



Sexual abuse of girls in Oaxaca: legal or cultural problem?

Abuso sexual a niñas en Oaxaca: ¿problema legal o cultural?

Abuso sexual de meninas em Oaxaca: problema legal ou cultural?

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KEYWORDS

Child sexual abuse,
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ABSTRACT. The article analyzed the problem of child sexual violence in the state of Oaxaca, Mexico. The methodology was qualitative based on analysis of documents (empirical studies, legislation, and hemerography) and complemented with descriptive statistics. It is found that: legislation has been harmonized with national and international law, legal and applicability vacancies persist, bureaucratic processes, access to justice for victims, impunity and the absence of real statistics; the highest incidence is in the house and the school, being the principal aggressors of the family and teachers. The legal advance is the most significant, yet it does not recover the cultural diversity of the State. It is concluded that, in addition to a legal and cultural problem, constituting systemic, institutional, and symbolic violence.

PALABRAS CLAVE

Abuso sexual infantil,
violencia sexual,
violencia institucional,
violencia simbólica,
Oaxaca.

RESUMEN. El artículo analizó la problemática de la violencia sexual infantil en el estado de Oaxaca, México. La metodología fue cualitativa con base en análisis de documentos (estudios empíricos, legislación y hemerografía) y complementada con estadística descriptiva. Se encuentra que: la legislación se ha armonizado con la nacional e internacional, persisten vacíos legales y de aplicabilidad, procesos burocráticos, no acceso a la justicia para las víctimas, impunidad y ausencia de estadísticas reales; la mayor incidencia es en el hogar y la escuela, siendo los agresores principales familiares y profesores. El avance legal es el más significativo, aunque no recupera la diversidad cultural del Estado. Se concluye que, además de un problema legal es también cultural, constituyéndose en violencia sistémica, institucional y simbólica.

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PALAVRAS-CHAVE

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RESUMO. O artigo analisou o problema da violência sexual infantil no estado de Oaxaca, México. A metodologia foi qualitativa com base na análise documental (estudos empíricos, legislação e hemerografia) e complementada com estatística descritiva. Verifica-se que: a legislação foi harmonizada com o nacional e internacional, persistem lacunas jurídicas e de aplicabilidade, processos burocráticos, falta de acesso à justiça para as vítimas, impunidade e falta de estatísticas reais; a maior incidência ocorre em casa e na escola, sendo os principais agressores familiares e professores. O avanço legal é o mais significativo, embora não recupere a diversidade cultural do Estado. Conclui-se que, além de problema jurídico, é cultural, constituindo violência sistêmica, institucional e simbólica.

1. INTRODUCTION

Historically, children have suffered all kinds of violence, infanticide being common since ancient times and the Middle Ages (Newell, 1999). The use of children for sexual pleasures has been an accepted practice in different cultures, such as lifestyle or commerce. Girl marriages were practiced in different societies around the world, including Mexico, even in the 21st century. Child abuse was tolerated and justified, so in the United States public interest against child abuse was very low before 1960 (Azaola, 2006). This is a serious social problem and today the risk of various types of violence and abuse is greater, even than death, within homes (Gelles, 2017). Child sexual violence is a global pandemic and the main space where it happens is within the closest family circle.

In 2012, 700 million women in the world were married while still children (under 18 years of age and, more than one in three, under 15 years of age); 120 million girls worldwide (more than one in ten) have suffered sexual abuse (intercourse or other type, forced) at some point in their lives. More than 133 million girls in the world have undergone clitoral mutilation in 29 countries in Africa and the Middle East; 55% of the total were victims of forced labor (20.9 million worldwide) and 98% (4.5 million) who suffered sexual exploitation are women (adults and girls). In Europe and the United States, between 40% to 83% of school-age girls have suffered some type of sexual harassment (ONUMUJERES, 2014).

“Violence against children and adolescents is a serious human rights problem in Latin America and the Caribbean. More than half of the boys and girls are victims of physical and emotional abuse, negligent treatment or sexual abuse” (Larraín & Bascuñán, 2009, p. 8). In the global economic context, it is a growing problem. Thus, for example, in the Caribbean alone, despite deficient records, it is estimated that approximately one million girls and boys join commercial sexual exploitation each year (ECLAC, 2009). In this way, despite the international treaties signed and the legislative progress for their protection and eradication, the persistence of the problem and its impunity make visible the non-compliance of international obligations by the States to the international and regional instruments signed and ratified for the protection and defense of human rights (ECLAC, 2009).

In Mexico, in 2014, according to the Organization for Economic Cooperation and Development (OECD), around 4.5 million girls and boys were victims of sexual abuse, of which only 2% of the cases were known at the time what happened (CEAV, 2016). Between 2010 and 2015, 28,672 preliminary inquiries were opened on rape of girls under 15 years of age and 317,996 women under 15 years of age were treated in the national health services for cases of sexual violence (CEAV, 2016). However, the figures are incomplete and underestimated.

In 2011, the Constitution was harmonized with international treaties by modifying the first article and laws on the rights of minors were added; harmonization that followed in all states, including Oaxaca². Likewise, there was the LGAMVLV³ (CEAV, 2016, p. 95) against sexual violence, but in practice prevention was not achieved and not impunity. “Even when the superior protection of the child is included, it is a rhetorical or superficial consideration” (Bellof, 1998, cited in Martínez Moya, 2016, p. 94). To this is added that the indigenous condition, poverty and being a woman are conditioning and aggravating factors (ECLAC, 2009). Therefore, in Oaxaca, due to its high degree of poverty, concentration of indigenous population and rurality, there is greater invisibility and impunity.

Oaxaca has a high frequency of child sexual violence, despite efforts to prevent and combat this crime. Throughout the state, there are some indigenous and colonial cultural stereotypes associated with the patriarchy of domination over women; these create conditions for systemic violence against Oaxacan women. Many cases of sexual violence are not known due to lack of official records and ignorance of what occurred (Briceño, 2013).

The state law of access of women to a life free of gender violence of Oaxaca (LEAMVLVDO) of 2020, article 7, section V, defines sexual violence as:

Any act carried out by the aggressor that degrades, damages or attempts against the body and / or sexuality of the victims; It can consist of: the imposition by physical or psychological violence of sexual relations, including that exerted by the spouse or the sentimental partner; sexual exploitation or trade; sexual harassment or harassment; the employment of women without her consent and of girls in pornography; the crimes against the sexual freedom and integrity of the persons indicated in the Penal Code for the Free and Sovereign State of Oaxaca, and all the abuses, aggressions and conducts that threaten or limit the right to freedom, dignity, integrity and physical development and sexuality of women.

It responds to a trend in the codes of all the states of the country and has human rights as a background, surpassing the focus on sexual discrimination. It has a gender perspective, but not from childhood, only being mentioned in the case of pornography. The law of the rights of girls, boys and adolescents of the State of Oaxaca of 2017, article 37, is reduced to affirming that “they have the right to live a life free from all forms of violence [...]”, it seeks prevention, eradication, care and sanction (Art. 38), and is oriented towards sexuality education and non-discrimination.

