

Sexual violence against girls in schools as a public health issue: a commentary on the case *Paola Guzmán Albarracín v. Ecuador*

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On June 24, 2020, the Inter-American Court of Human Rights (hereinafter the Court) issued its judgment on the case *Guzmán Albarracín and others v. Ecuador*, finding Ecuador internationally responsible for failing to protect Paola Guzmán Albarracín, a girl who suffered sexual harassment and rape within her school.¹ The Court's ruling establishes, for the first time, standards to prevent sexual violence against girls and adolescents in educational settings. Moreover, the Court's decision requires the State to implement public health measures aimed at reducing gender-based violence cases within schools in Ecuador, as well as the high rates of underage pregnancies and unsafe abortion. Particularly, through ensuring access to sexual and reproductive education, girls will be empowered to live free from violence and thus healthier and fuller lives.

This commentary will provide a brief account of the facts of the case, and then will analyse the Court's main jurisprudential developments pertaining to sexual and reproductive rights as well as the implications of the judgment for the Latin America and the Caribbean region. Finally, the commentary will address the impact of the Court's judgment on public health and education.

The facts

Paola Guzmán was a 14-year-old who was a victim of sexual harassment and rape within her school. The school's vice-principal took advantage of Paola's academic difficulties and engaged in a

predatory sexual relationship that lasted for over two years. As a result of the abuse, she became pregnant. The vice-principal pressured Paola into having an abortion, referring her to the school's doctor, who also sexually harassed her in exchange for performing the procedure.

This situation was well known by the school authorities. It further reflects a generalised Ecuadorian and Latin American context of sexual violence within schools, which still persists in Ecuador. Between 2015 and 2017, there were 4,584 reports of sexual abuse in Ecuadorian schools, with teachers registered as the main aggressors, and in 2018 there was a 55% rise in the number of claims of similar cases.^{2,3} Three out of 10 adolescents in Latin America have suffered some form of sexual harassment in schools, and 1.1 million girls within the region have suffered some form of sexual violence.^{4,5} Additionally, Latin America continues to see a rising number of pregnancies of girls under 14 years old,⁶ which directly impacts their lives and livelihood, and their future prospects in education, work and income, among others, affecting their physical, mental and social health and wellbeing.⁷

The school's inspector questioned Paola about the *nature* of her alleged relationship with the vice-principal and proposed to inform Paola's mother of her "bad" conduct. The accusations made by the inspector, in addition to the harassment and rape she was subjected to, caused Paola great pain and suffering, and led her to take the decision to ingest white phosphorous,

poisoning herself. Paola's schoolmates informed the school authorities when they discovered what she had done, but the authorities failed to take any steps to save her life. Instead, they took Paola to the school's nursing office to *pray for her soul*. Paola's schoolmates also informed Paola's mother about her situation, and it was her mother, upon arriving at the school, who took Paola to a hospital. However, it was too late to save Paola's life.

After her daughter's death, Paola's mother sought justice for her daughter but there were grave procedural failures within Ecuador's criminal system that prevented her from achieving this in Ecuador. The authorities considered that Paola had "seduced" the vice-principal, thus placing the blame on Paola, on the basis of a gender stereotype that ended up influencing the criminal proceedings. To this date, the case remains in impunity. Due to the ineffectiveness of the national criminal system, in 2006 Paola's case was presented by the Center for Reproductive Rights and CEPAM-Guayaquil to the Inter-American Commission on Human Rights (IACHR) and on February 7, 2019 the IACHR submitted the case to the Court.⁸

The Court's judgments pertain to violations of the American Convention on Human Rights, the legal instrument which gives jurisdiction to the Court, and as such the Court's decisions are not only binding on the State in question but are also binding over the 25 States of the Americas that have ratified the American Convention.

The Court's main developments pertaining to sexual and reproductive rights and the implications of the judgment in Latin America

The Court issued a judgment on Paola's case, determining that Paola was a victim of sexual violence and rape, inasmuch as the predatory relationship established by the vice-principal to her detriment affected her education and autonomy, and contributed directly to her ultimate suicide. It further determined that Ecuador failed to bring those facts to justice free from gender stereotypes. Thus, it identified a breach of Paola's rights to life, personal integrity, private life and education, as well as to children's rights. It further determined that this constituted a breach of the State's duty of non-discrimination and duty to

prevent violence against women, as well to its duties to assure due process and remedies.

The Court's judgment on Paola's case is the first one to create human rights standards on the obligation to prevent sexual harassment against adolescents and girls in the educational context and to ensure access to sexual and reproductive education. This decision is a relevant precedent that should inspire other regional and national courts, as well as policymakers worldwide, to adopt measures that guarantee access to a comprehensive education free from sexual violence and any other forms of gender discrimination.

