



REPORT N° 21/07
PETITION 161-02
FRIENDLY SETTLEMENT
PAULINA DEL CARMEN RAMÍREZ JACINTO*
MEXICO
March 9, 2007

I. SUMMARY

1. By means of a petition lodged with the Inter-American Commission on Human Rights (hereinafter "the Commission," "the Inter-American Commission," or "the IACHR") on March 8, 2002, the nongovernmental organizations *Centro de Derechos Reproductivos* ("Center for Reproductive Rights") and Alaide Foppa A.C., which later accredited the *Grupo de Información en Reproducción Elegida* ("Reproductive Choice Information Group," (GIRE)) as a joint petitioner, (hereinafter "the petitioners")^[1] filed a complaint against the United Mexican States (hereinafter "the State" or "the Mexican State") for violating the human rights of the minor child Paulina del Carmen Ramírez Jacinto. She allegedly became pregnant as a result of a rape and was prevented by the state authorities from exercising her right to terminate that pregnancy as provided for in Mexican law.

2. The complaint claims that the Mexican State is internationally responsible for violating the rights protected by Articles 1, 5, 7, 8, 11, 12, 19, and 25 of the American Convention on Human Rights (hereinafter "the American Convention"), the rights protected by Articles 1, 2, 4, 7, and 9 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (hereinafter "the Convention of Belém do Pará"), the right protected by Article 10 of the Additional Protocol to the American Convention in the Area of Economic, Social, and Cultural Rights (hereinafter "the Protocol of San Salvador"), the rights protected by Articles 9, 17, and 24 of the International Covenant on Civil and Political Rights, the rights protected by Articles 3 and 12 of the Universal Declaration of Human Rights, the right protected in Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, and the rights protected in Articles 19, 37, and 39 of the Convention on the Rights of the Child.

3. On March 8, 2006, during the IACHR's 124th regular session, the Mexican State and the petitioners signed a friendly settlement agreement. In this report, adopted under Article 49 of the American Convention, the IACHR summarizes the allegations, describes the agreement reached by the parties and the progress made in compliance with it, and resolves to publish it.

II. PROCESSING BY THE COMMISSION

4. The petition was lodged with the IACHR on March 8, 2002. In a communication dated April 4, 2002, the Inter-American Commission asked the petitioners for additional information regarding compliance with the requirements set out in the American Convention and its Rules of Procedure. In a filing dated May 1, 2002, the petitioners sent the IACHR the information it had requested. On May 20, 2002, the Commission conveyed the relevant parts of the complaint to Mexican State and gave it a period of two months in which to submit its comments. The Mexican State, in a filing dated July 22, 2002, asked the IACHR for an extension, and this was granted by the Commission on August 6, 2002. The State's reply, received on August 21, 2002, was conveyed to the petitioners on September 3, 2002, with which the exchange of comments described in the American Convention and the Commission's Rules of Procedure began.

5. The information provided indicates that the petitioners and the State met on July 20, 2004, in order to explore the possibility of a friendly settlement. In addition, in a submission dated October 6, 2004, the State agreed to the commencement of joint efforts toward reaching a friendly settlement agreement. To this end, the Mexican State said it would begin by analyzing the viability of the proposal presented by the petitioners.

6. The petitioners and representatives of the Mexican State met with the IACHR on March 2, 2005, during the Commission's 122nd regular session. The information provided indicates that the petitioners and the State met on May 27, 2005, and again on August 26, 2005, the latter meeting taking place during a visit to Mexico by a delegation from the Inter-American Commission. They also met on September 21, 2005, in the Mexican state of Baja California, on which occasion the State and the petitioners signed a document setting out some of the commitments to be met by the parties in order to reach a definitive agreement resolving the matter.

7. The parties remained in permanent communication and reached a friendly settlement agreement on March 8, 2006, during the IACHR's 124th regular session.^[2] On that same date, the parties formalized their commitment through the signing of an agreement.

8. At a working meeting held on October 20, 2006, during the IACHR's 126th regular session, the State and the petitioners presented to the IACHR a report signed by both parties describing their progress with the points set out in the friendly settlement agreement.