Between the law and the speech until the legal practice, there is a great gulf. A void that can respond to values, traditions and practices that strengthen men's perception of property and control-domination over the body and sexuality of women and children. Culture that women also assume and permeates public organizations and law enforcement. That is, a socially institutionalized conception.

² The penalties have been increased and the sexual abuse of minors is imprescriptible, the law has been given for the protection of children and adolescents. The law of family protection and that of a life free of violence for women has been passed (Vargas & Pérez, 2010) and the Protocol for the Procurement of specialized justice for girls, boys and adolescents of the State of Oaxaca (Attorney General of Justice (PGJ) & United Nations Children's Fund - UNICEF, 2014).

³ General Law on Women's Access to a Life Free of Violence (2015; 2020).

Within the framework of this reality, the objective is to characterize child sexual violence in the State of Oaxaca in the present century, to point out its main problems based on the relationship that exists between law and culture in relations between men and women, as well as between adults and minors. It is assumed that sexual violence, legal loopholes and the non-applicability of the law are a consequence of the cultural institutionalization of “women as objects of erotic pleasure at the service of men”, based on relations of domination.

The study addresses the present introduction, a brief description of the methodology, the conceptual theoretical framework on violence, human rights and citizenship. Then the results are approached, in which the advances and limitations of legislation and culture are presented; the figures on child violence in the State of Oaxaca and the analysis of non-reporting, the environments or spaces of this type of violence, government policies and programs and the construction of power relations in relation to sexuality in the Oaxaca state. Next, the analysis and discussion of the results is carried out, highlighting the legal and institutional ineffectiveness, articulated to the culture. Finally, it concludes by emphasizing the statistical, social, legal and cultural problems that are involved in sexual violence against girls.

2. METHOD

The approach is qualitative, exploratory and descriptive, based on the documentary analysis of the legislation, existing databases, hemerographic material and empirical studies (which are few) and participant observation during the period 2011-2018 in the spaces of the State of Oaxaca in which I resided, unsystematic and retrospective.

Statistics, like empirical studies on child sexual violence, are scarce and only approximations, they are not concentrated and are not representative, because there are no complete databases that account for the phenomenon. The information that was collected corresponds to the period 2000-2019, but the hemerographic information, as well as statistical and qualitative studies, is more focused between the years 2012 to 2018.

42 legal documents (laws, protocols and a manual) were reviewed, including international, national and state; 10 press releases; 4 reports related to sexual violence against women and girls; 3 quantitative studies and one with quantitative and qualitative information on sexual violence against women, of which two are official, another from an academic and the fourth from an international non-governmental organization; 8 more studies that address the situation of sexual violence in Oaxaca in this century; and two historical ones to understand the continuity and historicity of such violence against women since pre-Hispanic and colonial times.

For the analysis of this study, the context and the theoretical framework are taken into account, from a perspective of citizenship, violence and human rights. Content analysis was used for the treatment and synthesis of the information.

Theoretical-conceptual framework: violence, human rights and citizenship

Sexual violence or sexual abuse is defined as:

“Any sexual act, the attempt to commit a sexual act, unwanted sexual comments or innuendo, or actions to commercialize or otherwise use the sexuality of a person through coercion by

another person, regardless of their relationship with the victim, in any setting [...]”(Jewkes et al, 2002, cited in Contreras et al., 2010: 11).

In the case of minors, it is any sexual act with these characteristics -coercion, manipulation, psychological intimidation and threats, seduction or deception- or without them. Being a minor and being in a subordinate position are considered to be acts that violate their sexual rights, freedom and human dignity, even when they give their consent⁴. These include: prostitution, sex trafficking, sexual initiation, genital mutilation, sexual touching even with consent, engaging in a sexual act, pornography, sexual harassment, unwanted (and wanted) sexual contact and comments. As well as penetration in any way, with or without the use of force, with or without deception or seduction.

The analysis is carried out from the theories of: a) gender, systemic, structural and symbolic violence; b) intercultural citizenship and; c) human rights. Gender violence because it is an act carried out against girls in relation to their sex; whose social structure is conscious of abuse based on socially rooted patterns, in which being female (woman), her virginity and childhood are considered erotic objects and available to men.

Violence is systemic and structural when it is not limited to aggression or force to cause harm from one person to another, but the social, institutional and state apparatuses exert violence on girls, by action or omission, allowing, facilitating or aggravating the damage (cultural, psychological, economic or physical) against them. Ross and Watkinson (1999) define it as: “any institutional practice or procedure that produces an adverse effect on individuals or groups by imposing on them a psychological, mental, cultural, spiritual, economic or physical burden” (p. 15).

This violence is institutionalized and symbolized in social relations and practices, belongs to the structure of the social system, generates inequalities and damages in certain social sectors as a result of said social structuring, and affects life opportunities, well-being, identity and / or freedom of people (La Parra & Tortosa, 2003). It is reproduced within the framework of the relations of society, therefore, it is normalized and naturalized. For Galtung (cited in Baratta, 2004) it is the repression of real needs and human rights, being the starting point of all the violence suffered by workers, migrants, peasants, women, children, etc.

Institutional violence is that which is carried out from the state level, not exclusively as the materialization of an illegitimate aggression by the State, but is all treatment that violates the rule of law and human rights against women. Incluye la ausencia de políticas públicas para atender la violencia de género y la impunidad (Briseño-Maas & Bautista-Martínez, 2016). It is carried out by public officials in the exercise of their functions against one or more persons, or individuals who do so under the protection of the State and the impunity that it allows, repeated as a pattern or in isolated acts under the responsibility or omission of the functionaries⁵. In this sense, it is structural and systemic.

Finally, it is symbolic violence when it has become culture, habitus and symbolic powers (Bourdieu, 1977, 1991), which were born in relations of power-domination in conflict, present in every society (Foucault, 1992).

⁴ Girls are all female persons under 18 years of age.

⁵ Cfr. Barrientos (2016), who, although he does not define it in a very precise way, structures two dimensions: that of illegitimate acts carried out by the State, and the other: all treatment carried out under the protection of the State, which can be carried out even by individuals (companies, individuals, organizations) under the protection or absence of the State.

In other words, the symbolization of these relationships institutionalizes and makes violence a habit in each individual, which determines or conditions their actions, relationships, behavior and they tend to become fixed, naturalized and normalized, thus becoming structures of domination. , conceived as true and / or legitimate. In this way, they reproduce unconsciously (Bourdieu, 1999) and become invisible, as in the cases of violence against women, girls and boys. Reality that works under the logic of monitoring, punishing (Foucault, 2001), rewarding and reifying, in order to obtain pleasure and individual utility, this being the basis of the modern social system.

In this way, sexual violence is a symbolic, systemic and institutionalized structure of domination that is updated in different historical moments to have control and power-domination. They are mechanisms (control and power-domination), mainly male and adult-centered, that are exerted on women and minors (girls, boys and adolescents), as part of violence of all kinds.

As a consequence of these violence, human rights and citizenship - which are the basis of respect for human dignity and the guarantee for the fulfillment of people, in this case of girls - are not fully realized, limiting their realization and enjoy the good life, whatever your worldview. This happens because sexual violence directly affects basic rights such as physical, psychobiological, socio-emotional and sociocultural integrity and life itself, in all dimensions of the victims' lives.

