprehensive gender and sexuality education programme and public campaign, but the contents of the programme were reversed from youth-centred to family-centred by President Correa in 2014.

Educating children about gender and sexuality, about their bodies and their rights, serves to empower them, making it possible for them to recognise and reject unwanted sexual demands. In addition, it helps shape boys' and girls' respect for each other and each others' bodies, hopefully leading to less harmful sexual practices in future. When done properly and comprehensively, as advised by organisations such as the IPPF and UNFPA, such programmes should be accompanied by public campaigns that target parents and teachers, opening up a space for speaking about the body and sexuality. These are necessary tools to break down the silence around sexual violence against children and adolescents. However, they are strongly opposed by conservative sectors and are often at odds with the patriarchal character of Latin American societies.

#### 4.4 National agencies for the rights of children

In recent years there has been increasing recognition that children's rights need special attention, and several Latin American countries have created special units to address such rights, as outlined below:

Bolivia:

The Municipal Agency of Childhood and Adolescence/*Defensoría de la Niñez y Adolescencia*, mentions violence against children, and provides confidential advice and support through a telephone line for children<sup>22</sup>. The agency also states that it has organised working groups with civil society organisations to work on specific issues, including a Working Group against sexual abuse/*Mesa Impulsora contra el abuso sexual* (UMAVE). There is no further online information on either of these initiatives.

Colombia:

Colombian Institute for Family Wellbeing, children and adolescents/*Instituto Colombiano de Bienestar Familiar (ICBF) para niños, niñas y adolescentes*. A policy brief from 2010 stipulates the state's responsibility to protect the rights of children as individual rights bearers, as opposed to children as property of their

<sup>22</sup> <http://www.dnamunicipal.cotas.net/index.htm#>

father<sup>23</sup>. However, the website for this governmental agency was taken down during the course of this research.

Ecuador:

The National Council for Children and Adolescents /*Consejo Nacional de la Niñez y Adolescencia* (CNNA) was integrated into a broader state agency for 'Intergenerational Equality' in 2013<sup>24</sup>. This agency does not speak about violence against children, not in or outside of families. It does speak of reproductive health, but largely in terms of maternal care for young mothers.

Mexico:

National System for Comprehensive Protection of Children/*Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes*<sup>25</sup>. This agency was set up in 2014, apparently in response to participation in the Global Partnership to End Violence against Children (2015, see below), and is taking the lead as pathfinder country for the Global Partnership. Currently (August 2016) the agency does not provide further information on its activities.

Paraguay:

The Secretariat for Childhood and Adolescence/*Secretaría Nacional de la Niñez y la Adolescencia* has a specific programme against violence, but not a gender perspective, and it does not speak of sexual violence<sup>26</sup>. It does have a telephone line where children can report sexual abuse (SNNA, 2015).

Peru:

The Agency for Girls, Boys and Adolescents/*Dirección General de Niñas, Niños y Adolescentes* focuses particularly on issues related to poverty and social protection, especially in poorer rural areas of the country. This is important, also in addressing violence against children<sup>27</sup>. They also have a National Action Plan for Children and Adolescents 2012-21/*Nacional Plan Nacional de Acción por la Infancia y la Adolescencia*, which includes access to maternal and reproductive health services and sex education.

Clearly, commitment varies across the cases. While Mexico has committed to becoming a pathfinder country for the Global Partnership, and Peru is designing and implementing comprehensive programmes for the benefit of the wellbeing of especially rural children, Bolivia appears largely to rely on civil society organisations' services.

## 4.5 Regional civil society initiatives

International NGOs such as Plan International, Save the Children, International Planned Parenthood, and UN organisations such as UNICEF, UNFPA, and UN Women have offices and programmes throughout the region. These organisations are now mobilising their efforts in the Global Partnership to End Violence against Children (see below) in the hope that improved collaboration and coordination can encourage more radical and rapid change.