III. FACTS COVERED BY THE FRIENDLY SETTLEMENT

9. The petitioners claim that on July 31, 1999, Paulina del Carmen Ramírez Jacinto, then fourteen years of age, was raped while in her home. The incident was immediately reported to the agency of the Public Prosecution Service (MP) specializing in sexual crimes and domestic violence. The rape resulted in a pregnancy. The petitioners also claim that the Public Prosecution Service did not inform either Paulina del Carmen Ramírez Jacinto or her mother about the existence of emergency oral contraceptives.

10. The petitioners note that under Article 136 of the Baja California Criminal Code, Paulina del Carmen Ramírez Jacinto was entitled to a legal abortion, subject to the authorization of the Public Prosecution Service, since rape cases are one of the exceptions in which abortion is legal:

Abortion shall not be punishable: I. (...), II. (...), When the pregnancy is caused by rape (...), provided that the abortion is carried out within the first ninety days of gestation and the incident was duly reported, in which case it may be performed on the sole condition that the incident is verified by the Public Prosecution Service."

11. The petitioners report that when Paulina del Carmen Ramírez Jacinto and her mother decided that an abortion was the best alternative, they went to the Public Prosecution Service to obtain the necessary authorization. However, they claim the Public Prosecution Service first refused to give them authorization to visit a private gynecologist and, later, on September 3, 1999, granted the first authorization for the intervention to be performed at a public-sector hospital. Paulina del Carmen Ramírez Jacinto made an appointment at Mexicali General Hospital on September 8, and that appointment was given for October 1. The petitioners report that Paulina del Carmen Ramírez Jacinto remained at the hospital until October 8, during which time the procedure was not performed and she was unjustifiably forced to fast. In addition, during that period hospital staff gave both Paulina del Carmen Ramírez Jacinto and members of her family a series of excuses why the procedure could not be performed, such as the absence of staff anesthetists, the fact that the gynecologists were on vacation, and that the case was going to be submitted for discussion by a review committee. Faced with that situation, the petitioners state that Paulina del Carmen Ramírez Jacinto and her mother once again went to the Public Prosecution Service, which repeated the order for the medical procedure to be performed. Following that, the petitioners claim that the State Attorney General, in order to dissuade Paulina del Carmen Ramírez Jacinto from exercising her right to a legal abortion, took her and her mother to a Roman Catholic priest.

12. The petitioners report that on October 13, 1999, Paulina del Carmen Ramírez Jacinto was readmitted to hospital and that the next day, at a time that her mother was not present, she was visited by two women with no connection to the health services who had been invited by the hospital's director. These women showed her violent videos of abortion procedures in order to dissuade her from terminating her pregnancy. They subsequently did the same with her mother.

13. On October 15, 1999, moments before the surgical intervention was to take place, the petitioners claim that the director of the General Hospital met with Paulina del Carmen Ramírez Jacinto's mother to describe the alleged risks of the procedure to her. According to the doctor, these risks included "sterility, perforation of the uterus, massive hemorrhage, Asherman's syndrome, and death"; he also said that if Paulina del Carmen Ramírez Jacinto were to die, responsibility for that would fall to her mother alone. The petitioners maintain that this biased and imprecise information succeeded in scaring the mother, who decided to ask the medical staff to refrain from proceeding with the operation.

14. The petitioners claim that Paulina del Carmen Ramírez Jacinto's case is indicative of those of a countless number of girls and women forced into motherhood after being raped and after being prevented by state authorities from exercising a legitimate right enshrined in Mexican law. In addition, since the nation's laws lack regulations that allow rape victims to exercise their right to an abortion, they are compelled to carry to term pregnancies imposed on them by force that, among underage mothers, are characterized by high levels of risk.

15. The petitioners report that there are remedies that may be used to declare the criminal liability of rapists or the administrative responsibility of the authorities involved in this case. However, they hold that these mechanisms do not represent a suitable and effective remedy for such cases, since they cannot remedy the absence of regulations establishing a procedure for exercising the right to terminate a pregnancy caused by an act of rape. They also claim that in the instant case they were prevented from filing for *amparo* relief, since Paulina del Carmen Ramírez Jacinto was never told that her right was not being upheld: "instead, they delayed the process and forced her consent."