Citizenship is seen not from the classical approach centered on nationality and the formation of a homogeneous national culture, but from the perspective of the inclusion of the other, of equality in difference, of the integration of all people and cultures, in an intercultural construction that allows respect for otherness. Citizenship in which people become subjects of equal rights, including social, generic and generational diversity. Under this conception, social, cultural, gender and generational difference does not imply vulnerability, nor does it imply that they are deprived of their rights or dignity. It includes sociocultural diversity, that is, intercultural citizenship (Bilbeny, 1999, 2002) and is open to all based on the ethical minimums and maximums that facilitate shared citizenship (Bilbeny, 1999; Cortina, 1997). That is also a citizenship of girls and boys, not just adults.

3. RESULTS

Legislation and culture: facilitators or obstacles in the fight against sexual violence in the State of Oaxaca

At the legal level, a great advance is observed in the regulation and protocols for the attention of sexual violence against girls and boys, recognized by Mexico and, consequently, by the State of Oaxaca.

Advances and limitations of the legislation: from the international to the national

International legislation is the point of origin of the citizenship of minors, although progress in its implementation has been slow. The central document is the Convention on the Rights of the Child, articles 12, 19 and 34 (United Nations International Children's Emergency Fund [UNICEF], 2006); the Optional Protocol to the International Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in its articles: 1, 11, 21, 32, 33, 34, 35 and 36 (Government of Mexico, 2002) for its compliance in the countries that signed the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on a communication procedure of 2011 (United Nations [UN], 2012), for individual complaints in the event

of violations of the rights of the child and its regulations (UN, 2013); conventions and protocols that Mexico has ratified⁶, such as those instruments in which the victims of sexual abuse have a particular context, such as the rights of migrants and indigenous peoples.

As of 2011, the constitution and laws were harmonized and adapted to these international instruments based on the constitutional reform of article one, which obliges the Mexican State to comply with the criteria indicated by international human rights treaties. (Ordáz & Pérez, 2018), which was generalized in federal entities until 2018. It was a first great advance in legal matters.

At the federal level, the most significant advances are the constitutional reforms of articles 1, 4 and 73 of the Political Constitution of the United Mexican States (CPEUM) (there are also articles 4, 16, 20 section C, 124 and 133 (Political Constitution of the United Mexican States, 2019; Political Constitution of the United Mexican States. Official Gazette of the Federation, 2021a; Ministry of the Interior [SEGOB], 2019), the General Law of Girls, Boys and Adolescents, of December 3, 2014, articles 1, 46, 47 and 49 (CDCU, 2014a); the General Law for the Social Prevention of Violence and Crime, articles 3 and 6 (CDCU, 2012a); the General Law on Victims of 2020, articles 5 (equality and non-discrimination and on the best interests of the child), 28 (violation of their rights) and 35 (sexual violation) (CDCU, 2020a). The General Law on Women's Access to a Life Free of Violence (2015), articles 4, 6, 9 and 42 XII, 45 XI, 47 X and 49 XXIV (CDCU, 2012b; 2021b); the National Code of Criminal Procedures, articles 109 and 167 IX, X and XII (CDCU, 2016; 2020b); the Protocol to judge with a gender perspective of the (Supreme Court of Justice of the Nation [SCJN], 2015) and the Protocol of action for those who administer justice in cases that affect children and adolescents (SCJN, 2014) as the Protocol for the Prevention of Sexual Abuse of Girls, Boys and Adolescents (Gil, 2017). The General migration law (CDCU, 2019c), on the one hand, is very general and only addresses non-discrimination; its regulation (CDCU, 2014b), on the other hand, pays special attention to vulnerable groups such as minors, and includes psychological care in the event of sexual violence and human trafficking.

The first article of the CEPEUM (CDCU, 2019a) transforms human rights in Mexico and turns girls and boys into subjects of rights, by stating:

“All persons shall enjoy the human rights recognized in this Constitution and in the international treaties to which the Mexican State is a party, as well as the guarantees for their protection, the exercise of which may not be restricted or suspended [...].The norms related to human rights shall be interpreted in accordance with this Constitution and with the international treaties on the matter, favoring the broadest protection for people at all times. All authorities, within the scope of their powers, have the obligation to promote, respect, protect and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility and progressivity.

⁶ These legal instruments determine, to a great extent, the legal changes in Mexico on human rights and in particular of minors; that unfortunately the citizens know little. They are the spearhead for legislative, educational, prevention and guarantee changes in the fight against sexual abuse of minors. For more information, see Supreme Court of Justice / United Nations-Office of the High Commissioner (2012). *Compilation of International Instruments on the Protection of the Person Applicable in Mexico*. International Law of human rights.

Consequently, the State must prevent, investigate, punish and repair human rights violations, in the terms established by law. "

This first article makes unnecessary the modifications of article 4 (M. González, 2013), which considers boys and girls subjects of rights, making the State its main guarantor. The best interests of children are recognized and their rights are guaranteed, for which the importance of public policies is specified, by stating in article 4 of the Constitution: "this principle should guide the design, execution and monitoring and evaluation of policies public aimed at children"; texts that remain in 2021.

Article 73 of the CPEUM (2019a) empowers the Congress of the Union to "issue laws that establish the concurrence of the Federation, the States, the Federal District and the Municipalities, [...], in matters of the rights of girls, boys and adolescents, ensuring [...] their best interests and complying with international treaties, [...]". In this constitutional framework, the General Law on Girls, Boys and Adolescents is part of said obligation assigned to the legislative body, which in its fifth chapter seeks to guarantee their integrity and freedom. Avoid and combat mistreatment and sexual abuse, protecting from physical, emotional and sexual abuse, kidnapping, trafficking and armed conflicts, as well as from the conditions that make them vulnerable to these crimes.

The legislation of the State of Oaxaca: human rights and increased penalties

The Political Constitution of the State of Oaxaca (COPEO) (Congress of the Free and Sovereign State of Oaxaca [CELISO], 2019a), in its article 12 -which remains unchanged in the subsequent reforms of COPEO (CELISO, 2020a), establishes:

"Boys and girls, adolescents and young people have the right to a healthy life, to physical and emotional integrity, to identity, to comprehensive protection, to a life free of violence, to health, to food, to education, fun and leading a dignified and intercultural life, with a gender perspective, in conditions of non-discrimination, non-subordination and equal treatment. The State will watch over and comply with the principle of the best interests of children, fully guaranteeing their rights. Likewise, it will issue laws and regulations to guarantee the rights of girls, boys and adolescents, to satisfy their needs and avoid violence, their exploitation and trafficking".

The perspective of human rights, gender and interculturality is incorporated into the citizenship of girls, but it is not specifically legislated against child sexual violence, nor on the role of diverse cultures in the face of this phenomenon.

The Law to address, prevent and eliminate discrimination in the State of Oaxaca (CELISO, 2018), in its article 6 and 7 sections VII and XXX, prohibits all forms of discrimination, including sex, age, gender-gender identity, sexual preference, skin color, migratory and ethnic status, but it does not specify the protection and defense of the physical and sexual integrity of girls and boys, as well as preventing and denying information about their sexual rights.