An important recent development is having a direct impact on society and governments alike. Activists and researchers have focused on gender-based violence for at least three decades now, but especially since the revelations of murders of young girls in the Mexican border city of Juárez in the mid-1990s. International NGOs have picked up on the issue of violence against women, and more recently, violence against girls and children as well, but wider society seemed immune to change. Despite improved legal

<sup>23</sup> [http://www.icbf.gov.co/cargues/avance/docs/concepto\\_icbf\\_0027891\\_2010.htm](http://www.icbf.gov.co/cargues/avance/docs/concepto_icbf_0027891_2010.htm)

<sup>24</sup> <http://www.igualdad.gob.ec/ninez/politicas-programas-y-servicios.html>

<sup>25</sup> [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5437707&fecha=18/05/2016](http://www.dof.gob.mx/nota_detalle.php?codigo=5437707&fecha=18/05/2016)

<sup>26</sup> <http://www.snaa.gov.py/>

<sup>27</sup> [http://www.mimp.gob.pe/portalmimp2014/index.php?option=com\\_content&view=article&id=134&Itemid=272](http://www.mimp.gob.pe/portalmimp2014/index.php?option=com_content&view=article&id=134&Itemid=272)

frameworks and governmental promises, as discussed above, gender-based violence appeared to be flourishing 'as normal'. But, in the meantime, society has changed: more women report and/or speak out publicly, more women seek justice despite the record of impunity in most of Latin America. With the help of social media, attention for gender based violence is expanding rapidly, and civil society is mobilising to publicly protest against its persistence.

Since 2015, activists in Uruguay, Mexico, Chile, Argentina, Brazil and in August 2016, also in Peru, have organised large-scale social movements against gender based violence, called *Ni Una Menos* (not one [woman] less). The current mobilisations in Peru are putting real pressure on the state, the private sector, the media, and civil society more widely to act and participate, and have managed to obtain support from the government and even from the police force and judiciary. The Peruvian mobilisation does something else: it has opened a Pandora's box of experiences of child sexual abuse among the 58 000 members of the closed-group Facebook page *Ni Una Menos* that initiated the mobilisation<sup>28</sup>. These mobilisations prove that Latin Americans are ready to speak up and that the time is right for action to end violence against children, adolescents and indeed women throughout the continent.

## 4.6 Recent global efforts to end violence against children

Violence against children is very much on the global agenda as well. In addition to the increased focus on girls as agents of development, organisations increasingly focus on Female Genital Mutilation (FGM), child marriages, and 'honour' killings in Africa, the Middle East and Asia<sup>29</sup>. These issues are often central to campaigns addressing violence against girls in developing countries. Latin America is much less on the agenda and this is also true of the everyday hidden violence that many girls and some boys experience in their homes and communities. Hence, for the EU, it is important to make sure that both Latin America as well as everyday sexual violence against minors stays on the agenda of multilateral organisations and becomes integral to the global initiatives and partnerships that target violence against children.

The Global Partnership to End Violence against Children was established in September 2015 as part of the Sustainable Development Goals, and will work towards defining its strategy in the coming year<sup>30</sup>. The Global Partnership is coordinated by UNICEF, and currently includes the ChildFund Alliance, Elevate Children Fund, Plan International, Save the Children, SOS Children's Villages, UN Women, UNFPA, WHO, and World Vision International. The current 'pathfinder' countries for this partnership are Sweden, Tanzania, Mexico, and Indonesia. The initiative, and Mexico's pathfinder status, are important steps forwards. Mexico issued a new law in support of children's rights in 2014<sup>31</sup>, and established a National System for Comprehensive Protection of Children and a Child Protection Authority in late 2015<sup>32</sup>. Revealingly, the recently released partnership report that outlines Mexico's commitment to ending violence against children, notes that 'there is a gap in Mexico between the rhetoric of child rights protection and certain practices which violate human rights and the dignity of children and adolescents' (2016: 6)<sup>33</sup>. More importantly, reading Mexico's partnership report and the presentation of the National System for Comprehensive Protection of Children<sup>34</sup>, shows that while Mexico does mention sexual violence against minors as an issue, it prefers to talk about physical violence, labour exploitation, or even drug abuse among youngsters. The Global Partnership also emphasises sex and labour trafficking and exploitation

<sup>28</sup> <https://theconversation.com/anger-at-violence-against-women-in-peru-spills-over-into-protest-63087>

<sup>29</sup> e.g. the UK Department for International Development and UNICEF's 2014 Girl Summit, see: [http://www.unicef.org/protection/files/6.1057\\_DFID\\_AR\\_Girl\\_Summit\\_Final\\_web\\_20072015.pdf](http://www.unicef.org/protection/files/6.1057_DFID_AR_Girl_Summit_Final_web_20072015.pdf)

