

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

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“The topic of disability in Guatemala continues to be driven by the idea of the person that cannot, the person that isn't capable, the person that doesn't think, the person that can't make decisions for him or herself, that can't assume responsibilities for him or herself or with others. So then with those ideas, they are the poor little things (*pobrecitos*), they are the useless (*inútiles*), and they are expensive (*costosos*). They think all of that.” - Worker in a Public Institution that provides services to people experiencing intellectual disabilities who has a disability as well.¹

The social abandonment and abuse of people experiencing intellectual and psychological disabilities is not unique to Guatemala. However, the events, places, laws and public policies involving services for them there paints a picture of how culturally engrained violence, trauma and neoliberal policies create especially inhumane circumstances for this group of people. As human rights issues for people with different cognitive abilities are raised in a country in which a large portion of the population that does not experience disabilities has its rights violated or ignored regularly, it is important to begin an examination of where perceptions and treatments of human rights of the most marginalized groups begin and where they are put on hold or thwarted. This can be achieved by investigating how the arguably most taboo human rights, sexual rights, are understood, treated, violated, hidden or ignored.

Intellectual and psychological disabilities, or different cognitive abilities, are human experiences and attributed characteristics that have been socially constructed, are historically diverse and have in turn become political issues.² Sexuality, while often thought of as a private issue, is a dimension of humanity that is socially constructed, historically diverse, and is in turn a profoundly political issue as well. When the two taboo topics of sexuality and different cognitive ability meet in the political realm in any part of the world, many contentious issues over fundamental human rights emerge. Questions of sterilization, eugenics, dependency, access, government funding, isolation, the definition of sexual violence and the definition of basic humanity unfold in the political convergence of sexuality and cognitive ability that would not otherwise come to light. The understandings and treatments of the sexual rights of people experiencing intellectual and psychological disabilities change in different societies. One must consider how these controversial and taboo human rights are treated in a society already plagued by violence and trauma.

¹ I will not indicate which public institution this interlocutor is connected with because this interlocutor claimed a very heightened need to maintain anonymity.

² Oliver, Mike. 2001. Disability issues in the postmodern world. In *Disability, Politics and the Struggle for Change*, 149-159. London: David Fulton Publisher Ltd.

Guatemala is a country that has endured heavy amounts of violence and trauma both contemporarily and historically. A Civil War, which began with an invasion by U.S. Troops in 1954 and did not officially end until 1996 with the signing of the Peace Accords, left the country in need of healing after a genocide of over 200,000 indigenous people and the disappearance of more than 50,000 others.³ Guatemala's government is often considered corrupt, unstable, and dependent on foreign businesses and organizations for funding. The head of the United Nations backed commission set up to combat impunity in Guatemala resigned in June of 2010 based on the grounds that the Guatemalan government would not follow any anti-impunity measures suggested by the commission.⁴ Due to heavy violence from gangs and drug-traffickers, the average daily murder-toll, contemporarily in the capital city, is higher than it was during the Guatemalan Civil War.⁵ According to the Human Right Procurator of Guatemala, in the Central American country with a population of about 14.35 million people, there were 5,437 murders reported in 2010 alone.⁶ The contemporary murder rate is double that of its neighbor, Mexico and ten times greater than that found in the United States.⁷ The country's population has a 43% prevalence rate of chronic malnutrition and 47% of the population does not have access to potable drinking water. 21.5% of people in Guatemala are living on less than \$1 a day.⁸

The conditions in which people with different cognitive abilities and a large portion of the Guatemalan population live under in the Central American country, must be taken into context to begin to understand the treatment of a group like people with different cognitive abilities, who are considered “undesired,” “unproductive,” and “a societal burden.” I utilize the term “people with different cognitive abilities” to refer to the group of people whose rights I am studying. I use this term not only because it relates to different ability levels of a psychological and intellectual nature, but also because it is difficult to fully promote the agency of a person with a different cognitive ability if one uses the term “disability” or “disabled” as being a defining aspect of a person. Disability literally means “without ability.” To say someone is “cognitively disabled” can be interpreted as someone not having the ability for cognition. However, one can certainly experience an intellectual or psychological disability. Misconceptions and hegemonic societal values of what is normal⁹ that have been imposed upon a person with different

3 Oettler, Anika. 2006. “Encounters with History: Dealing with the ‘Present Past’ in Guatemala.” *European Review of Latin American and Caribbean Studies* (81) (October): 3-19.