In the State Law of access to women to a life free of gender violence (Congress of the Free and Sovereign State of Oaxaca [CELSO], 2020b) article 1, legislates: “the prevention, attention, punishment and eradication of all kinds of gender-based violence against women, as well as the principles and modalities to guarantee the enjoyment of this right, favoring development and well-being”. Article 2 specifies its objectives for the elimination of violence and specifically addresses its scope for all municipalities and State agencies in accordance with compliance with the fundamental rights established in international treaties. At the same time, in article 7V it defines it as:

“Any act carried out by the aggressor that degrades, damages or attempts against the body and / or the sexuality of the victims; It can consist of: the imposition by physical or psychological violence of sexual relations, including that exerted by the spouse or the sentimental partner; sexual exploitation or trade; sexual harassment or harassment; the employment of women without her consent and of girls in pornography; the crimes against the sexual freedom and integrity of the persons indicated in the Penal Code for the Free and Sovereign State of Oaxaca, and all the abuses, aggressions and conducts that threaten or limit the right to freedom, dignity, integrity and physical development and sexuality of women”.

Article 14 addresses sexual violence at school; 15 in the family-domestic, work, and/or school spheres, in the form of sexual harassment and harassment; the 16 and 17 on policies and public actions of the municipalities and the State directed against these modalities of sexual violence; 57 XIV on the protocols to address complaints of sexual harassment, abuse and violence in public and private educational institutions as part of the powers of the State Attorney General's Office that regulates this article; 65 X on training for gender equality and the prevention of sexual violence against women in school shelters and educational centers; 65 XXII about the elaboration of protocols to attend complaints of abuse, harassment and sexual violence in educational institutions (public and private) of the State; 69 III on the treatment of women victims of rape; 73 IV and 83 on comprehensive care against sexual violence and against women and the Official Mexican Standard NOM-046-SSA2-2005 Family, Sexual and Violence Against Women, Criteria for Prevention and Attention. This law has an adult-centered vision and is contrary to the approach to the construction of gender roles, because it refers to women, but does not address the particularity of girls and boys.

The Law of Equality between Women and Men of the Free and Sovereign State of Oaxaca (CELSO, 2019b) defines non-discrimination based on sex, age and sexual preference in article 5 X and the sexual stereotype in 5V; in 13 thirteenth legislation on the inclusion in health programs and guaranteeing the knowledge and exercise of sexual and reproductive rights of women and girls, without specifying sexual violence. Articles 26 and 28 deal with labor regulations that prohibit sexual harassment and harassment, as well as employment discrimination based on sex, guaranteeing substantive equality and respect for women's dignity. It does not refer to the prohibition, prevention or complaint against sexual violence against girls, nor does it refer to sexual violence against them at work.

The Law on the Rights of Girls, Boys and Adolescents of the State of Oaxaca - LDNNyAEO (CELSO, 2017, 2020c) in its article 5, 6 IX, 9 and 35 includes non-discrimination based on sex, gender, ethnicity, age or sexual

preference ; 37, the right to a life free from all forms of violence and personal integrity, which includes full and healthy sexual development; 38, that they have spaces free of violence in its prevention, eradication, care and punishment, without specifying the sexual; 42, on the anticipation and attention in the prevention of violence and the knowledge of infantile sexuality (in general terms); 49 VIII, on their comprehensive sexual education, which includes knowledge of sexuality, human reproduction and sexually transmitted diseases (STDs); the 49 XV, educate with a gender perspective to eradicate sexual discrimination; 58 III, on receiving information on the stages of their growth, bio-psychosocial and sexual health. It is not specific in relation to sexual violence against girls and boys

The Protocols to prevent, detect and act in cases of: sexual and child abuse, bullying and mistreatment in the State of Oaxaca (SEP, 2016), as of 2018 was the most specific instrument for guidance and prevention. Its character is educational and practical. There are also other legal documents:

- a) The Agreement on the Protocol for the provision of specialized justice to Boys, Girls and Adolescents in the State of Oaxaca (Government of the Free and Sovereign State of Oaxaca [GELSO], 2015), which considers the gender perspective, the perspective of childhood and human rights, as the most appropriate psychological and legal aspects for their age. They are later significant advances of the law.
- b) The Protocol of specialized care with a gender perspective for victims of sexual violence of the Office of the Assistant Prosecutor for Gender-Based Crimes and the Center of Justice for Women of the State of Oaxaca (GELSO, 2016a); specific document that differentiates sexual violence against women from that carried out against children, adolescents and children and women with disabilities; and that includes medical and psychological care.
- c) The Agreement by which the bases are determined for the application of the protocol of action of the Attorney General's Office in matters of protection orders for women who experience violence in the State of Oaxaca (Judicial Power of the State of Oaxaca [PJEO], 2016), from a gender perspective. That outlines the process for the action of the prosecution in these cases, more general.

The Code of Criminal Procedure of the State of Oaxaca (CELCO, 2015) is the most important advance in criminal matters since 2006, in which sexual crimes are legislated in articles: 127 XIII on the protection of the identity of minors in case of rape and XVIII on the right to investigation without discrimination and free from stereotypes in the case of crimes that have to do with sexual freedom; 169 IX on protection measures when “children” live with the accused in the event of sexual crimes; 170 BIS IX, on child sexual abuse; 193 on non-conciliation in the case of sexual crimes against minors; on 196, it legislated that the Public Ministry should not dispense with criminal prosecution of sexual crimes and act from a gender perspective; 344: in the case of sexual assault, the appearance of the victims is provided for “the reception in private session and with the help of family members or specialized experts [...]”; 352, which establishes the short term for the expert opinions, integrating an interdisciplinary team to concentrate in a session the interviews that are required and the recording if the victim authorizes it. It can be concluded that he has a gender and childhood perspective, but still maintains an adult-centered approach.

The Penal Code of the Free and Sovereign State of Oaxaca (CELCO, 2020a), in its article 194, 195, 196, 197; 202 Bis, 202 Ter, in Title Twelfth, Chapter I and II; Articles 241, 241Bis and 241Ter., 246 246 Bis, 247, 248 and 248 Bis, 249, 255, legislate on sexual abuse, sexual harassment, rape, rape, pornography, trafficking, corruption

of minors and sex tourism, with penalties that They range from three to 32 years, with aggravations if the victims are minors and the aggressors are parents, guardians, public officials, teachers or ministers of worship. Chapter I on family violence, from three to ten years; 249 of violation of sexual intimacy by broadcasting without the consent of the victim, four to eight years in prison and; 412 Bis on sex and age discrimination, with penalties of one to three years in prison; while according to article 255, for incest, from two to eight years. In the second decade of the 20th century, the penalties have been increased and the crime of rape is punished with the equivalent of rape even between 16 to 18 years of age. Likewise, unlike the Penal Code of 2016 (CELSO, 2016), in addition to the increase in the number of penalties, in 2020 there is legislation on sex tourism and the violation of sexual intimacy.