<sup>30</sup> <https://sustainabledevelopment.un.org/partnership/?p=9061>

<sup>31</sup> Ley para la Protección de los Derechos de Niñas, Niños y Adolescentes, issued in 2014: [diputados.gob.mx/LeyesBiblio/pdf/LGDNNA\\_041214.pdf](http://diputados.gob.mx/LeyesBiblio/pdf/LGDNNA_041214.pdf)

<sup>32</sup> <https://drive.google.com/file/d/0B9SkBOd7v9z9ZIRRYmpOdEpaeHM/view>

<sup>33</sup> <https://drive.google.com/file/d/0B9SkBOd7v9z9ZIRRYmpOdEpaeHM/view>

<sup>34</sup> <http://www.gob.mx/presidencia/prensa/instalo-el-presidente-enrique-pena-nieto-el-sistema-nacional-de-proteccion-integral-de-ninas-ninos-y-adolescentes>

over private everyday violence in families and communities. It is important to make sure that this Global Partnership not only focus on the global excesses of abuse, but also on the widespread invisible violence in homes and communities. In addition, it is important that the Global Partnership maintains a clear gender perspective in all its work.

## 5 Best practices

An overview of all best practices regarding sexual violence against minors is an impossible task for a brief research paper. In addition, what is 'best' for one context may not work elsewhere. Interventions have to be tailored to specific cases, age groups, family compositions, nature of the violences perpetrated and the resources available (Finkelhor 1997). As David Finkelhor, director of the Crimes against Children Research Center, co-director of the Family Research Laboratory and Professor of Sociology at the University of New Hampshire further asserts (1997: 111), 'one needs to develop systems of intervention that are specifically tailored for the institutions, professional practices and laws of the particular country'. There is no evidence that one particular intervention works well in any context. Therefore, this section will briefly outline the EU framework of addressing child sexual abuse and its relevance for Latin America, followed by a section on the global evidence-based consensus regarding strategies for tackling sexual abuse.

### 5.1 The EU and sexual violence against minors

The EU holds a legal and policy framework with regard to child sexual abuse that builds on decades of research and interventions in some countries, and more recent cross-country learning. The EU's legal and policy framework concerning the rights of children is discussed in the policy document 'EU Framework of Law for Children's Rights', commissioned by the European Parliament Policy Department Citizens' Rights and Constitutional Affairs (2012). Several elements of this framework are particularly relevant to sexual violence against minors.

As observed above, in the EU, as elsewhere, protection against sexual abuse and exploitation is the subject of increasing concern and attention. The European Forum for the Rights of the Child was set up in 2006 and includes a range of EU institutions, national and international organisations, civil society organisations, scholars and practitioners. However, according to the EU Framework of Law for Children's Rights (2012: 18), while this forum has indeed focused on sexual violence, it is 'yet to become a catalyst for children's rights in the European Union'.

In 2010, the Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse entered into force. While not signed by the EU, all member states of the Council of Europe, and hence, all member states of the EU, have signed it. This convention, also known as the Lanzarote Convention, provides a normative framework for the criminalisation of all forms of child sexual abuse. According to the Secretariat of the Lanzarote Committee, this is the 'most ambitious and comprehensive international (potentially universal) legal instrument on the protection of children against sexual exploitation and abuse'<sup>35</sup>. The Convention focuses on prevention, protection and prosecution, as well as on international collaboration, especially in cross-border abuse such as sex trafficking and cyber grooming. The Lanzarote Committee established that most child sexual abuse occurs in family or community environments, or, 'circles of trust'. This position is consistent with all the international data, including the estimates of sexual violence against minors in Latin America discussed above. Between 2014 and 2016, the Committee carried out its first round of monitoring on 'sexual abuse of children in the circle of trust'<sup>36</sup>. The guidelines of the Convention can be used as an example of good practice for planning policy and legislation concerning sexual violence against minors globally, although its guidelines assume an already

<sup>35</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680654d96>

<sup>36</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680654d96>

well-established legal and policy framework, which is not the case in the studied countries. Nevertheless, the questionnaire developed by the Convention to establish existing practice among its signatories, the 'sexual abuse against children in the circle of trust questionnaire'<sup>37</sup> could perhaps be adapted to the local contexts here studied, and used as a tool for a baseline study of existing interventions and gaps.