IV. FRIENDLY SETTLEMENT AGREEMENT

16. The agreement signed by the parties on March 8, 2006, is transcribed below:

The Mexican State and Paulina del Carmen Ramírez Jacinto, through their representatives, in compliance with the provisions of Article 48.1.f of the American Convention on Human Rights (sic) and Article 41 of the Rules of Procedure of the Inter-American Commission on Human Rights, agree to the following:

ONE: The Government of Baja California shall hand over, on March 4, 2006, as consequential damages covering the legal expenses incurred in processing the case and the medical expenses incurred by Paulina del Carmen Ramírez Jacinto and I. R. J. (sic) as a result of the incident, the amount of \$60,000 (sixty thousand pesos).

TWO: Paulina del Carmen Ramírez Jacinto acknowledges that the Government of Baja California gave to her, in June and August 2001, as assistance for maintenance expenses and assistance with spending on necessities and school supplies, the amount of \$114,000 (one hundred and fourteen thousand pesos).

THREE: Paulina del Carmen Ramírez Jacinto acknowledges that the Government of Baja California gave to her, in June 2001, as support for housing expenses, the amount of \$220,000 (two hundred and twenty thousand pesos).

FOUR: Both Paulina del Carmen Ramírez Jacinto and I. R. J. (sic) shall be provided with health services by the Social Services and Security Institute of the Government and Municipal Workers of Baja California State (ISSSTECALI), in which they are both enrolled as of March 13, 2006. For this purpose, the head of ISSSTECALI's Department of Enrollments and Entitlements shall be the agent of record on behalf of the Government of Baja California.

Said health services shall be given to Paulina del Carmen Ramírez Jacinto and to I. R. J. (sic) on a continuous and permanent basis until I. R. J. (sic) reaches adult age or, should I. R. J. (sic) decide to pursue higher or university studies, until he concludes his higher education.

FIVE: Psychological care for I. R. J. (sic) and Paulina Ramírez Jacinto shall be provided by the specialists of the Mental Health Center of the Baja California State Health Secretariat. For this purpose, they shall be assigned an account executive and they may avail themselves of those services whenever needed at any time following the signature of this agreement.

The account executive to be appointed on March 13, 2006, shall be the head of the Psychology Department of the Mental Health Center, who shall receive them at the premises of that Center (Calle 11 & Río Papaloapan S/N, Fraccionamiento Viña Verde, in Mexicali, Baja California).

SIX: The Government of Baja California shall provide I. R. J., at the start of each academic year, with school supplies, enrollment fees, and text books up to and including the high school level. For this purpose, it will grant, in coupons, at the start of each school year, the amount of \$5,290 (five thousand two hundred and ninety pesos), through the offices of the State Secretariat for Education and Social Welfare.

The school supplies to be given to I. R. J. (sic) are those set out in the "List of school supplies" (Annex 1) and any others added to that list over time by the State Secretariat for Education and Social Welfare.

In order for these items to be provided on a timely basis, Paulina del Carmen Ramírez Jacinto shall report to the offices of the relevant school level section in

the two weeks prior to the start of the corresponding school year, so she can be given the aforesaid amount.

The Government of Baja California agrees to provide I. R. J. (sic), should he decide to continue with higher or university studies following the conclusion of his high school or vocational education, with the corresponding studies at a public institution. The support shall consist of enrollment fees, transportation, and academic supplies for as long as he continues to obtain passing grades in his studies. This support shall increase over time in accordance with the needs of I. R. J. (sic) and taking into consideration the inflation index published by the Bank of Mexico.

SEVEN: On January 15, 2006, the Government of Baja California handed over, as a one-off presentation, a computer and printer.