Until before 2018, the rape prevailed that, if it was over 16 and under 18, it was less serious and was not equated with rape. In incest, however, the least seriousness for the adult is preserved by 2020 if the minor is between 16 and less than 18 years old and copulation is valued voluntarily, and there is even a penalty for the minor between one to four years in prison, according to article 255 of the State Penal Code. In these cases, the following are not taken into account: a) the cultural environment, in which the position of submission, the patriarchal conception and fear, which lead to the girls not blaming the parents, b) nor the threats , as conditioners and determinants of the crime. Nor is it considered that submission and threats are used for minors to declare that they were made voluntary in order to reduce penalties or avoid punishment. Traditional cultures (indigenous or not) and the best interests of children are ignored. Thus, in the case of incest, the protection of the adult from the legal system increases.

However, the advances, the laws of the State are general and ambiguous regarding child sexual violence, with the exception of the protocols and the Penal Code. Human rights and gender perspectives are present, but without specifying what is understood by gender perspective and without relation to ethnic cultures in order to prevent, protect and punish child sexual abuse. Children lack centrality, on the contrary, they are adult-centered; in such a way that the best interests of the child are blurred in the same law. In other words, there are systemic structures that favor sexual violence, the assessment of non-gravity and impunity.

These characteristics are similar to those found by Lachenal (2016) in his study. The researcher points out that: regarding the adversarial and oral system in Oaxaca, she considers that there is progress, but in the case of sexual violence, particularly against minors, there are inconsistencies, systemic and / or procedural conditions that allow the abuse not to be considered serious sexual; erroneous interpretations and “institutions” such as the reduction of the sentence, which are applied automatically and which violate the rights of the victims. At the same time, he considers that the new system needs to accompany its implementation with a greater vision of human rights. Therefore, he concludes, justice for the victims continues to be in the red. From the present study, the need for a perspective of childhood and the centrality of the best interests of the child arises.

Child sexual violence in Oaxaca: cultural problem or legal problem?

On the figures of sexual violence to minors in Oaxaca

In Oaxaca there is sexual violence against adult women and minors. Early Institute (2019), based on the database on crimes of the Executive Secretariat of the National Public Security System (SESNSP), in which the rate is



calculated based on CONAPO's population projection for each year and entity, find the following evolution between 2015 to 2017:

Table 1

Evolution of sexual abuse in Mexico 2015-2018

Year	Sexual abuse	Rate	sexual harassment	Rate	Sexual harassment	Rate	Incest	Rate	Equated rape	Rate	Simple rape	Rate	Others	Rate
2015	82	2.0	5	0.1	6	0.1	0	0.0	12	0.3	72	1.8	24	0.6
2016	359	8.9	38	0.9	26	0.6	1	0.0	49	1.2	402	10.0	109	2.7
2017	369	9.1	49	1.2	21	0.5	0	0.0	68	1.7	305	7.5	74	1.8

Source: Meza, 2019: 241.

There is an increase in sexual abuse, sexual harassment and equal rape. In simple violation, there is a big jump between 2015 and 2016, but it decreases in 2017. The problem that exists is that it does not break down the child population, but is a total of women and men. According to the Sub-Attorney for Crimes against Women on the basis of gender of Oaxaca (SDMRGO), in 2012 86 cases of investigations of aggravated abuse were reported, of which 12.7% were boys and 87.3% girls, while in 2011 only registered 53 cases of boys and girls (López, 2013).

In Oaxaca, on the one hand, in 2013, 10.1% (second place at the national level) of girls, between 10 and 12 years old, stated that they had been touched on their body by a relative; from 6 to 9 years old, 12.2% (fifth place) and; from 13 to 15 years old, 6.5% (fifth place) (Hernández-Dávila, 2013). On the other hand, the Attorney General's Office of the State (PGJE) registers between 2006 and 2014, 261 preliminary investigations for sexual abuse against minors, of which 152 are as aggravated sexual abuse, which is distributed as follows: 2006: 9, 2007: 19, 2008: 26; 2009: 22; 2010: 44 (31 aggravated), 2011: 32 (20 aggravated), 2012: 49 (28 aggravated), 2013: 44 and 2014: 16 until February 8 (half aggravated) (González, 2014). Since this year, no official publications on the abuse of minors were found in the data collection period for this study. Most of the information is hemerographic and has not been classified.

Pacheco (2018) points out that the sexual abuse of minors, in its different forms, is present in the eight regions of Oaxaca and, in March 2018, the State Attorney General's Office considered it a red light for being a crime of the most recurrent. Zoila Ríos Coca, from the Clinic for Psychological Attention and Alternative Therapies (CAPTA) for children and adolescents, affirms that it cannot be compared if crimes have increased, or how many remain unpunished, because the institutions refuse to publish the information (Altamirano, 2018). According to CAPTA, as of 2018 one in 12 girls was a victim of sexual abuse; At the same time, the State Attorney for the

Protection of the Rights of Girls, Boys and Adolescents, points out that Oaxaca is one of the states with the highest incidence of sexual abuse in the country, but only 5% are known (Jiménez, 2019) . Most cases do not report.

With data from the Oaxaca State Attorney General's Office (FGEO) on files initiated⁷ for the years 2017, 2018 and the first quarter of 2019, it was found:

Table 2

Sexual violence by type according to the folders started, 2017

Year	Sexual abuse	sexual harassment	sexual harassment	Incest	Equated rape	Simple rape	Rape	Pornography	Total crimes
0-12	46	0	0	0	5	7	0	0	58
13-17	46	3	1	0	1	41	13	3	108
18 y +	69	21	4	0	8	66	0	0	168
Total mujeres	161	24	5	0	14	114	13	3	334
Total menores	92	3	1	0	6	48	13	3	166

Source: FGEO, 2019: 272.

There are 166 cases against 334 girls, that is, 49.7%, of which 50% are from 0 to 12 years old. Simple rape and sexual abuse are the most frequent crimes.

Table 3

Sexual violence by type according to the folders started, 2018

Year	Sexual abuse	sexual harassment	sexual harassment	Incest	Equated rape	Simple rape	Rape	Pornography	Total crimes
0-12	54	1	-	-	5	7	-	-	67
13-17	35	8	7	-	1	58	16	-	125
18 y +	83	24	13	-	6	76	-	-	202
No especif.	2	-	-	-	-	2	-	-	4
Total mujeres	174	33	20	-	12	143	16	-	398

⁷ It is an approximation, because these cases are counted in the breakdown of started folders, although fewer or more are recorded in the total number of folders, which do not appear in the breakdown of cases by age. This may mean that there are more folders, but for some reason it was not captured when specifying the breakdown, there is an error in the summation or they are lost files. Only the folders that appear the cases by age are taken.

Total	89	9	7	-	6	85	16	-	212
menores									

Source: FGEO, 2019: 273.

In 2018, the percentage rises to 53.3% of folders initiated by sexual violence against women under 18 years of age, increasing from 46 to 54 girls between 0 and 12 years old who were assaulted. It was 13.6% of the total folders started.