4 Anon. 2010. “Head of UN anti-impunity panel in Guatemala Resigns.” *BBC News*, June 8.

5 Anon. 2009. “Crime and politics in Guatemala: An indictment from the grave” *The Economist*, May 21.

6 Morales Alvarado, Sergio Fernando. 2011. *Informe Anual Circunstanciado: Situación de los Derechos Humanos en Guatemala*. Informe Anual. Guatemala: Procurador de los Derechos Humanos, January.

7 Anon. 2011. “The tormented isthmus.” *The Economist*, April 14.

8 Anon. Humanitarian Appeal: 2010 Appeal - CAP Guatemala 2010 - Food Insecurity and Acute Malnutrition Appeal.

9 In regards to “hegemonic societal values of what is normal” I refer to how people are taught to understand sanity and intelligence and how certain characteristics or habits

cognitive abilities can effectively create barriers in society and disable a person's ability to access the outside community or his or her rights.¹⁰ I am advocating for the agency of people with different cognitive abilities or who are experiencing psychological or intellectual disabilities. They should be allowed to make their own choices in regards to their sexuality and should be given the same rights as people who are not experiencing disabilities. In this argument, their education must be promoted and their sexual development nurtured in order to aid their understanding of the difference between both positive and negative sexual experience and how to prevent and report sexual abuse. Other words utilized for referring to different cognitive abilities including mental deficiency, mental retardation, intellectual incapability, mongoloid, psycho, crazy, looney, insane, mental, deranged and a number of other terms promote the social construction of cognitive disability as a deficiency that makes a person experiencing an intellectual or psychological disability seem less human or worth less.

In this paper, I question how legislation passed at the intersection of these 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.

are not considered “normal” by the majority of society. These habits or characteristics do not necessarily cause complications or pose an actual burden on society, but have been socially constructed as scary, a liability or problematic. Some of these characteristics or habits are staring, difficulty in controlling tone of voice, learning difficulties, self-injuring, different understandings of personal space and difficulty gaging emotional reactions.

¹⁰ Oliver, Mike. 2001. Disability issues in the postmodern world. In *Disability, Politics and the Struggle for Change*, 149-159. London: David Fulton Publisher Ltd.

SEXUAL VIOLENCE FOR THE SOCIALLY ABANDONED

According to one of the most relied upon studies of the sexual abuse of people experiencing intellectual disabilities, 80% of the people experiencing intellectual disabilities who were questioned had experienced sexual assault at least once in their lives and 49.6% of them had experienced sexual assault ten or more times.¹¹ This study was conducted in Canada and the United States, where the situations for people with different cognitive abilities are obviously less than ideal, but there are still a greater number of resources and a much higher degree of enforcement of legislation promoting their human rights and preventing impunity in sexual violence. One could assume that because of this and other factors in Guatemala, that the state of the sexual rights and rate of sexual abuse is even higher than the rate found in Canada and the United States. There are, however, no reliable statistics on the rate of sexual abuse among people experiencing intellectual or psychological disabilities in Guatemala. Within the statistics that are available, as of 2009, only 2% of reported sexually violent crimes in Guatemala made it to courts.¹² Besides nearly guaranteed impunity for sexual abusers in Guatemala, there are specific risk factors faced by people experiencing intellectual and psychological disabilities that increase the likelihood that they will experience sexual violence at some point in their lives.

Some of the specific risk factors faced by people experiencing cognitive disabilities in regards to sexual abuse were highlighted in a study executed in Guatemala City and Quetzaltenango in Guatemala in 2001 about the sexual abuse of children and adolescents experiencing disabilities.¹³ Some of the risk factors noted were: a condition of submission and dependence often inculcated into people with different cognitive abilities; they often have low self esteems due to ostracization; they are not aware of what is sexual abuse and manners of avoiding it; due to physical limitations, they may have less strength to physically resist it; they are often accustomed to unequal treatment; they are often placed in large institutions where there is a large amount of workers who have isolated access to them¹⁴; in these institutions people with different cognitive abilities remain separated from society and reporting sexual abuse to someone on the outside is difficult or impossible; there is often a physical or affective dependence on the aggressor; they may lack the language ability to describe what has occurred; they may be

11 Sobsey, Dick, and Tanis Doe. 1991. "Patterns of sexual abuse and assault." *Sexuality and Disability* 9 (3) (September 1): 243-259-259. as cited in Sorenson, Daniel D. 2002. "The Invisible Victims." *California District Attorney's Association's Quarterly Journal* (August 9).

