



Suprema Corte
de Justicia de la Nación



DERECHOS
HUMANOS

This overview contains the cover page, the summary and the extract of a decision of Mexico's Supreme Court of Justice. Changes were made to its original text to facilitate the reading of the extract. This document has informative purposes, and therefore it is not binding.

NON-CONSENSUAL FEMALE STERILIZATION AS A FORM OF GENDER-BASED VIOLENCE, OBSTETRIC VIOLENCE AND A FORM OF TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT
(ESTERILIZACIÓN FEMENINA NO CONSENTIDA COMO UNA FORMA DE VIOLENCIA DE GÉNERO, VIOLENCIA OBSTÉTRICA Y UNA FORMA DE TORTURA O DE TRATOS CRUELES, INHUMANOS O DEGRADANTES)

CASE: *Amparo en Revisión* 1064/2019

REPORTING JUSTICE: Norma Lucía Piña Hernández

DECISION ISSUED BY: First Chamber of Mexico's Supreme Court of Justice

DATE OF THE DECISION: May 26, 2021

KEY WORDS: forced sterilization, right to health, right to equality and non-discrimination, right to privacy, right to personal integrity, right to a life free of violence, right to health information, free development of personality, life project, permanent method of contraception, reproductive freedom and autonomy, informed consent, gender-based violence, torture, obstetric violence.

CITATION OF THE DECISION: Supreme Court of Justice of the Nation, *Amparo en Revisión* 1064/2019, First Chamber, Norma Lucía Piña Hernández, J.Decision of May 26, 2021, Mexico.

The full text of the decision may be consulted at the following link:

<https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emplematicas/sentencia/2022-07/AR%201064-2019.pdf>

CITATION SUGGESTED FOR THIS DOCUMENT: Human Rights Office of Mexico's Supreme Court of Justice, *Extract of the Amparo en Revisión* 1064/2019, Mexico.

SUMMARY OF THE *AMPARO EN REVISIÓN* 1064/2019

BACKGROUND: A woman filed an *amparo indirecto* lawsuit for the forced sterilization she was subjected to as an act of torture, against the Zone #9 Hospital of Ciudad Guzmán, State of Jalisco (Hospital #9) and a doctor assigned to that hospital. She argued that, because of the cruel, inhuman and degrading treatment received during the entire prenatal and childbirth stage of her pregnancy, as well as the forced sterilization called Bilateral Tubal Ligation (BTL) she was subjected to without her consent, her rights to personal integrity, health, reproductive freedom and autonomy, a life project, information and a life free of violence were violated. A District Judge of Jalisco issued a decision in which he dismissed the suit, arguing the non-existence of the acts claimed. The woman filed a *recurso de revisión* against this decision and the Collegiate Court hearing the case decided to withdraw it because the women requested the Supreme Court of Justice of the Nation (this Court) to exercise its authority to assert jurisdiction, which was exercised by the First Chamber. The Director of the *Grupo de Información en Reproducción Elegida* (GIRE) filed an “*amicus curiae*” brief before this Court making various observations.

ISSUE PRESENTED TO THE COURT: Whether the informed consent signed by the woman to perform a permanent method of contraception such as BTL was unlawfully granted, to then determine whether the absence of informed consent is sufficient to consider that it was a non-consensual female sterilization and constitutes a form of gender-based violence, obstetric violence and torture or cruel and inhuman treatment.

HOLDING: The *amparo* was granted for the following reasons. This Court reaches the conclusion that, in this case, the necessary prior, free, full and informed consent for performing the BTL did not exist. Informed consent in permanent methods of contraception is an indispensable instrument to guarantee the right of women not only to make free and autonomous decisions in relation to their sexual and reproductive health, but also according to their personal dignity and integrity. In this case, the consent granted by the woman did not meet the requirement of being *prior*, since she signed the form moments before they performed the cesarean, which shows that the supposed authorization granted for the BTL was given minutes

before it was done, without having any information on this permanent method of contraception. Consent was not granted *freely*, since it was defined by gender stereotypes, specifically by the concept that the husband has decision-making power over the body and reproductive processes of his wife. It is impossible to consider that her consent was *full and informed*, which requires that the woman fully understood the information that was provided to her, since no such information existed. Thus, the woman was a victim of a non-consensual female sterilization as a form of torture, a victim of gender-based violence, a victim of obstetric violence and a victim of cruel, inhuman and degrading treatment. This is because all the acts generated fear, anxiety and feelings of inferiority and had the purpose of humiliating, degrading and breaking the moral resistance of the woman.