EIGHT: On March 4 the Government of Baja California will hand over the sum of \$20,000.00 (twenty thousand pesos) through the State Social Development Secretariat's Productive Projects program, to help Paulina del Carmen Ramírez Jacinto in setting up a microenterprise. In implementing this project, she will receive direct assistance from the aforesaid Productive Projects office.

These advisory services shall be provided by the productive projects director of the Social Development Secretariat, at its premises located on the second floor of the executive branch building (Calzada Independencia No. 994, Civic and Commercial Center, Mexicali, Baja California). This assistance shall be provided in three-hour sessions over four weeks (for a total of four sessions) and shall commence once this agreement has been signed.

NINE: The Government of Baja California shall deliver to Paulina Ramírez on March 31, 2006, the sum of \$265,000 (two hundred and sixty-five thousand pesos) as a one-off payment for moral damages.

TEN: The Government of Baja California offered a Public Acknowledgement of Responsibility in accordance with the terms set out in the documents attached to this agreement, published in the local newspapers *La Voz de la Frontera* and *La Crónica* on December 30, 2005, (Annex 2) as well as in the Official Gazette of the State of Baja California on February 10, 2006 (Annex 3).

ELEVEN: The Government of Baja California, through the Directorate of Legislative Studies and Projects, shall submit to and promote before the State Congress the legislative proposals submitted by the petitioners and agreed on with the state government.

For this purpose a working committee was set up, comprising both parties; this committee is currently working on a final proposal, which is to be presented no later than the last day of April, 2006. Once the legislative proposal agreed on by the parties has been made available, it will be submitted to the Baja California State Congress on May 16, 2006 (Annex 4; draft under analysis by the parties).

As regards the proposed amendment of Article 79 of the Regulations of the Organic Law of the Office of the Attorney General for Justice and the proposed circular from the Health Secretariat, the Government of the State of Baja California agrees, within the confines of its competence and powers, to begin the corresponding legal formalities as requested by the petitioners during the first half of April 2006 (Annexes 5 and 6).

Additionally, the local government agrees to schedule the training courses to be conducted by the petitioners, as agreed on at the technical analysis meeting held in Mexicali, Baja California, on January 12, 2006.

TWELVE: The Mexican State, through the Health Secretariat, agrees to:

1. Conduct a national survey, involving state representation, to assess the enforcement of Official Mexican Standard NOM 190-SSA1-1999 regarding medical assistance in cases of domestic violence, and to measure progress with the implementation of the National Program for the Prevention and Attention of Domestic, Sexual, and Violence against Women.
2. Update the aforesaid Official Standard, to expand its goals and scope and to expressly include sexual violence occurring outside the family context. To this end, the petitioners shall be given the preliminary draft of the amendments to the Standard, so they can present whatever comments they deem relevant to the National Consultative Committee for Standardization and Disease Control and Prevention.
3. Draw up and deliver a circular from the federal Health Secretariat to the state health services and other sector agencies, in order to strengthen their commitment toward ending violations of the right of women to the legal termination of a pregnancy, to be sent out no later than the second half of March 2006.
4. Through the National Center for Gender Equality and Reproductive Health, conduct a review of books, indexed scientific articles, postgraduate theses, and documented governmental and civil society reports dealing with abortion in Mexico, in order to prepare an analysis of the information that exists and detect shortcomings in that information, to be delivered to the petitioners in November 2006.

THIRTEEN: All of the annexes referred to above (6) constitute an integral part of this friendly settlement agreement.

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

17. The IACHR again notes that pursuant to Articles 48(1)(f) and 49 of the American Convention, the aim of this procedure is "reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention." Accepting this procedure demonstrates the State's good faith in pursuit of the American Convention's purposes and goals under the principle of *pacta sunt servanda*, whereby states are required to comply in good faith with the treaty obligations they assume. It also again points out that the friendly settlement procedure provided for in the American Convention allows individual cases to be concluded in a noncontentious fashion and that in cases from several different countries, it has served an important vehicle for resolving disputes that is available to either party.

18. The Commission greatly appreciates the efforts of both parties in reaching this settlement, which is compatible with the object and purpose of the American Convention. The IACHR has repeatedly stated that protecting and promoting the rights of women is a priority for OAS member states, with the goal of ensuring the full and effective enjoyment of their basic rights, in particular the rights of equality, to freedom from discrimination, and to a life free from gender-based violence.

