

Samantha Serrano

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Pues, Ambos son Tabus, “Well, they're both taboos.”

## How Guatemalan Laws and Codes Affect the Sexual Rights of People Experiencing Intellectual and Psychological Disabilities

### Abstract

In this paper, I question how legislation passed at the intersection of the two stigmatized topics of sexuality and cognitive disability either purposely or inadvertently increases or decreases the risk factors for sexual abuse and increases or decreases the potential for people with different cognitive abilities to have access to positive sexual experience. I will also examine how other laws not necessarily intended to affect the sexual rights of people with different cognitive abilities, in fact, negatively impact their potentiality to access positive sexual experience while creating risk factors for sexual violence. I am specifically analyzing legislation and its effects in Guatemala, a country in which specific circumstances and conditions which people with different cognitive abilities endure, as well as the lack of real enforcement of a number of the pieces of legislation, create an especially desperate situation for their sexual and human rights. The analysis in the paper is two-fold and aside from specific Guatemalan legislation, I will analyze the outcome of policies implemented and the structure of CONADI, the National Council for Attention to Persons with Disabilities, an organization created and sustained by mandate of Guatemalan law. This portion of the analysis will also bring into discussion the policies and practices of certain non-profit organizations that are part of the institution that provides services to people with different cognitive abilities. While the Guatemalan government is not officially in control of the non-profit organizations, neoliberal

Guatemalan laws and policies heavily affect how these institutions provide services and promote or deny human rights of people experiencing intellectual and psychological disabilities. Aside from analysis of laws and policies, I will also use information procured from interviews with institutional workers that were carried out between June of 2010 and August of 2010 while I was conducting fieldwork for my Master's thesis on the institutional perceptions and treatments of the sexuality and sexual abuse of people experiencing intellectual and psychological disabilities in the Guatemala City area.

### Proper Names and Jargon

CONADI- (*El Consejo Nacional para la Atención de las Personas con Discapacidad*) The National Council for Attention to Persons with Disabilities- created through Decree 135-96.

Decree 135-96 – “The Law of Attention to People with Disabilities” This law passed in 1996 during the transition to peace after the Guatemalan Civil War. This was created during the ascendancy of neoliberalism in Guatemala and promoted several neoliberal policies. This decree mandated the creation and funding of CONADI.

The Federico Mora National Hospital of Mental Health- The only public hospital of mental health in the country. It is known for its inhumane living conditions and for housing convicted criminals as well as people experiencing psychological and intellectual disabilities.

Femicide- The killing of women because their women. The crimes are often committed with complete impunity.

Guatemala- A Latin American country that shares a border with Mexico. It is the largest country in Central America and has a population of about 14.35 million people.

Guatemala City- The capital of Guatemala

Interdiction- Form of authoritative prohibition that denies all civil rights of people with intellectual and psychological disabilities in Guatemala.

The HOP- The House of Psychiatry, a pseudo-name for the only public institution that houses people with profound intellectual disabilities in Guatemala.

Quetzaltenango- The second largest city in Guatemala

Quetzales- The form of currency used in Guatemala. One American dollar is equivalent to about eight Quetzales or Q.