In the first quarter of 2019, 86 girls were sexually assaulted: 62% of all women; of which 22 were between 0 and 12 years old for sexual abuse and 23 for rape. Between 2018 and 2019 there is a 3.6% increase in open folders. A growing trend in 2019 and that, given the greater culture of reporting, may grow in the future. The problem is that there is no data on the cases linked to the process and those convicted; therefore, it is not possible to know the effectiveness of justice or impunity.

On alleged victims of corruption of minors, according to the Center for Social Studies and Public Opinion (CESOP, 2019) Oaxaca is ranked 22nd with 12 cases of women, which occurred between January and July 2019. Human trafficking considered for the State of Oaxaca is high (Meza, 2019). However, they are also approximations because there are no complete and official statistics that account for the real magnitude of the problem.

About the non-complaint

For Arturo Peimbert Calvo, former President of the Human Rights Ombudsman of the People of Oaxaca (cited in Briceño, 2013), in 2013: a) there were between 50 and 100 daily abuses in schools in Oaxaca; b) only 1 or 2% were reported; c) they happened in classrooms and "mostly those located in rural areas"; d) the largest number of cases was of teachers against male or female students; e) "It was not found a way for the victims or interested third parties to report sexual abuse against children despite the fact that the Ombudsman's Office assures them the secrecy of the complaint"; f) "they only ask about what can be achieved with a complaint, they leave to assess it and they do not return"; g) "It is not denounced because there is a social perception that there is an excess of bureaucracy in the administration of justice and they even consider that their dignity is at stake; they feel that there are no clear mechanisms to protect the victim".

Consequently, distrust in the justice systems as well as in the intermediary agencies of the State and public shame if it is learned are relevant factors for not reporting; so are the ignorance of the law and the culture of not reporting. Another important and hypothetical factor, which requires investigation, is the fear of confronting the family or exposing the aggressor relative, affecting the "honor of the family." It also happens with the non-importance and non-credibility that is given to the story of the girls and boys, by their relatives; as well as the lack of knowledge to detect if they are being abused. Information and awareness-raising is a task that also corresponds to the State, because the law by itself does not guarantee the protection of rights.

Oaxaca is the state that ranked among the last four in emergency calls for rape incidents between January and July 2019, with 9 calls; only over Zacatecas, Nayarit and Campeche; in bullying or harassment he is in position 20 with 58 calls; in sexual abuse does not appear (CESOP, 2019). In other words, "non-reporting" is a problem and makes it clear that there are no efficient education and awareness programs.

According to the Executive Secretariat of the National Public Security System (SESNSP), in emergency calls to report rape, for every 100,000 women, Oaxaca ranks 28th; for sexual harassment or harassment, place 21; for sexual abuse, the 28th place (SESNSP, 2019). The few complaints made through this medium can be attributed to ignorance of this channel or prefer directly; However, considering that 95% of cases are not reported, it constitutes one of the factors of impunity.

On the environments and sexual abusers in sexual violence against girls

Derived from the hemerographic analysis, it is found that the main area of sexual violence against girls and boys in Oaxaca is the home and then the schools. In the first, the aggressors are fathers, stepfathers, siblings, uncles, cousins, grandparents and mothers. In the study centers, the teachers and administration staff (service) mainly. Other spaces are shelters, family homes, religious spaces, the street and migratory circuits.

In 2013, Zoila Jovita Ríos Coca and Rosario Guadalupe Sánchez Pacheco, from CAPTA, indicated that in 2012 68% of sexual abuse occurred in the home of the victims and 32% in schools and public toilets. Among the perpetrators, 71% were known: a) parents and stepparents; b) siblings, uncles, cousins, grandparents and other relatives or acquaintances; c) teachers and; d) 29% remaining, unknown (Libertad Oaxaca, 2013).

The authorities of the State Attorney's Office for the Protection of the Rights of Girls, Boys and Adolescents of the State of Oaxaca, recognize that the sexual abuse of minors in approximately 90% of the reported cases occurs in the family nucleus, the main aggressors being parents, uncles and grandparents, and although there are people who realize the abuse, they prefer not to report it (Sosa, 2019). Lachenal's study (2016) confirms that in Oaxaca, sexual violence to minors in most cases is carried out at home and by a close relative, contrary to the case of adult women who are outside the home.

Sexual abuse in the school setting includes the preschool, primary, secondary and upper secondary levels. For example, the abuse of several preschool infants in 2015 (ADNSureste, 2015)⁸ in indigenous school shelters that were operated by the union and municipal authorities, with 4 cases of child sexual abuse⁹ (Guerrero, 2012).

Among immigrants, by 2012, according to the Centro de Orientación al Migrante de Oaxaca (COMI), at least 30% of the women who arrive at COMI in the capital of the State of Oaxaca with STDs, is due to commercialization or sexual abuse (INCIDE Social / Sin Fronteras, 2012). In this space, girls and adolescents are the most vulnerable and also lack their rights of access to comprehensive health. Thus, girls and boys living in poverty, indigenous or migrant, are vulnerable to sexual abuse.

On policies and programs against child sexual violence

⁸ FILE 14/2009 At the end of 2008, inside the Kindergarten located in the food market, he did it to several girls." (ADN Sureste, 2015).

⁹ The head of the CDI, said that the case of the 7-year-old boy who was violated in the "Indigenous School Shelter" of Ayutla Mixes, belonged to the same community and was abused by three different people. the girls to bathe in the patio, in another case the adolescents were forced to serve as the girlfriend of a member of the staff, and in another case the death of a child who was not part of the shelter was recorded, detailed Ana Gazga Pérez, Deputy Delegate of Social Development of the CDI [...]" (Guerrero, 2012).

At an operational level, as of 2015 the State has made progress with the establishment of Human Rights committees for Girls, Boys and Adolescents in the municipalities, which number 31 and which are intended to be in all municipalities under the supervision of the State Council of the Rights of Boys, Girls and Adolescents (CEDNNA), for which the Installation and Operation Manual was prepared in September 2014 (CEDNNA, 2014). Likewise, the State Program for Human Rights of Oaxaca 2010 and 2016 (Coordinating Committee for the elaboration of the diagnosis and program of human rights of the State of Oaxaca [CCEDPDHO], s/f), the Comprehensive Program to Prevent, Attend, Punish and Eradicate Gender Violence against Women, 2012-2016 (Government of the Free and Sovereign State of Oaxaca [GELSO], 2012). The Transversal Strategic Plan for the Comprehensive Protection of the Rights of Girls, Boys and Adolescents 2016-2022 (GELSO, 2016b), promote the prevention, protection and defense of children's rights, specifically physical and sexual integrity, as well as their rights sexual violence versus sexual violence. The problem is that they are little disseminated and known, at the same time that they are not a priority problem for the State and its governing bodies.