19. The Convention of Belém do Pará states that the victims of sexual violence are entitled to the recognition, enjoyment, exercise, and protection of all their human rights, including the civil, political, economic, social, and cultural rights enshrined in regional and

international human rights instruments. The Commission also underscores that women cannot fully enjoy their human rights without having a timely access to comprehensive health care services, and to information and education in this sphere. The IACHR also notes that the health of sexual violence victims should be treated as a priority in legislative initiatives and in the health policies and programs of Member States.

20. At the working meeting held on October 20, 2006, during the IACHR's 126th regular session, the State and the petitioners submitted a report to the Commission, formalized by means of the signature of both parties, on the progress made in compliance with the points of the friendly settlement agreement transcribed above. That document states that the Government of Baja California has complied with points one (as of March 4, 2006), two and three (as of 2001), and four (as of March 24, 2006, the date on which Paulina del Carmen Ramírez Jacinto and I. R. J. were enrolled in the Social Services and Security Institute of the Government and Municipal Workers of Baja California State). As regards the agreement's fifth point, the parties report that on March 28, 2006, Paulina del Carmen Ramírez Jacinto was given a document making available to her, and to her son, the psychological support services agreed upon. With reference to point six of the agreement, on September 5, 2006, the Government of Baja California gave Paulina del Carmen Ramírez Jacinto the amount of \$5,290 (five thousand, two hundred and ninety pesos) to cover school supply expenses, enrollment fees, and text books for her son for the 2006-2007 academic year.

21. As regards points seven and eight of the agreement, the parties report that the computer and printer were handed over on January 15, 2006, and that on March 6, 2006, the sum of twenty thousand pesos was handed over by the Productive Projects program of the State Secretariat for Social Development as a contribution to assist Paulina del Carmen Ramírez Jacinto in setting up a microenterprise. In connection with this point, the parties report that the Government of Baja California also handed over, on August 8, 2006, a "letter of debt relief," which guarantees and records for future state governments that the amount given is a donation from the State of Baja California to Paulina del Carmen Ramírez Jacinto and not a loan, for which reason all subsequent documents will be void of legal effect. The parties also report that as regards point nine of the agreement, the sum agreed on as a one-off payment for moral damages was duly paid on March 31, 2006. Regarding the tenth point of the agreement, the parties state that on December 30 2005, and in February 2006, a Public Acknowledgement of Responsibility was published by the Government of Baja California.^[3]

22. With regard to point eleven of the agreement, the parties note that on September 15, 2006, the General Secretary of Government of the State of Baja California presented the XVIII State Congress with the initiative agreed on by the parties for amending the Baja California State Criminal Code, Code of Criminal Procedure, and Public Health Law. They also report that on May 2, 2006, representatives of Paulina del Carmen Ramírez Jacinto, of the Baja California government, and of the foreign ministry's General Directorate for Human Rights and Democracy signed a document regarding the proposed amendment of Article 79 of the Regulations of the Organic Law of the Office of the Attorney General for Justice of the State of Baja California, together with the proposed circular from the Health Secretariat. The amendment of the Regulations was published in the Official Gazette of the State of Baja California on October 13, 2006,^[4] and on October 4, 2006, the circular was issued, coming into effect as of that date. The parties also provided information about the training courses that the petitioners will offer to the staff from the offices of the Attorney General for Justice and of the Health Secretariat of Baja California. The parties also report the fulfillment of item three of agreement twelve in that, on April 4, 2006, the federal Health Secretariat sent the health secretaries of the 31 states and the Federal District, the General Coordinator of the IMSS Opportunities Program, the General Medical Subdirector of the ISSSTE, the Director of Medical Benefits of the IMSS, and the Director General for the Coordination and Development of Federal Hospitals, the circular urging them to develop and

follow the guidelines and procedures necessary to ensure the timely exercise of the right of all women to legally terminate a pregnancy.