VOTE: The First Chamber decided this case unanimously by 5 votes of the justices Norma Lucía Piña Hernández, Ana Margarita Ríos Farjat, Juan Luis González Alcántara Carrancá, Jorge Mario Pardo Rebolledo (reserved his right to prepare a concurring opinion) and Alfredo Gutiérrez Ortiz Mena.

The votes may be consulted at the following link:

<https://www2.scjn.gob.mx/ConsultaTematica/PaginasPub/DetallePub.aspx?AsuntoID=266379>

EXTRACT OF THE *AMPARO EN REVISIÓN* 1064/2019

p.1 Mexico City. The First Chamber of Mexico's Supreme Court of Justice (this Court), in session of May 26, 2021, issues the following decision.

BACKGROUND

- p.1-3 On February 28, 2018, a 31-year-old woman who was insured by the Mexican Social Security Institute (IMSS), filed an *amparo indirecto* lawsuit indicating as responsible authorities: i) The General Hospital of Zone number 9 of Ciudad Guzmán of the State of Jalisco, belonging to the IMSS (Hospital #9) and; ii) a doctor assigned to that hospital. The acts of authority challenged were:
- p.15 First. Violation of the right to personal integrity. Based on the provisions of article 22 of the Political Constitution of the United Mexican States (CPEUM) and 5 of the American Convention on Human Rights (ACHR) she argues that her personal integrity was violated when a forced sterilization was performed. She states that in her case a sterilization procedure was performed in a public hospital immediately after having given birth to her second child by cesarean, since it was considered that the procedure was necessary because another pregnancy would be risky; however, this information was provided incompletely and to pressure her to agree to the procedure.
- p.19 Second. Violation of the right to health. She argues that the lack of prenatal care, the obstetric violence suffered and the forced sterilization she was subjected to, impacted her right to health as it prevented her from reaching a state of integral physical, psychological and social health.
- p.19-20 Third. Violation of the right to reproductive freedom and autonomy. Article 4 of the Constitution regarding the right of every person to decide freely, responsibly and in an informed manner the number and spacing of their children, states that this right involves the free development of personality, since each individual will choose, autonomously, their life project. She argues that information on the Bilateral Tubal Ligation (BTL) should have been provided in advance through a counselor and in a friendly way, which did not happen. In this case she signed while she was in labor and with the cesarean conditioned on her

agreeing to sterilization through BTL. She did not have the opportunity to choose her method of contraception and was not informed in that respect, her prior informed consent was not sought, and her desire to have a third child was cut short, thereby violating her right to reproductive freedom and autonomy.

p.21-22 Fourth. Violation of the right to a life project. She argues that thwarting her right to procreate imposed new and adverse circumstances on her and changed the plans and projects she had made, substantially altering her individual development. Harm was caused to her life project understood as a reasonable and accessible expectation, in this case implying the loss or serious undermining of opportunities for personal development, irreparably or in a way very difficult to repair. The State arbitrarily impeded her from continuing her reproductive life.

p.22 Fifth. Violation of the right to information. Based on article 6 of the Constitution, 13 of the ACHR and 10 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), she argues a violation of her right to information on access to reproductive health services. She points out that for women's reproductive rights to be fully realized, the right to information must be guaranteed so they can make decisions on their health and access good quality services.

p.23-24 Sixth. Violation of the right to a life free of violence. As provided in article 1 of the Constitution, article 7 of Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará Convention) and the General Law and local laws of Women's Access to a Life Free of Violence, any act based on gender that causes death, harm, physical, sexual or psychological suffering to a woman, in the public or private sphere, constitutes violence against women.