On the construction of power relations in relation to the sexual in Oaxaca

In urban and rural areas, men and women consider that: 1) there are separate roles for men and women, in which for women it is the domestic space and that they do not require physical strength, 2) in sexual conquest they can also have initiative the woman, but it prevails that the man must take the initiative. 3) On the prevention of pregnancy and the use of planning methods is not a common practice for men and women and it happens that the latter expect the male to take the initiative for their use, from which I infer that there is a tendency not to use them to prevent your partner from thinking that you do not want to get muddy with him or that he thinks he is unfaithful and therefore does not want to fear children¹⁰. 4) Sons and daughters must be subject to what their parents decide as long as they know what is best for them, although there are transformations and in the new generations, they have other perspectives. 5) acceptance and practice of violence as a method of negotiation, conflict resolution and relationships between men and women, sexual violence being part of the conquest and control that society confers on men (it has become naturalized), and 6) women voluntarily assume their chores and sexuality as obligations to their partner or to satisfy the man with whom they are in love or coexist sexually and seek sexual pleasure rather than as an exercise of their sexual rights and often give up their own pleasure to do it to satisfy the wishes of your husband, boyfriend or spouse; although (Fernández-Tapia, 2016)¹¹. In this way, details, affection, aggression and sexual conquest are conjugated in a couple relationship and in love and sexual behavior, in which the relationship oscillates between dominance and subordination, in which violence is part of sentimental relationships. They are ingrained cultural processes that need to be deconstructed through education and awareness, as well as being investigated for better intervention.

There is, in turn, a conception of "hitting with reason when he commits faults against respect for man", for example: "if he hits me, it is because he loves me". Alternatively, perceive the woman and children as property and the woman as an object of pleasure, an idea that is accepted directly or indirectly by society (Fernández-Tapia, 2016). This conception gives rise to the idea that minors, as soon as they become women (due to their physical development), are also sexually available to the man who dares to manage to turn them into a woman,

¹⁰ This is by way of hypothetical inference, on which a study is required that allows knowing with precision about the perspective of both men and women of the State on family planning.

¹¹ These data are the result of the process of residing in Miahuatlán de Porfirio Díaz, from 2012 to 2016, when observing the life and conversations of couples or people and what is said about their chores and responsibilities at home and in society, as well as their sexual life, as when observing gender roles in different municipalities of Oaxaca.

even as an exchange for dowry or purchase in some traditions of this state. However, sexual assaults on underage girls who do not have the attributes of such development, move away from cultural issues socially accepted by Oaxacan society, for which, in their different ethnic groups, they reject it as detestable behavior.

The power relations indicated and transferred to the sexual sphere in relations between men and women are patriarchal constructions of domination naturalized in both men and women. The study by Briseño-Maas and Bautista-Martínez (2016) finds that violence against women, including sexual violence, is invisible and institutionalized, hence their impunity, and that, in the communities of the municipalities of Oaxaca, which includes the sexual (rapes), is carried out in the family, work and community environment. It has become naturalized and institutionalized and that the ethnic condition raises the rates of violence and that the indigenous community is an area of violence, including sexual violence, as happens in the community conflicts of the Triqui, in which women are also suffering from violence. dispossession of their lands and displacements, they are kidnapped, raped, murdered.

Likewise, they are adult-centered power relations, where minors are the property of their parents, who can dispose of them, which allows various types of violence. From this perspective, it is normal for: a) parents to decide on the sexual life of their daughters and their future partners; b) the sexual objectification of girls, who due to their subordinate position and / or family relationship and / or authority are vulnerable to sexual violence; c) consider as a non-serious crime if the minor is of reproductive age and gives her consent (Fernández-Tapia, 2016) or if they are over 15 and under 18 years old and even if she was under 12 years old, it was not considered rape but rape for deception or seduction (Federal Penal Code, 2008, article 262; Penal Code of Oaxaca, 2016, Art. 243), which in Oaxaca prevails until 2018, and incest if between 16 and less than 18 years old persists the penalization of the minor (Penal Code of Oaxaca, 2020, Art. 255). When these events occur in practice, it corresponds to a systemic, institutional and cultural violence against girls, which inhibits the complaint or to follow the judicial process and favors the impunity of the aggressors.

4. ANALYSIS AND DISCUSSION OF RESULTS

State problem: legal ineffectiveness or institutionalization of crime

The legislative trend on the subject has been: a) to harmonize state laws with international human rights laws, which have been constitutionalized; a) to the development of protocols for the prevention and care of sexual violence against girls and boys; and, c) increased penalties. Considering the sexual abuse of minors in its different forms as a serious crime is an important achievement, but the laws are not very specific when referring to sexual crimes committed against girls, boys and adolescents. Education and awareness of this serious problem is almost absent and the existing programs are unknown by the majority of the population. In turn, the figures show an increase in cases and the complaints, although growing, do not include the majority of the victims.

Legislation, likewise, is not central to girls and boys, but is governed by an adult-centered perspective. These crimes, in practice, are assumed as a defense of the family or society, of morality or social modesty¹², not as a

¹² Following what Martínez (2012) analyzes, socially, when sexual crimes occur, it is conceived as an attack against modesty, honor and family and society morals, rather than as a violation of their human rights and human dignity. Consequently, another atrocious and shameful act for his family and a trophy or triumph for the abuser is added, which legitimizes such behavior.

violation of the dignity and human rights of girls and boys. It happens what Martínez (2016) explains when talking about Mexico country:

... The primacy of social defense over the protection of rights is a constant in state criminal norms [...] it is unacceptable for issues such as morality, modesty or good customs to be considered as a protected legal asset, or as a sexual crime since these are subjective and make invisible the fundamental rights that are affected by the commission of crimes of a sexual nature against persons under 18 years of age (p. 125).

This is a conception in legislation that has already changed in the last decade of the 21st century, but not yet in social and procedural practice (as Lachenal points out). At the same time, it is observed that the law is still constructed from the gender of adult women, not of girls and boys as human beings and as subjects of different rights. The law also does not take into account the cultural diversity of the State of Oaxaca. Closer to a childhood and human rights perspective are the Protocol for the Procurement of Justice specialized in girls, boys and adolescents in the State of Oaxaca, the Protocol to prevent, detect and act in cases of: sexual abuse, child abuse, bullying and mistreatment in the State of Oaxaca. In the rest of the legislation, the best interests of the child disappear.

The protocols are advances to regulate and operationalize actions against this type of violence. The accompanying programs have a minimal presence and diffusion, in practice they are invisible. There is no awareness as a social and health problem, the programs do not appear even among the transparency documents, so it is not known if they exist or not. In this sense, there is neglect and omission of the State and social organizations with the exception of civil associations that work on the issue, which can be interpreted, again, as systemic and institutional violence.

The Protocol to prevent, detect and act in cases of: sexual and child abuse, bullying and mistreatment in the State of Oaxaca, which is an operational guide to be carried out by parents, guardians, teachers, different officials such as organizations civilians and citizens, focuses on schools. It does not exist for every public or private organization, nor for companies and businesses, therefore, is it ignored that many girls, boys and adolescents work. The perspective of childhood, human and gender rights, although it appears in the protocols, in the institutional and social daily practice they disappear, because there is no appropriation or institutionalization of these approaches, even less does there exist a conception and citizen organization about it trouble.

There is a state policy to address the problem, however, it seems to be ineffective because it is not known and does not constitute a priority axis to be resolved in the different institutional instances of the State. There are also no socially positioned initiatives within families, schools and churches, despite the fact that these three spaces are the most frequent in cases of child sexual abuse. Likewise, although there has been a numerical increase in child sexual violence in recent years, beyond signifying an increase in relation to previous years, it is the result of the visibility of the problem and the greater denunciation. This increase can continue if it is taken into account that only 5% of cases are reported.