In 2011, the European Parliament and the Council adopted Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography<sup>38</sup>. Again, this Directive provides an excellent framework for preventing sexual violence, protecting children, and holding accountable those found guilty of such violence, asking member states to put in place adequate preventive, protective, and detection measures. Compliance is an on-going process<sup>39</sup>. However, like the Lanzarote Convention guidelines, the Directive assumes an already established network of well-trained front line personnel, educational infrastructures, and well-functioning judiciaries, which are largely inexistent in Latin America.

The EU has offered funding for research and practice in the realm of child sexual abuse under the Daphne programmes. An early study funded by Daphne I compared best practices in 20 European countries, and found a wide range of different practices and levels of commitment (1997)<sup>40</sup>. It found that northern Europe was most active in the field, and was developing research, policy, and interventions to address sexual violence against children. Today, especially Sweden and The Netherlands show disproportionately high rates of sexual abuse of minors compared to any other country due to sophisticated recording systems and highly trained frontline staff (policy, healthcare, social work) (Finkelhor 1997, UNODC, n.a). A similar study of best practices in child abuse and neglect in five European countries, funded by Daphne III was carried out by The Netherlands Institute of Youth and partners in Sweden, Germany, Portugal, and Hungary (2013)<sup>41</sup>. Both the 1997 and 2013 reports emphasise the need for political engagement, national coordination, and integrated services. This cross-country learning through collaborative research may well prove to be the most relevant 'best practice' from which Latin American countries could draw. In addition, the EU has funding tools to facilitate such studies; specific funding programmes could be devised targeting researchers and institutions such as civil society organisations that focus on sexual violence against children in Latin America in order to develop better and more data and strengthen local expertise.

## 5.2 WHO and INSPIRE

In line with the Global Partnership to End Violence against Children, WHO published INSPIRE<sup>42</sup>, a guide that outlines seven general strategies to tackle violence against children globally. The seven areas that make up the acronym are: Implementation and enforcement of laws, Norms and values, Safe environments, Parents and caregiver support, Income and economic strengthening, Response and support services, and Education and skills. The detailed and evidence-based strategies and possible interventions that could help end violence against children provide a comprehensive set of guidelines that can be adapted to local contexts, including Latin America. The recommendations focus on holistic multi-sectoral interventions that require high-level commitment from governments. Therefore, in line with the need for contextualised interventions on the one hand, and the recent political commitments made by national governments (through the establishment of special agencies for the protection and promotion of children's rights, see section 4.4) and Mexico's volunteering as Pathfinder country in the Global Partnership to End Violence against Children, recommendations for action will be geared towards building on and reinforcing existing local commitments and institutions.

<sup>37</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804703b4>

<sup>38</sup> <http://eur-lex.europa.eu/leg-content/EN/TXT/PDF/?uri=CELEX:32011L0093&qid=1471528085232&from=en>

<sup>39</sup> <http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=celex:32011L0093>

<sup>40</sup> <http://ec.europa.eu/justice/grants/results/daphne-toolkit/en/content/child-sexual-abuse-vision-and-reality-save-children-sweden>

<sup>41</sup> [http://www.nji.nl/nl/Download-NJi/Publicatie-NJi/What\\_works\\_in\\_tackling\\_child\\_abuse\\_and\\_neglect.pdf](http://www.nji.nl/nl/Download-NJi/Publicatie-NJi/What_works_in_tackling_child_abuse_and_neglect.pdf)

<sup>42</sup> INSPIRE was developed with help and support from UNICEF, World Bank, CDC, PEPFAR, Together for Girls, UNODC, USAID, PAHO.

## 6 Conclusions and recommendations

### 6.1 Conclusions

This report has highlighted the severity and persistence of sexual violence against minors in Latin America, with specific reference to Bolivia, Colombia, Ecuador, Mexico, Paraguay and Peru. Despite some country-specific differences with regard to causes and impunity –e.g. Paraguay’s system of child exploitation through *criadazgo*, the high levels of criminal violence and corruption in parts of Mexico, legacies of conflict-related gender-based violence in Colombia and Peru, the neglect of indigenous populations in Peru and Mexico, and the reliance on community-based justice systems in Ecuador and Bolivia- these countries have much in common as far as child sexual abuse is concerned:

- high levels of violence against women: between 46 and 70 % of women in the region experience emotional, physical and/or sexual violence during their lifetime;
- high levels of violence against minors, especially girls, in their own homes and communities;
- lack of data around incidence and prevalence of sexual violence against minors;
- lack of adequate service provision for victims of abuse;
- lack of accountability;
- lack of adequate prevention mechanisms.