Non-consensual sterilization is a form of violence against women and therefore the State must act with due diligence to investigate and punish those responsible. Within the framework of medical care and health services, women remain vulnerable to violations of their sexual and reproductive rights, in most cases through discriminatory practices that are a consequence of the application of gender stereotypes to their detriment.

- p.3,4 On April 23, 2018, the District Judge of the State of Jalisco that heard the case issued a decision dismissing all the claims, considering that they did not exist.
- p.4 The woman filed a *recurso de revisión* against the *amparo* decision on May 10, 2018, which was sent to the Collegiate Circuit Court in session.
- p.6 On February 8, 2019, the Collegiate Court decided to withdraw the case since it had learned that the woman had requested this Court to exercise its authority to assert jurisdiction over the case.
- p.7 On May 20, 2019, the President of the First Chamber of this Court admitted this case for processing. By ruling of September 4, 2018, it was determined to exercise the authority to assert jurisdiction.
- p.8,30 On April 20, 2021, an *amicus curiae* brief was filed with this Court signed by the Director of the *Grupo de Información en Reproducción Elegida (GIRE), Asociación Civil*, in which she raised questions related to health services for women and persons gestating, specifically with respect to forced sterilization as a violation of reproductive rights, as well as the application of the gender perspective in studying the validity of the informed consent.

STUDY OF THE MERITS

- p.45 The woman essentially states that she has been a victim of forced sterilization and cruel, inhuman and degrading treatment in her childbirth and postpartum as a form of gender-based violence, also involving obstetric violence, in violation of her fundamental right to health, personal integrity, reproductive freedom and autonomy, to determine her life project, to a life free of violence and to information on access to reproductive health services.
- p.45-46 This Court notes that there is a situation of special vulnerability and asymmetry of power that requires judging with a gender perspective responding to the national and international obligations of the Mexican State to combat discrimination against Mexican women.

- p.46 In addition, the analysis should be undertaken applying the amendment of deficient pleadings as provided in article 79, section VII, of the *Amparo* Law, because women in the provision of reproductive services, particularly childbirth and postpartum care, are in a special situation of vulnerability resulting not only from their physical and emotional health, but also from the asymmetry of power compared with the medical personnel that put them in a subordinate and inferior position.
- p.46-47 With this in mind, the constitutional dispute in this case will consist of, first, determining whether the informed consent signed by the woman to perform a permanent method of contraception like BTL was unlawfully granted.
- p.47 If that hypothesis is confirmed, this Court will have to determine whether the absence of informed consent in performing a BTL is enough to consider that it was a non-consensual female sterilization as a form of gender-based violence, obstetric violence and torture or cruel and inhuman treatment. This Court must also analyze whether the behavior of the medical personnel, during the childbirth and postpartum stage, fall under another form of obstetric violence.

Preliminary considerations

- p.48-49 Obstetric violence, as a specific form of violence against gestating women and persons in the sphere of reproductive health, is a phenomenon that requires the special attention of this Court. As noted by the *amicus curiae* brief presented by GIRE there is no consensus in our country on the definition of obstetric violence and, consequently, it is still particularly complex to determine the conduct that constitutes this form of violence.
- p.49 The only way to visualize the mistreatment and the violence that gestating women and persons suffer with reproductive care is by deconstructing the various stereotypes that permeate and define the exercise of rights in this sphere; in particular, the hegemonic model of care during pregnancy, childbirth and puerperium that entails an asymmetry of power that puts women in a position of subordination and inferiority vis-a-vis doctors, violating their human rights, must be questioned.

p.50 This Court notes the important progress made in the area of obstetric violence, specifically forced and non-consensual sterilizations, both in international courts and international organizations and mechanisms for protection of human rights, so for resolving this case that progress will be taken up, on the understanding that the exercise of rights of gestating women and persons related to providing reproductive services is governed by the international human rights *corpus iuris*.

