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Mrs. Magaly Gómez
President of the Human Rights Commission of the
Chamber of Deputies of the Plurinational State of Bolivia.

Distinguished Representative Magaly Gómez,

It is a pleasure to greet you on behalf of the Committee of Experts (CEVI) of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI), a body created by the General Assembly of the Organization of American States in October 2004, as a result of the mandates established in the aforementioned Convention.

As you know, the CEVI's mandate is to follow up on the full implementation of the obligations derived from the Belém do Pará Convention, as well as to ensure that the decisions of the States Parties comply with the highest international standards in terms of obligations to prevent, investigate, punish and make reparation for acts of gender-based violence against women and girls

The CEVI maintains as a basic principle of its work the close and constant collaboration with the States of the region, with the aim of progressively strengthening the protection and guarantee of women's human rights in the hemisphere.

On this occasion, the Committee of Experts that I represent wishes to encourage the Plurinational State of Bolivia to advance its efforts to prevent, punish and eradicate sexual violence against women and girls in accordance with the recommendations made by the Inter-American Court of Human Rights in its judgment in the case *Angulo Losada v. Bolivia*.

The Committee of Experts has learned of the "Bill to Combat Impunity in Sexual Crimes against Infants, Girls, Boys and Adolescents," which introduces amendments to crimes against sexual freedom and is currently being addressed by the Chamber of Deputies. While we welcome this initiative, the Experts of this Committee consider it vitally important that consent be explicitly included in this legislative text as the central axis of crimes of sexual violence.

According to the CEVI [Declaration on Violence against Women, Girls and Adolescents and their Sexual and Reproductive Rights](#), sexual violence is defined as “actions with a sexual nature committed with a person without their consent, which besides including the physical invasion of the human body, may include acts that do not imply penetration or even any physical contact whatsoever.”

The lack of consent is the central element that allows for the proper differentiation between a situation of violation or an act of freedom. Therefore, the Committee of Experts has stated¹ that States Parties have an obligation to clearly conceptualize and analyze the concept of consent in relevant legislation, especially in contexts of unequal power relations that involve domination and submission based on age and position. Rape or other sexual crimes occur when the victim does not understand the act that is being carried out or is incapable of freely and voluntarily giving consent.

The CEVI recalls that according to Article 7, paragraphs b, c and e, of the Belém do Pará Convention, the States Parties undertake to act with due diligence in the face of violence against women, taking appropriate measures, including legislative measures, to prevent, punish and eradicate such violence, and to modify legal or customary practices that tolerate it.

For this reason, in its [General Recommendation No. 3 on the concept of consent in cases of gender-based sexual violence against women](#), the Committee of Experts calls on States to develop public policies and legislative actions aimed at "expressly regulating consent and the lack of attention to it in the Criminal Codes, taking into account power relations, coercion and other contexts that eliminate consent". When coercive circumstances exist, consent cannot be considered free and voluntary and lacks legal validity.

For its part, the Inter-American Court of Human Rights considers it essential that States include in their criminal law, elements to determine the absence of consent in a sexual act, and affirm that consent cannot be inferred, but must always be offered freely and prior to the act and may be reversible.

For all of the above reasons, the Committee I chair urges the legislators of the Human Rights Commission of which you are president, to take into account the elements mentioned here in order to modify the aforementioned bill. We thank you for your consideration of this proposal, which derives from the international and regional jurisprudence of International Human Rights Law, as well as, from what was notified to the Plurinational State of Bolivia in the previously mentioned judgment of the Inter-American Court of Human Rights.

¹ General Recommendation No. 3 on the concept of consent in cases of gender-based sexual violence against women. Available here: https://belemdopara.org/wp-content/uploads/2022/03/consentimiento_220322_eng.pdf

Finally, we reiterate our willingness to collaborate with the State to provide technical support on any issue related to the implementation of the Belém do Pará Convention.

I take this opportunity to send a cordial greeting,

MARCELA HUAITA ALEGRE
PRESIDENTA DEL COMITÉ DE EXPERTAS