23. The parties report that although agreements eight and eleven have essentially been implemented, the components that require ongoing compliance will continue to be monitored. As regards agreement eight, dealing with the productive project, monitoring will continue until the grocery store is in order and, as for agreement eleven, monitoring will continue so that the Government of Baja California can report on its lobbying strategy with the state legislature. In addition, to guarantee continued compliance with point six of the agreement, covering support for I. R. J.'s schooling, this point will be monitored in order to establish mechanisms to ensure its transparency within the state government and its observance over the years to come. The parties also note that the following agreement points have not yet been met: eleven, regarding the training courses to be conducted in Baja California and twelve, sections 1, 2, and 4.

VI. CONCLUSIONS

24. The Inter-American Commission has closely followed the development of the friendly settlement reached in this case. The above information indicates that, in general terms, the agreement has been implemented in accordance with the terms of the American Convention. The Commission will continue to monitor the points still pending compliance. In consideration of the above remarks and in light of the procedure set forth in Articles 48(1)(f) and 49 of the American Convention, the Commission reiterates its deepest appreciation of the efforts made by the parties and its satisfaction at the realization of the friendly settlement agreement in the case at hand, based on the purpose and goals of the American Convention.

25. The achievements secured through the actions and good disposition of the two parties in this matter offer a significant example to be followed in other cases – both those that involve Mexico as well as other cases from other regions and countries of the hemisphere. In particular, the IACHR appreciates the active and direct interest of the representatives of the federal government and of the government of Baja California, pursuant to the terms of Articles 1, 2, and 28 of the American Convention. In a federally structured country such as Mexico, national and local authorities alike are obligated to uphold in full the rights enshrined in the American Convention. In this case particular note has therefore been taken of the joint, complementary work carried out by the federal and local authorities – each within its sphere of competence – in pursuit of this goal. The IACHR also applauds the efforts made and flexibility shown by the petitioners, which made this agreement possible.

26. Without prejudice to the previous paragraph, the IACHR underscores the importance of the adoption, by the member states, of criminal, civil, or administrative measures in order to ensure that incidents such as the one described in this case are duly sanctioned and do not enjoy impunity. The IACHR has repeatedly stated that *de jure* and *de facto* access to suitable and effective judicial remedies is indispensable for the protection of all the rights of women, as is states' compliance with their obligation of acting with due diligence when violations of their human rights occur.

27. In consideration of the comments and conclusions set out in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the friendly settlement agreement signed by the parties on March 8, 2006.
2. To continue with the follow-up and monitoring of the points of the friendly settlement that are pending implementation or that require ongoing compliance.

3. To publish this report and to include it in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 9th day of the month of March, 2007. (Signed): Evelio Fernández Arévalos, President; Paulo Sérgio Pinheiro, First Vice-President; Florentín Meléndez, Second Vice-President; Clare K. Roberts, Freddy Gutiérrez, Paolo G. Carozza and Víctor E. Abramovich, Commissioners.

ANNEX**OFFICIAL JOURNAL**

February 10, 2006

GOVERNMENT OF THE STATE OF BAJA CALIFORNIA**PUBLIC ACKNOWLEDGMENT OF RESPONSIBILITY
PAULINA RAMIREZ JACINTO
P-161/02**

In compliance with the Friendly Settlement Agreement concluded with the Inter-American Commission on Human Rights regarding the case of Paulina del Carmen Ramírez Jacinto, the Government of the State of Baja California states that:

The events leading up to this matter occurred in the city of Mexicali, Baja California, on July 31, 1999, when the crimes of statutory rape and aggravated robbery were committed against the 13-year-old minor Paulina Ramírez Jacinto (born on September 1, 1985).

Just a few hours later on the same day, the juvenile's mother went to the Office of the Public Prosecutor to report the rape of her underage daughter, Paulina.

On September 3, 1999, the minor's mother appeared before the agency that deals with sex crimes to report that Paulina was pregnant as a result of the rape and requested authorization for the legal interruption of pregnancy.