I. Analysis of the bases for relief

p.105 Since the bases for relief are interconnected, to give a complete response in light of the constitutional parameter, they will be examined together.

A. Informed consent

p. 110 This Court reaches the conclusion that, in this case, the prior, free, full and informed consent necessary for carrying out the BTL did not exist.

p. 110-111 The document called “informed consent in family planning” shows this Court that on February 1, 2017 – at which time the woman had been in labor for 4 days – the responsible health authorities gave her a form to sign that referred to information on the different methods of contraception and their consequences, as well as the statement that “she has understood” each and every one of the possible undesirable side effects that the method can have.

This document recorded that the woman gave her free, conscious and informed consent for performing the BTL, with she and two witnesses who were her mother and her husband signing, as well as the treating physician.

That document is not valid because it did not comply with the necessary requirements to be effective under the national and international norms that govern the human right to informed consent, specifically those necessary for performing permanent methods of contraception such as the BTL.

Informed consent in permanent methods of contraception is an indispensable instrument to guarantee women’s right not only to make a free and autonomous decision in relation

to her sexual and reproductive health, but also according to her personal dignity and integrity.

- p.112 It is necessary to emphasize that informed consent cannot be understood or analyzed as an act of acceptance, but as a process of concatenated stages in which various requirements – prior, free, full and informed – must be met.

In this case, the consent granted by the woman did not meet the requirement of being prior since she signed the form moments before the cesarean was performed on her, which shows that the supposed authorization granted to perform the BTL was given minutes before it was carried out, without any information on this permanent method of contraception, or much less being given any counseling as required by the applicable norms.

- p.113 Although the woman signed a preprinted document before the BTL was performed on her, this isolated act cannot be considered a prior authorization since her signature was given without a minimally reasonable time for her to be able reach a decision of this nature. Informed consent is not a mere act of acceptance; it is the result of a process that must comply with various elements to be considered valid.

The signing of the preprinted document in these conditions violated point 4.4.1.5 of the Official Mexican Standard NOM 005-SSA2-1993, Family Planning Services (NOM 005-SSA2-1993), which establishes that the acceptance of a permanent method of contraception must be preceded by one or more counseling sessions, as well as point 4.4.4 which clarifies that the counseling will also be before making the decision and selecting the particular method of contraception, and that it will have to be carried out in the different opportunities for consultation with the service provider.

- p.114 It is also clear to this Court that the consent was not given freely, voluntarily and autonomously; on the contrary, it was subject to pressure, intimidation, threats, withholding of the necessary medical treatment, as well as disinformation and deception.

The woman explains that during the three days of labor she presented episodes of high blood pressure, bleeding and, on February 1, she was informed that she no longer had

amniotic fluid, which caused her particular concern, anguish and stress. It was at this time when the doctor asked her if she had talked with her husband about family planning methods. When the woman answered no, the doctor called her irresponsible and asked her: “how many days do you want to be here?”. She says that the doctor left to speak with her husband and her mother, saying to her: “I hope he’s not one of those *machos* who doesn’t understand, and in fact, if not, you’re going to stay as you are, we’ll see how long it takes for you to give birth”.

p.115 In the opinion of this Court, the woman’s consent was not freely given because it was granted under conditions of stress and vulnerability, not only due to the labor itself, but also the particular conditions in which it developed, specifically the news of the absence of amniotic fluid.

The form in which the woman granted her acceptance was a direct violation of point 4.4.4 of NOM 005-SSA2-1993 which specifically establishes that counselling for adoption of permanent methods of contraception will not be given in situations of crisis, nor when the woman’s capacity for judgment or reasoning is compromised; thus, her right to information in accordance with article 6 of the CPEUM and 13 of the ACHR was violated.

p.116-117 This Court notes from the case record that the woman never expressed her intention of controlling her reproductive capacity through a method of contraception; on the contrary, she states she had wanted to have more children and, nevertheless, the medical personnel coerced and induced her and her family to accept the BTL.

p.117 In addition to the above, this Court notes that the consent of the woman cannot be considered freely given since the request for it was based on gender stereotypes, specifically the concept that the husband has decision-making power over the body and reproductive processes of his partner. In fact, consent must be personal, provided exclusively by the woman since only she can make this type of decision in relation to her body and her sexual and reproductive health. The request for “authorization or consent” of her family members was discriminatory and contrary to the reproductive freedom and autonomy of the woman.