To address sexual violence against minors, it is necessary to start at the bottom of this list:

Prevention requires public campaigns to counter sexism and violence and promote children and women’s rights. Likewise, gender and sexuality training in primary and secondary schools is essential, but it must be complemented by a non-stereotyped portrayal of men and women’s roles in society. As explained in section 3.1, the sexual division of labour is itself at the heart of the problem, and has to be addressed. More youth-friendly, and more choice centred sexual and reproductive healthcare provision is essential to the empowerment of young people, and thus, to prevention.

Impunity must be tackled: while the major structural issues of each country are difficult to address from an agenda focused on child abuse, countries can and must develop judicial strategies to ensure perpetrators are held accountable. Special prosecutors’ units, better training for police and judicial staff, clarity in legal frameworks and the resources to implement those legal frameworks are all essential. The Bolivian judiciary’s pledge to speed up legal cases shows that changes can and must be made.

But accountability starts with the services the state is obliged to provide to victims. The Peruvian example of CEMs or DEMUNAS, i.e., special community-based agencies that focus on providing psychological, social, medical, and legal services to victims of sexual and physical violence and help process actual denunciations, are important initiatives – but they need to be adequately resourced. They also need adequate cooperation from the ministries of Education, Health and Justice to make sure services are coordinated and that frontline personnel is adequately trained. The link between violence against women and (sexual) violence against children seems obvious, but is not always recognised in responses. While separate services for children and adolescents are important, existing services that focus on violence against women also need to expand their awareness and practice to include sexual violence against children and adolescents.

There are two issues concerning data: one is the collecting and processing of denunciations and what happens to those denunciations. Secondly, denunciations are clearly unrepresentative of the extent of sexual violence towards minors. Prevention campaigns must help victims to come forward and report violence. However, in order to improve data collection, prevalence could be measured by a) including

questions about child abuse in population-based national surveys that already ask questions around violence against women, and b) by using smaller scale and more sensitive sample surveys to estimate the actual extent of the phenomenon<sup>43</sup>.

## 6.2 National action plans

Following these conclusions, it is paramount that sexual violence against children and adolescents is taken seriously by national governments, and the problem needs to be addressed from multiple perspectives at the same time. Therefore, one way forward would be comprehensive national action plans that include measurement, prevention, protection, and prosecution. Any national action plan to tackle sexual violence against minors should link up to the UN Global Partnership to End Violence against Children, to which all parties are subscribed by virtue of being part of the SDG agreements. National action plans should follow the guidelines prepared by public health experts, which are based on long-term research and experience and are grounded in available evidence. Two documents can provide the framework for such plans: 1) the INSPIRE (WHO, 2016, see 5.2) guidelines to prevent violence against children, and 2) the more specific, Latin America focused, evaluation of the 'Prevent with Education' document, which focuses on countries' actual performance in terms of gender and sexuality education and reproductive healthcare provision for young people (IPPF, 2015, see 4.3).

National action plans would need to include the following elements:

- **Monitoring:** National Action Plans should set up national databases to record denunciations in different agencies such as police, prosecutors' offices, or other service providers and collate these numbers on a yearly basis. In addition, population surveys should start including the collection of data around child abuse, as is already the case with violence against women.
- **Prevention:** Prevention should include gender and sexuality education in primary and secondary school that specifically addresses violence and coercion, gender stereotypes and diversity, and rights (IPPF, 2015). Prevention should also involve public campaigns in support of children's and adolescents' rights, as well as attempts to break down sexist stereotypes and patriarchal relations that jeopardise girls' bodily integrity (INSPIRE, 2016).
- **Protection:** Existing support services need to be resourced properly, and staff must be given gender training to enable them to respond adequately and sensitively towards children and adolescents who seek help (IPPF, 2015). Telephone and/or chat lines are particularly effective reporting mechanisms (Global Partnership, 2016), as they allow young people to seek help anonymously and independently from others. Reproductive health services have improved considerably, but should be strengthened by violence detection training for healthcare personnel (IPPF, 2015). Free and safe abortion services in cases of rape are essential for health of children and adolescents.
- **Prosecution:** Accountability has to be improved through better implementation and enforcement of existing laws (INSPIRE, 2016). This can only be done through a) better training of police, prosecutors and judges, and b) making such services accessible to children and their families. Specialised services that integrate social, psychological, medical and legal assistance for victims of sexual and family violence, as in Peru, could work if they were well resourced and made to collaborate with existing security and judicial services. Policies that can speed up trials, as is the case in Bolivia, would greatly enhance access to justice. Other options include the establishment of special prosecutors for sexual and family violence who are trained to deal with such cases, provided that the rights of the victim are not subsidiary to the rights of the family unit.