On September 20, 1999, the Office of the Public Prosecutor of the State of Baja California issued the results of Preliminary Investigation 00249/99/10, authorizing the pregnancy to be interrupted.

Subsequently, that order was forwarded to the state's health services area. However, it was not possible to end the pregnancy because the public health institution she was referred to denied her medical care and the physicians did not give the family objective information on the risks of performing an abortion.

In view of the physicians' refusal to perform an abortion, on October 15, 1999, the minor's representative, i.e., her mother, exercising her parental rights under Articles 410 and 411, and other related articles of the State Civil Code, stated expressly to the ministerial authority that, given the risk to her daughter, she did not want an abortion to be performed on the minor.

On October 25, 1999, the complaint was filed with the Office for Human Rights and Citizen Protection of the State of Baja California (PDHPCBC), when there was still time under law for the pregnancy to be interrupted. On October 29, 1999, the 90-day gestation period established under Article 136 of the State Criminal Code, during which an abortion can be performed without risk, came to an end.

On March 3, 2000, the PDHPCBC issued recommendation 2/2000, establishing that the government was obliged to compensate Paulina and her mother, María Elena Jacinto, for moral damages, since it had denied them the right to interrupt the pregnancy, which had been caused by a rape.

On April 13, 2000, Paulina's son, Isaac de Jesús Ramírez Jacinto, was born.

On July 14, 2001, in criminal case 514/99 Paulina's attacker was sentenced to 16 years in prison and 340 fine-days, for the crimes of statutory rape and aggravated robbery.

In view of the foregoing, an investigation was initiated to determine administrative responsibility on the part of the state officials concerned.

On August 13, 2001, the Office of the Public Prosecutor decided not to pursue criminal proceedings in Preliminary Investigation 488/99/104 because of a lack of evidence demonstrating illicit conduct by the civil servants for the offenses of abuse of authority, collusion between civil servants, improper handling of documents, breach of confidentiality, and torture.

On February 7, 2002, a ruling was handed down in the appeal filed against the decision not to pursue criminal proceedings, establishing, among other things, that further steps must be taken to gather additional evidence to determine whether sufficient grounds exist to bring criminal action against the civil servants involved. To date, the evidence has not been gathered nor has the matter been resolved.

Finally, on March 8, 2002, at the request of Paulina del Carmen Ramírez Jacinto, her case was filed with the Inter-American Commission on Human Rights and classified as petition P-161-02. At the Commission's urging, a friendly settlement agreement was worked out between the petitioners and the Government of Mexico.

As part of the agreement, the Government of the State of Baja California is making this public statement, acknowledging that the absence of an appropriate body of regulations concerning abortion resulted in the violation of Paulina del Carmen Ramírez Jacinto's human rights.

Accordingly, it is established and fully recognized that, at the time her human rights were violated, the State of Baja California did not have an appropriate body of regulations to deal with the incident that occurred and that this prevented her from availing herself of the right she was demanding. It should also be made clear that this practice is not state policy in Baja California.

This statement also seeks to prevent the recurrence of this type of situation and demonstrates the strong determination of the Government of Baja California to respect the individual and social guarantees enshrined in the constitution, as well as the human rights embodied in international treaties and conventions signed by our country. It confirms its commitment to continue working steadfastly for the complete eradication of activities and practices that undermine human rights. Likewise, the state government will continue seeking to implement legal and administrative reforms giving citizens greater certainty and legal security in their day-to-day interactions with authority.

Issued and signed in the city of Mexicali, Baja California, on February 3, 2005.

GOVERNMENT OF THE STATE OF BAJA CALIFORNIA

* The Commission is using the victim's full name at the petitioners' express request.

[1] One of the joint petitioners that originally participated in this petition was the Epikeia organization.

[2] It is important to highlight that the IACHR received a communication from the Mexican State dated March 17, 2006, addressing the "working meetings" section of the report of the IACHR's 124th regular session, with specific reference to the paragraph dealing with Petition P-161/02 and Paulina Ramírez Jacinto. The Mexican State notes that "an error was made in stating that (...) 'In that matter, the parties reached a friendly settlement agreement that included public recognition of the

responsibility of the Government of Baja California and a significant series of reparation measures for the alleged victim and her son." The State says that "the word 'alleged' must be deleted since, as stated in that same paragraph, the State, through the government of Baja California, has publicly recognized that Paulina del Carmen Ramírez Jacinto was a victim."