While the decision on a permanent method of contraception can be made as a couple, this does not imply that “the authorization” or the agreement of the husband is necessary, as this reiterates the stereotype that women are unable to make consistent or reliable decisions in relation to their own body and reproductive capacity, which is contrary to article 1 of the CPEUM and the CEDAW.

p.117-118 In conclusion, the woman’s consent was also neither full nor informed; consent can only be considered full if it is granted based on the relevant information necessary for a person to decide in relation to her health and her own body, which implies, at a minimum, the patient’s state of health, her diagnosis, the treatment, her alternatives and their effects.

In this regard, point 4.4.1.5 of the NOM 005-SSA2-1993 regulates the obligation of the health authorities to provide counseling that includes comprehensive information on the irreversibility of these methods, their details, advantages and risks.

p.118 The woman did not receive any information that would allow her to decide to forego her ability to have more children; there was no diagnosis of her reproductive state of health, the effects and consequences of the BTL were not explained, and the possibility of other less invasive contraceptive methods or male methods were not discussed.

It is impossible to consider that her consent was full, which requires that the woman fully understood the information that was provided to her, since no information was provided.

p.118-119 The only information she may have had on the BTL that was performed on her was on the preprinted form she was given to sign which, far from constituting informed consent, was a waiver of her rights and transfer of control to the medical team caring for her.

p.119 Due to the nature and consequences of the BTL as a permanent method of contraception, the medical personnel had a reinforced duty to get the woman’s informed consent, with all its requirements. This duty was not only breached, but the violation of her rights to health, personal integrity, reproductive freedom and autonomy and information on access to reproductive health care was aggravated by the deceptive, coercive and inducive attitude of the responsible authorities.

B. Non-consensual female sterilization as a form of gender-based violence and obstetric violence and, consequently, as a form of torture or cruel, inhuman or degrading treatment

p.121 In this decision, the term non-consensual female sterilization will be used to refer to those cases in which a sterilization is performed without prior, informed, full and free consent.

p.122 According to the parameters of national and international law in force at the time of the events, this Court concludes that the woman was a victim of a non-consensual female sterilization as a form of torture, a victim of gender violence, a victim of obstetric violence and a victim of cruel, inhuman and degrading treatment.

The permanent contraception performed on the woman through the BTL method must be categorized as a non-consensual feminine sterilization; the absence of her prior, informed, full and free consent is sufficient to reach this conclusion.

The BTL performed cannot be considered an emergency procedure or one intended to save her life, and therefore the exception to the obligation of the responsible health authorities to get her informed consent in accordance with the applicable norms is not applicable, and this is so despite the fact that the woman states that the doctor informed her family members that, for health reasons, it was not advisable for her to have another pregnancy “because she had presented high blood pressure”.

p.122-123 As a result of the above, the responsible authorities specifically failed to comply with their obligations under the Official Mexican Standards NOM-004-SSA3-2012, NOM-007-SSA2-2016 and NOM 005-SSA2-1993 which require that the informed consent for performing a BTL must be obtained through specific processes which include prior counseling for the patient in order to guarantee a reasonable period of reflection, in an environment free of any kind of inducements or pressure.

p.123-124 This Court considers that the reproductive freedom and autonomy of the woman – reproductive self-determination – was disrupted because, as a result of an arbitrary intervention of the medical personnel who treated her, she could not materialize her family

life project, which is in violation of articles 1 and 4 of the CPEUM, as well as articles 5.1, 7, 11 of the ACHR and 16 of the CEDAW.

p.124 By annulling the reproductive capacity of the woman, her freedom was violated to make decisions on the most intimate and personal aspects of her being according to her options and convictions, such as the number and spacing of her children, violating article 7 of the ACHR.