Above all, the Court's judgment points out that the right to education should include sexual and reproductive education, which enables girls and boys to adequately understand the implications of sexual and emotional relationships, particularly with regard to consent and the exercise of their freedoms concerning their sexual and reproductive rights. This education must be provided comprehensively, without discrimination, must be evidence-based, and must be scientifically rigorous and appropriate to the age of the children and adolescents (note 2, para. 139).¹ This means that States cannot now ban sexual and reproductive education in schools because access to this type of education has been established as a human right in the region. The Court acknowledged such education as a human right per se, which is fundamental to a girl's understanding of sexual violence and, in consequence, her ability to denounce it (note 2, para. 140).¹ The ruling provides a new safeguard towards addressing a patriarchal culture that normalises sexual harassment in schools, which starts by educating girls on how to identify and denounce these deplorable practices.

The Court also established a relevant standard on the evolving capacities of children and adolescents with regard to their sexual and reproductive rights by explaining that the rights to personal integrity and privacy entail freedoms such as sexual freedom and the freedom to control their own bodies, all of which can be exercised according to their evolving capacity and maturity (note 2, para. 109).¹ In other words, adolescents have the power to make decisions over their sexuality and bodies and have the right to receive information and education that allows them to strengthen their criteria for exercising these freedoms.

Furthermore, this is the first case that identifies that when sexual harassment is exercised by

someone in a position of power and trust, who takes advantage of their position to invalidate the consent of the victims, it is a form of sexual violence (note 2, para. 127 and 131).¹ In other words, any sexual act that takes place under these circumstances is an act of sexual violence, since consent cannot be valid. As a result, the Court's decision obliges States to develop public policies that will contribute to the prevention of sexual violence and to the denunciation of aggressors, empowering girls to challenge the patriarchal *status quo*, and building the capacity of family members and school officials to be able to support and accompany the victims of these violent acts.

Moreover, the ruling analyses in detail the gender stereotype that influenced the State authorities. According to the Court, Paola was considered a “*provocateur*” and this facilitated the sexual violence perpetuated against her, which was also tolerated by the school institution and the judicial system. This stereotype assumes that any woman who approaches a man for help, does so with the intention of seducing him and opens the door to a transaction where their bodies and sexuality are part of that exchange. This stereotype not only normalises the violence but also blames the victim for the aggression, leading to the idea that in reality children and adolescents do not deserve protection or access to justice because the blame for the aggression falls on them and not on the abuser. Consequently, the Court's decision demands structural normative changes within the law and the administration of justice towards the eradication of this gender stereotype (note 2, para. 132).¹

Finally, the judgment also held that the failure of States to establish any policies or measures to address or reverse the causes of structural violence, means that girls grow up in environments where gender-based violence is pervasive.

The judgment's impact on public health and education

Violence against women is a public health concern. A public health approach to violence against women complements the human rights approach in that it employs a science-driven, population based, interdisciplinary and intersectoral approach to prevent violence against women, focusing on the prevention of violence before it

occurs.^{9,10} A public health perspective on violence against women thus seeks to address the societal and community factors that lead to these forms of violence, including the perpetuation of beliefs within society that condone violence.¹¹ The Court identified that sexual harassment in school contexts in Ecuador has been on the rise since 1998. Moreover, the Court confirmed that 23.3% of children in Guayaquil (where Paola was from) reported having been victims of sexual violence and that these figures are tending to increase (note 2, para 132, para 45).¹ The Court then evaluated whether the policies implemented since the events leading to Paola's death had succeeded in addressing these concerns, particularly assessing the training of school personnel, the mechanisms available to provide care to victims, and the measures adopted to prevent the continuing occurrence of sexual harassment within school programmes.

As a result of this analysis, the Court identified several issues that require a public health approach for their resolution: first, the lack of statistical information available regarding cases of violence against girls within the school context is problematic and thus requires that the State adopt measures to generate that information; second, the Court identified that the State needs to develop adequate mechanisms for the detection of cases of harassment in schools and to develop adequate complaint mechanisms that can ensure these cases are appropriately and fully addressed by the authorities; third, the Court urged the State to continue trainings on the matter with a view to ensuring that all officials within an educational context are capable of identifying sexual harassment within schools and, as a consequence, can implement measures to prevent it, and can provide adequate orientation and assistance to girls who have been victims of sexual harassment and to their family members.

Ecuador must as such develop public policies towards complying successfully with these objectives. Any attempt to comply with these duties requires a public policy perspective, including but not limited to conducting comprehensive research on public health and educational policies. Identifying the next steps to implement the decision, through science and research, with objectively measured indicators, is the basis to effectively guarantee girls' human rights in this area. Thus, public health researchers are called

upon to develop mechanisms and adequate strategies to guarantee full compliance with the rights at stake. In the particular case of the rights of girls and adolescents, research and the development of policies relating to access to sexual and reproductive health services and education are the cornerstone for the satisfaction of these rights.