<sup>43</sup> The WHO (2005) surveys showed that there was a significant difference in reporting experiences of sexual violence if asked in a sensitive and/or anonymous manner, than if part of larger demographic surveys.

Baseline studies of the functioning of and gaps in existing interventions in each country should be the basis of the development of effective policies. As suggested above, the 'sexual abuse against children in the circle of trust questionnaire'<sup>44</sup> developed by the Lanzarote Convention could be adapted and used as a tool for a baseline study of existing interventions and gaps.

### 6.3 Recommendations for the EU

The EU works with a series of tools that help foster children's rights, end violence against minors, and violence against women. The EU action plan on human rights and democracy 2015-19<sup>45</sup> provides a detailed framework of objectives that are relevant to the above analysis. Objectives 14 and 15 of the action plan specifically commits to gender equality, women's rights, empowerment and participation of women and girls, and to children's rights. Further, many of the discussed needs in relation to ending sexual violence against children and adolescents relate directly to the plan's objectives:

The EU should support and strengthen National Human Rights Institutions and make sure violence against children is on their agenda (objective 1). EU Country Delegations could encourage this by including in the list of thematic priorities projects that specifically aim to end violence against children and adolescents in the local calls for proposals under the European Instrument for Democracy and Human Rights, the EIDHR. While the EIDHR has a solid track-record of funding projects benefitting women, children, and adolescents throughout the region, it has not yet prioritised sexual violence against children and adolescents specifically. Likewise, while the latest global call for proposals does have women and girls' rights as one of its main objectives, it does not specifically mention sexual violence against children and adolescents. Considering the discussed social constraints to addressing this problem, and the current global effort to push political agendas to take such violence more seriously, country- and issue specific prioritisation could be useful.

In the case of the discussed countries, existing governmental agencies for children's rights, discussed in section 4.4, as well as offices of what in Latin America are called *defensorías del pueblo*, which are similar to what in Europe might be called ombudsman offices, but focus largely on human rights including children's rights, should be encouraged to expand and consolidate their work. These are the ideal institutions to design, coordinate and implement national action plans. Such governmental institutions also have the authority to carry out a baseline study such as the 'sexual abuse against children in the circle of trust questionnaire'<sup>46</sup> designed to support the Lanzarote Convention in Europe. This questionnaire could be adapted by local experts (e.g. in NGOs or universities) to local needs, and facilitate the establishment of gaps and needs in services and interventions to prevent, protect, and prosecute in cases of sexual violence against minors. Such a baseline study helps facilitate priorities for designing a national action plan, as well as highlight what works well and what does not. In addition, it would provide a tool that allows for useful comparison and discussion in the region. The EIDHR could be used to encourage such baseline studies in the individual countries.

Civil society organisations (CSOs) are well-placed to study, design and implement specific projects in relation to violence against children and adolescents. Following objective 7 and 8 of the EU action plan, country delegations should actively support CSOs that work on children's rights and on women and violence. Such CSOs are important vehicles to visibilise social problems, put pressure upon national and local governments to act, carry out studies, and provide local services, especially in remote or marginalised areas. Most of the studied countries have strong CSOs with a good capacity for practice-based research and advocacy (especially Mexico, Peru, and Colombia), while Ecuador, Bolivia and Paraguay have weaker CSO that might benefit from more hands-on organizational support, or regional platforms. Overall, Latin

<sup>44</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804703b4>

<sup>45</sup> [https://eeas.europa.eu/human\\_rights/docs/eu\\_action\\_plan\\_on\\_human\\_rights\\_and\\_democracy\\_en.pdf](https://eeas.europa.eu/human_rights/docs/eu_action_plan_on_human_rights_and_democracy_en.pdf)

<sup>46</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804703b4>



American CSOs struggle to continue their work as overall external funding for Latin America is rapidly decreasing. The continuing and in most cases even increasing EIDHR funding is therefore particularly important in setting priorities of CSO activity. Relevant country-specific civil society organisations and human rights organisations, experts and university-based researchers could be funded in order to sustain the pressure upon national governments, generate local knowledge about practices and policy implementation, and develop tools for interventions.