In addition to the above, given the intimate link between the rights to dignity and to health, this Court notes that the latter, specifically her sexual and reproductive health, were violated. In terms of article 12.2. of the CEDAW the woman was not guaranteed the appropriate services in relation to her childbirth and postpartum and, specifically, her right to enjoy maternity care without risks in terms of General Recommendation N° 24. Women and their health, of the CEDAW Committee, was violated.

p.124-125 This Court reiterates its ruling that reproductive health of women implies their right to freely decide the methods and procedures, both to have their children and to control their reproductive capacity and, with this right, the correlative obligation of the State arises, not only to guarantee health services, but also to abstain from imposing discriminatory practices in relation to the state of health and needs of women.

p.125 The non-consensual sterilization of the woman implied gender-based violence; considering the definition of violence against women established in both the Belem Do Pará Convention and the CEDAW, this Court shares the conclusion expressed by the CEDAW Committee, as well as the Human Rights Committee, that a non-consensual or involuntary female sterilization constitutes a form of violence against women.

p.126 The sterilization performed was a form of discrimination because of her condition as a pregnant woman and, later, a woman in labor. The responsible authorities performed the BTL based on the stereotype that women have the reproductive function, and they are incapable of making responsible decisions in that regard. The woman was displaced from the leading role that corresponded to her in her childbirth, becoming an object with respect

to which others – medical personnel and her own family members – decided to perform a BTL.

This Court notes the position of extreme vulnerability in which the woman was placed as a result of the asymmetry of power between the “medical personnel – pregnant woman/woman in labor”; she was not allowed to make a decision regarding the BTL, much less reflect on it. They put her in a situation of absolute subordination expressed, on the dominant side, by the medical personnel and, on the other side, herself, in labor, seeking to protect her life and the life of her child.

The decision to perform a BTL on the woman responded to a paternalistic logic based on the stereotype that she was not able to make reliable decisions on future pregnancies, and therefore the health personnel assumed the decision-making power over her body. In particular, they determined that she would not be a mother again and that it was she, not her partner, who would be responsible for contraception.

p.127 This Court understands that the non-consensual sterilization performed on the woman also constituted an act of obstetric violence.

p.127-128 Obstetric violence is understood as a form of gender-based violence, expressed through a set of dehumanizing practices exercised in health matters, particularly reproductive health, which have a negative impact on the autonomy, freedom and ability of women to freely decide about their bodies and their sexuality. One manifestation of obstetric violence is, precisely, a non-consensual female sterilization.

p.128 Obstetric violence implies physical, psychological and institutional violence in terms of the General Law on women’s access to a life free from violence. The woman suffered physical violence because, without her consent, her physical reproductive capacity was intentionally altered; psychological violence from the humiliation, aggression and indifference shown by the medical personnel who performed the BTL; and a restriction on her self-determination. The woman is a victim of institutional violence since these acts are carried out by public health professionals.

p.128,131 This Court also concludes that the non-consensual sterilization performed constituted torture. The loss of the woman's reproductive capacity through a BTL performed without her consent, in a public hospital, in an environment of stress, intimidation, threats and deception, caused physical and psychological harm that affected her integrity, dignity, freedom and autonomy in such a way that it implied submitting her to an act of torture. Women are vulnerable to torture and to cruel, inhuman or degrading treatment when they seek medical assistance, generally due to gender discrimination. It is reiterated that the abuses and mistreatments inflicted on those seeking reproductive health services can cause enormous and enduring physical and psychological suffering, which violates article 1 of the CPEUM and articles 1.1, 5.1 and 5.2 of the ACHR and 7 of the International Covenant on Civil and Political Rights.

p.132,135 From the perspective of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture, torture and inhuman, cruel and degrading treatments are different classifications. For an act or series of acts to qualify as torture, four elements must be proven, namely: i) severe pain or suffering, whether physical or mental; ii) intentionality; iii) a purpose or end; and, iv) the participation of the State.