[3] See Public Acknowledgement of Responsibility in the annex to this friendly settlement agreement.

[4] The amendment of Article 79 of the Regulations of the Organic Law of the Office of the Attorney General for Justice of the State of Baja California included a change in the name of Chapter Four, Title Seven, of those Regulations: "On the inhibition of pregnancies" was changed to "On the legal interruption of pregnancy."

The fifth "whereas" clause of the amendment states that: "As a result of the friendly settlement agreement, signed by the Mexican State and Paulina del Carmen Ramírez Jacinto, and in accordance with the terms of Article 48 of the American Convention on Human Rights and Article 41 of the Rules of Procedure of the Inter-American Commission on Human Rights, the Government of the State of Baja California, within the scope of its competence and powers, assumed the commitment of enacting an amendment to Article 79 of the Regulations of the Organic Law of the Office of the Attorney General for Justice, whereby women who are victims of the crime of rape are to receive information on the legal termination of a pregnancy, in order to provide such persons as so request with mechanisms to enable them to decide freely and on an informed basis regarding the possibility of performing that procedure through mechanisms that ensure free access to the facilities of the health sector in the shortest delay possible."

The amendments to Article 79 of the Regulations include the duty of the Public Prosecution Service to inform victims about their right to the legal termination of a pregnancy, "setting down the corresponding procedure and record thereof in the case file" when a preliminary investigation is opened into the crime of rape or prior insemination. It also sets out the procedure to be followed if the pregnant women in question is of minor age or disabled (section 1).

Sections 3, 4, 5, 6, and 7 of the amendment to Article 79 of the Regulations are transcribed below:

"Section 3. To determine whether the request is admissible, the agent of the Public Prosecution Service shall verify and, if appropriate, certify the following requirements:

- (a) The existence of a complaint for the crime of rape or artificial insemination without consent;
- (b) Verification of the pregnancy at any institution of the public health system;
- (c) Evidence indicating that the pregnancy was caused by the rape or artificial insemination without consent;
- (d) The duration of the pregnancy has not exceeded the gestation period of ninety days set out in the Criminal Code.

Section 4. Once the victim has requested the legal termination of the pregnancy, the Public Prosecution Service shall direct her to the public health institutions of the state of Baja California, so the relevant medical studies can be carried out and the existence of a pregnancy and the gestational age of the fetus can be verified, along with the elements set out in paragraph (c) of the previous section.

The public health institutions shall perform legal terminations of pregnancies when so authorized by the Public Prosecution Service.

Section 5. The agent of the Public Prosecution Service shall be obliged to ensure that victims receive impartial, objective, truthful, and adequate information regarding the legal procedures and medical risks, so that a pregnant woman may make a decision regarding the termination of her pregnancy freely, responsibly, and on an informed basis.

This information shall be provided immediately while refraining from guiding or delaying the woman's decision, and an entry shall be made in the preliminary investigation indicating that timely information was given.

Section 6. Once the requirements set out in section 3 have been met, and in accordance with Article 136-II of the Criminal Code, the agent of the Public Prosecution Service shall issue, in writing, within the following 24 hours, the authorization for the legal termination of the pregnancy as described in the applicable legal provisions.

The assistant prosecutor for the zone shall assist the agents of the Public Prosecution Service responsible for issuing the authorization described in this article and shall supervise the observance of its terms.

Section 7. The agent of the Public Prosecution Service shall deliver to the victim – or, if the victim is a minor child or disabled, to the parent or legal guardian – the document containing the authorization for the legal termination of the pregnancy, for it to be delivered to the public health institution identified for the purpose, order the immediate performance of the procedure, indicating therein the limit date for it to be carried out, in accordance with the terms of the Criminal Code, so that the steps necessary for compliance with the ordered measure may be taken within the legal deadline."

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