The EU needs to continue to strengthen cooperation with the UN and regional human rights and democracy mechanisms (objective 6 and 9 of the action plan), specifically through the endorsement of the Global Partnership to End Violence against Children. The EU has to actively support the Pathfinder countries in their search for effective measures that can improve services for children and young people in their home countries. Considering the focus on Latin America, the EU could choose to join the working group that Mexico is currently forming to take this process forward. Considering the strong ties the EU has with the UN, its support for the UN Special Rapporteur on violence against women, its causes and consequences, and the UN Special Representative on Sexual Violence in Conflict and its close collaboration with UNICEF, for example in designing the Child Rights Toolkit (2014), this is a logical step to take.

The new framework for gender equality and women's empowerment through EU external relations (2016-2020) was published in September 2015 to align with the Sustainable Development Goals and the EU action plan on human rights and democracy 2015-19. The gender equality framework puts great emphasis on three factors that are essential to the here discussed thematic: physical and psychological integrity, empowerment of women and girls, including education, and voice and participation. Funding to work towards these objectives is channelled through EU Official Development Assistance, and bilateral or regional development programmes, including aid modalities such as budget support, support for CSO and thematic interventions<sup>47</sup>. Hence, the commitments made in this framework for gender equality can be used to make sure that relevant aid is channelled to Bolivia, Colombia, Ecuador, Mexico, Paraguay and Peru and allocating funding to projects addressing sexual violence against children and adolescents is considered. In addition, the framework's fourth objective advocates for a shift in institutional culture in the Commission and EEAS services, aiming to properly mainstream gender in all projects and activities. This is an opportunity for EU Delegations to advocate for including gender in all country-level projects (e.g., the current call for projects in Bolivia looking at democratisation and collaboration between CSOs and local government<sup>48</sup>), but also for including specific goals such as addressing violence and sexuality in education reform projects, human trafficking, or improvement of healthcare services (e.g. Peru<sup>49</sup>).

While the EU has a range of useful tools and platforms relevant to children's rights and women's rights, none of these focus specifically on sexual violence against children and adolescents. Considering the scale of the problem, the hidden and everyday-ness of such violence in homes and communities, and the impact such violence has on the lives of children and young people, especially girls, it is essential that the EU creates a specific platform to address sexual violence against children and adolescents. The European Parliament could advocate for such a platform.

In sum:

- EU Delegations can include the specific objective of ending violence against children and adolescents in their EIDHR funding priorities.

<sup>47</sup> [http://europa.eu/rapid/press-release MEMO-15-5691\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5691_en.htm)

<sup>48</sup> [http://eeas.europa.eu/delegations/bolivia/press\\_corner/all\\_news/news/2016/2016041116\\_convaneal\\_es.htm](http://eeas.europa.eu/delegations/bolivia/press_corner/all_news/news/2016/2016041116_convaneal_es.htm)

<sup>49</sup> [http://eeas.europa.eu/delegations/peru/projects/case\\_studies/index\\_es.htm](http://eeas.europa.eu/delegations/peru/projects/case_studies/index_es.htm)

- A specific call can be made, targeting experts, to carry out a baseline study of existing services and gaps in services to monitor, prevent, protect, and prosecute, drawing on an adaptation of the 'sexual abuse against children in the circle of trust questionnaire'<sup>50</sup>.
- EU Delegations can encourage governmental agencies for the rights of children, discussed in section 4.4, to design a national plan to end violence against children and adolescents, in collaboration with relevant CSOs, NGOs, and HR institutions. Such a plan would include measures to prevent, protect, and prosecute.
- The EU Delegation in Mexico could work with its recently established National System for Comprehensive Protection of Children in its role of pathfinder country for the Global Partnership to End Violence against Children.
- The EU should endorse the Global Partnership to End Violence against Children.
- EU Official Development Assistance has to adhere to the principles of the framework for gender equality and women's empowerment through EU external relations (2016-2020) and the Sustainable Development Goals, to make sure the EIDHR is allocated sufficient budget to enable country-delegations to fund projects and studies to end violence against girls. Relevant programmes already existing, such as education reform projects, human trafficking, or improvement of healthcare services projects, have to pay particular attention to sexual violence against children and adolescents.
- The European Parliament could advocate for a specific platform across EU institutions that could monitor and encourage EU initiatives to address sexual violence against children and adolescents in Latin America.

<sup>50</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804703b4>

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