In this case, this Court deems that the four elements are proven.

p.133 i) Severe pain or suffering, whether physical or mental. The woman was a victim of torture because, first, a method of permanent contraception was imposed on her without a medical justification for it, altering her reproductive organs such that, at 31 years old, it was physically impossible for her to reproduce; second, she was induced to sign an "authorization" to perform this procedure through intimidation, threats and deception, specifically, based on gender stereotypes; third, she was discriminated against based on her condition as a pregnant woman and, based on that, medical authorities and personnel made decisions regarding her body; fourth, a major alteration was caused in her life project, her family life project, because she wanted to have more children; and fifth, the sterilization performed on her caused feelings of deep sadness and fear.

- p.133-134 ii) Intentionality. The non-consensual sterilization did not result from negligent conduct of the personnel involved; it was done knowingly. It was decided to sterilize her without her authorization based on a belittling of her decision-making capacity, thinking that someone else – medical personnel – could make a better decision in relation to her own body.
- p.134 iii) Purpose or end. The non-consensual sterilization was based on discriminatory reasons. The responsible authorities performed the BTL based on the stereotype that the reproductive function corresponds to the woman, and she is unable to make responsible decisions in relation thereto.
- iv) Participation of the State. The non-consensual sterilization was performed in a public hospital, with the consent of public officials and of persons who acted while providing an essential public service (health).

C. Other forms of obstetric violence

- p.137 This Court understands obstetric violence as a type of violence exercised by health professionals over the body and reproductive processes of women. This kind of violence is experienced primarily, although not exclusively, in the dehumanized treatment of pregnant women, in the tendency to pathologize the natural reproductive processes and in multiple manifestations that become threatening in the context of sexual health, pregnancy, childbirth and postpartum.
- p.139 This Court concludes that the woman was a victim of obstetric violence, as a form of gender-based violence, not only for the non-consensual sterilization that was performed, but also for the mistreatment she received in her childbirth by the responsible authorities. Although the acts under analysis were denied by the responsible authorities, since they had the burden of proof and their denial was not supported with evidence, this Chamber will presume the truth of such acts.
- p.140 The woman was not treated as a sane and conscious person, able to make responsible decisions in relation to her own body, with her reproductive capacity; her capacity to act was reduced to obeying given the threats to her access to the healthcare she required to

safeguard her life and the life of her child. She did not receive information on her state of health, nor on the possibilities, risks and consequences of the methods of contraception.

Taking the facts as a whole, this Court concludes that, presuming the truth of the acts, the treatment the woman received in childbirth was dehumanizing, discourteous, rude, humiliating and discriminatory because of her condition as a pregnant woman, which falls under the definition of obstetric violence as a specific form of gender-based violence.

p.141-142 The woman was a victim of obstetric violence as a form of discrimination for being a woman, which violated both her right to live a life free of violence and her right to personal integrity, reproductive health and information on access to health, which is contrary to articles 1, 4 and 6 of the CPEUM; 13 of the ACHR; 1 of the Belem do Pará Convention; 10 h), 12.1 and 12.2 of the CEDAW; and 12 of the International Covenant on Economic, Social and Cultural Rights.

p.142 Finally, while individually these acts would not be sufficient to be considered acts of torture, most of them can be classified as “degrading treatment” due to the level of their severity: they generated fear, anxiety and sentiments of inferiority and their purpose was to humiliate, degrade and break the moral resistance of the woman.

DECISION

This Court grants the *amparo* and protection of the Federal Courts to the woman.

p.142-151 Based on article 77 of the Amparo Law, and considering that institutional obstetric violence, as a manifestation of gender-based violence, constitutes a public health problem, the effects of granting the *amparo* are specified as follows in benefit of the woman: i) surgical intervention medical care; ii) psychological redress; iii) consideration of the initiation of an administrative liability suit; iv) comprehensive guidance on institutional obstetric violence.