Legal advances in the classification of crimes, increased penalties, elaboration of protocols and development of policies and programs against child sexual violence, is relevant; but it is not enough, nor has it been effective.

There are dissemination and operationalization gaps in schools and institutions that work with children, while they are absent in the private sector. In the municipalities as of 2015, the process of forming committees began, reaching 31 of the 517 municipalities, and at present it is unknown if their organization was continued; Likewise, beyond the formative and marginal work in schools, programs against child sexual abuse are unknown or do not exist.

Based on the work and opinion of organizations such as Early Institute, CESOP, Consortium for Parliamentary Dialogue and Equity Oaxaca AC, CAPTA and X Justicia para las mujeres, as well as the researcher Lachenal (2016), it is found that: there is a misinterpretation of the law, systemic procedures of the administration of justice that reduce penalties without assessing the true dimension of the damage caused, problems for reparation, no access to justice, impunity, culture of non-reporting, humiliation of victims, absence complete and reliable official statistics, ignorance that there are institutions and authorities to deal with these crimes. In practice, the absence of a focus on human rights, the absence of a true perspective on children and the underestimation of the figures.

It is noted, - although the adversarial and oral system has been promoted since 2006 in Oaxaca, which is strengthened with the national model since 2014 -, a systemic and institutional inertia of little interest in addressing the problem of child sexual violence, disability of the testimonies of the minors or problems to concretize their complaints and the access to justice and the lack of interest in building reliable databases, however, it is a demand since the beginning of the century. In turn, they are maintained in society, in municipalities with indigenous regulatory systems and sometimes in the judiciary. the tendency towards conciliation, the non-valuation of the crime as serious, the reduction of the penalty or the minimization of rape if the victims are adolescents, alluding to consent or the figure of rape (until 2018) and in indigenous communities, marriage as repair of the damage. In other words, there is a systemic, institutional and symbolic violence, present in society and the State.

In pre-Hispanic towns in Mexico as in Oaxaca, rape, reconciliation after rape, not considering a serious crime and marriage as reparation, were accepted social practices, which has not disappeared (Avendaño, 2000; Rodríguez-Shadow & Campos, 2011), hence the importance of the dissemination of positive law and legal education in that sense. It happens in a similar way with "arranged" and "forced" marriages, which include girls and young women (Center for the Study of Women and Gender Parity & Congress of the Free and Sovereign State of Oaxaca, 2019; Domínguez & Alvarado, 2019; Ortega González, s / f; Ramos, 2017). In the latter case, it is also a Spanish heritage and that of the Creole republic (Gálvez, 2006), because such a custom also existed among Hispanics. Las costumbres se extienden a los pueblos indígenas de hoy (y entre los indígenas y no indígenas que dejan elegir a los contrayentes, los padres presionan y condicionan la elección del futuro marido (Ramos, 2017). In a more subtle way, currently, it persists under the figure of the "good match", in which the parents propose, pressure and condition, the choice of the boyfriend and future husband by the daughters.

They are the result of the cultural constructions of gender, of the feminine and the masculine, of the spaces of action, perception and construction of power culturally assigned to women and men, which have a direct impact on the exercise of sexuality between men and women, as between adults and minors. Constructions that are symbolized as normal and natural, so they are not considered serious or crimes in the conception that is hegemonic among men.

5. CONCLUSION

Sexual violence against minors in Oaxaca is not an isolated individual crime, but is the result of systemic-structural and symbolic violence, historically constructed from patriarchal, adult-centered and domination cultures. In this perspective, sex is a mechanism of power-domination relations. Consequently, it is an instrument of control, subordination and domination. Violence that is updated in the global consumer culture that infantilizes eroticism in favor of men, objectifies and commercializes women and, among them, minors. Process in which girls and boys, especially if they are poor, indigenous or migrants, are more vulnerable, as indicated by studies carried out both in Mexico and throughout Latin America, by ECLAC and Amnesty International (Amnesty International, 2010). In this sense, minors are not only victims of sexual violence from their families and local society, but from the global, which encourages and favors child sex tourism.

In recent years, although the national law and the State of Oaxaca have been harmonized with international law, it remains a nominal, passive citizenry, which has not been achieved in the knowledge and practice of such rights in society and between girls and boys. In addition to the fact that the law is general, unspecific and adult-centered, it has not been effective in reducing the problem. Nor has it become a priority within families, schools, institutions and, much less, in the private sector.

The central problems of child sexual violence are: a) the absence of reliable official statistics; b) it is a social problem, insofar as it is institutional, structural and symbolic, not only physical-biological and psychological; c) the law is not attached to human rights and does not respond to the best interests of children, however it stipulates it; d) legal gaps remain due to their generality and applicability is erroneous or ineffective; impunity prevails; the weakness and ignorance of the programs and policies of the State and; e) It is a problem of citizenship and human rights, because it interrupts the full exercise of rights and violates human dignity and the lives of women, not only against personal modesty and morals, of the family or society.

Among the limitations is the ignorance of the law and international law on the part of the citizens as well as the institutions and authorities that deal with these crimes; failure to report and non-compliance with the rule when it is applied; weakness of the international system to impose sanctions on States; the corruption; the absence of mechanisms of the State of Oaxaca to supervise compliance with the law and human rights in all municipalities and of the Federation in all states of the country.

Added to these limitations is the low awareness. On the one hand, under the adult-centered conception of subordination, centered on the power of men, daughters are conceived as objects of property in a social sector, even in the present 21st century, and not as autonomous persons with rights; but as people who owe obedience to the father, brother or husband. On the other hand, from the perspective of the "male" they are perceived as objects of pleasure, subjected to a process of negotiation, conquest and violence. In the abuse of girls, their condition as women is based on the fact that they are conceived as females and object of sexual provocation, available to men (if they are of childbearing age). The process of conquest or aggression is considered an act of pride for the abuser, even normalized in arranged marriages or conciliation after a forced abduction or rape.

In this way, the problem of child sexual violence in the state of Oaxaca is impregnated in the culture, which has built a habitus that makes this type of violence a normalization and naturalization of male-female and adult power-domination relations (a) -girl (o) in relation to erotic pleasure. Relationships in which girls are sexually objectified, not recognizing their condition as human beings and subjects of dignity and rights. At the same time,

it is a legal problem due to the gaps in the law and its applicability, as well as public policies that are alien to the reality and social and cultural context in which girls and boys live.

In the framework of this study, it is evident, at the same time, the need to carry out quantitative studies that provide more complete statistics on the problem, which require the support of the State and the Federation, due to the costs involved. Likewise, research on: a) the factors of non-reporting, b) on the knowledge or not by the people who live in the rule of law and the existing legal mechanisms for the prevention, attention and access to the Justice; c) on the knowledge and application of the protocols for the prevention, detection and care of rape in schools and homes, which are spaces for sexual violence against girls and boys; and, d) progress in prevention and care policies for violence against children in the 517 municipalities of the State.

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