Adequately adopting these public health measures should lead to the reduction of gender-based violence cases within schools in Ecuador. It should further result in a decrease of underage pregnancies and unsafe abortion rates in Ecuador. In addition, the implementation of these measures will reduce the stress that girls suffer when in an unsafe school environment, which was ultimately what led to Paola's suicide. It will also lead to stronger, healthier, and empowered women, who, by receiving sexual and reproductive education, and understanding what their rights are and how to challenge the patriarchal norms that have normalised harassment, will live fuller and free lives.

Conclusion

The Inter-American Court of Human Rights' ruling on the case *Guzmán Albarracín and others v. Ecuador* sets important precedents and reminds States that the protection of girls and adolescents

is a priority. This judgment establishes at least five State duties: to guarantee access to sexual and reproductive education to girls and adolescents so that they understand the implications of emotional relationships; to recognise that girls and adolescents have the right to sexual freedom and control of their own bodies, according to their evolving capacities; to adopt adequate measures to prevent human rights violations such as sexual violence; to eradicate gender stereotypes from educational environments and judicial systems; and to adopt measures that promote the empowerment of girls and challenge patriarchal norms and stereotypes to prevent or reverse all types of discrimination.

The transformation of these legal obligations into concrete actions requires States to adopt public policy measures towards adequately fulfilling these duties. A successful model in Ecuador could serve as a cornerstone to implement the judgment's standards throughout the region. The Court's decision recognises the rights that girls and adolescents have and the States' duty to adopt measures towards guaranteeing the realisation of those rights. Public health researchers and health systems now have an opportunity to brainstorm, create, and implement the path towards compliance with this duty.

References

1. Inter-American Court of Human Rights. *Guzmán Albarracín and others v. Ecuador*. Judgment of June 24, 2020. Merits, Reparations, and Costs. Available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_405_esp.pdf.
2. Ministry of Education of Ecuador. Ministry of Education updates figures on sexual violence cases and socializes inter-institutional actions. 2018. Available at: <https://educacion.gob.ec/ministerio-de-educacion-actualiza-las-cifras-de-caso-sexual-violence-and-socializing-inter-institutional-actions>.
3. National Assembly of Ecuador. Special Occasional Commission "AAMPETRA". Report on the political control made to the Ministry of Education regarding its action to combat sexual violence against children and adolescents in educational units. 2018. Available at: <https://educacion.gob.ec/wp-content/uploads/downloads/2018/03/INFORME-CONTROL-POLITICO-EDUCACION-referred-Session-20.pdf>.
4. UNICEF. Children in Latin America and the Caribbean: Overview in 2018. UNICEF Panama. 2018. Available at: <https://www.unicef.org/lac/media/4926/file>.
5. UNICEF. The path to girls' empowerment in Latin America and the Caribbean: 5 rights. UNICEF: Latin America and Caribbean Regional Office. 2017. Available at: <https://www.unicef.org/lac/media/1441/file/PDF%20E1%20camino%20al%20empoderamiento%20de%20las%20ni%C3%B1as%20en%20Am%C3%A9rica%20Latina%20y%20el%20Caribe%3A.pdf>.
6. PAHO. Latin America and the Caribbean have the second highest adolescent pregnancy rates in the world. 2018. Available at: https://www.paho.org/hq/index.php?option=com_content&view=article&id=14163:latin-america-and-the-caribbean-have-the-second-highest-adolescent-pregnancy-rates-in-the-world&Itemid=1926&lang=en.
7. De La Torre VG, Castello P, Cevallos MR. Vidas robadas: entre La omisión Y La premeditación. Situación De La

- Maternidad Forzada En Niñas Del Ecuador. 2016;45; <http://Repositorio.Dpe.Gob.Ec/Handle/39000/2410>
8. IACHR. Report No. 110/18. Case 12.678 Merits. Paola del Rosario Guzmán Albarracín and family members. October 5, 2018. Available at: <https://www.oas.org/es/cidh/decisiones/corte/2019/12678FondoEs.pdf>.
 9. WHO and London School of Hygiene and Tropical Medicine. Preventing intimate partner and sexual violence against women. 2010. P. 6. Available at: https://www.who.int/violence_injury_prevention/publications/violence/9789241564007_eng.pdf.
 10. Öhman A, Burman M, Carbin M, et al. The public health turn on violence against women': analysing Swedish healthcare law, public health and gender-equality policies. 20 BMC Public Health. 2020;753:6.
 11. WHO and PAHO. Understanding and addressing violence against women. 2012. Available at: https://apps.who.int/iris/bitstream/handle/10665/77434/WHO_RHR_12.37_eng.pdf;jsessionid=024EE45B8D3CB5A040E735E890B6F464?sequence=1.