12 Guatemalan Human Rights Commission. 2009. *For Women's Right to Live*. Washington, D.C.: GHRC.

13 de Búrbano, Gabriela. 2004. . Vol. 1. 4 vols. *El Abuso Sexual a Niños, Niñas y Jóvenes Con Discapacidad* 1. Guatemala City: ASCATED, CALDH, CONACMI, Save the Children Suecia, November.

14 "Isolated access" refers to moments where these often untrained or under-qualified institutional workers are alone with clients with different cognitive abilities on a regular basis, or the workers are placed in a position in which they are the only people in charge of all of their clients' needs.

convinced they are able to trust their victimizer and therefore any form of abuse is not considered as such; they may not note when the sexual abuse occurs and reoccurs because they are used to abuse from a young age; they may be scared to report the abuse because they are threatened with some form of violence if they tell anyone; they are able to confuse positive affection with sexual abuse, due to a lack of affection from family members or institutional workers; due to necessity for assistance in bathing, toileting or dressing, some abusers may have extra opportunities for abuse; people with different cognitive abilities may feel a necessity to be valorized or accepted, placing them at risk for abuse; people often consider them unattractive and therefore it is assumed a person would not sexually abuse them; if people with different cognitive abilities do report abuse, it is often believed that they did not interpret the victimizer's actions correctly; actions that one would interpret as signs of abuse like aggression, changes in conduct or signs of terror are often attributed to the perceived disability; they are often isolated from society and don't have many people to tell in either their homes or institutions; there is little to no sexual education for the population; and a dehumanization of people experiencing intellectual or psychological disabilities in institutions in which they live can result in authoritarianism and violence in their treatment.

Besides the extensive list of previously mentioned risks found in the Guatemalan study that only looked at children experiencing disabilities, there are some other risk factors for sexual violence for people experiencing intellectual and psychological disabilities that I have noted in my own research and experience in both the United States and Guatemala. Firstly, there is often a lack of positive sexual experience for people with different cognitive abilities. If a person does not have access to positive sexual experience, it may be difficult to identify when there is a negative sexual experience. According to my interlocutors in Guatemala, people with different cognitive abilities are highly stigmatized and are often considered as curses for family member's sins or it is believed that the experienced psychological or intellectual disability did not come into fruition until someone decided to place a curse on the family. These beliefs that bring shame to family members, make them want to hide the person with different cognitive abilities from the rest of the world. These stigmas can create violence in isolation due to a resentment over the fact that the person experiencing an intellectual or psychological disability is a perceived manifestation of the family's sins.¹⁵ Adults with different cognitive abilities are often infantilized due to paternalistic ideas about behaviors and education of the group of people. These adults are also desexualized because it is assumed that people with "child-like mentalities" do not have "adult-like" sexual desires, even though they experience for the most part "normal" hormonal development. A forgotten sexuality can mean that one deprives that person of sexual experience and sexual abuse of that person can occur without notice. Another issue I have noted involves how people perceive family members and institutional workers that tolerate people with

15 During my fieldwork in Guatemala, many of my interlocutors recounted stories of family members of people with different cognitive abilities sexually abusing and impregnating their family member experiencing a disability. These women experiencing disabilities were often kept in the home because their family members felt ashamed or were also ostracized by members of their small communities for the disability that was thought to be caused by the family. The people with different cognitive abilities were often completely isolated until outsiders discovered their pregnancies.

different cognitive abilities or provide services to them. Due to the fact that a discourse of charity surrounds this population, those who work with them or who are willing to spend extended amounts of time with them must be “good people.” Often times when I tell people what my research topic is, that I work with people experiencing intellectual disabilities or that I grew up around this minority group, people will react by telling me that I am “an angel,” a “good samaritan,” a “giver” or that I must be a “good Christian girl.” Aside from further promoting the patronization of people with different cognitive abilities, this common occurrence creates a lack of vigilance towards people in the institution providing services to people with different cognitive abilities as well as their family members. It can be assumed that a “good person” who is willing to work with this “poor population” would not abuse them.¹⁶

DISABILITY LAWS AND CODES

Unlike the situation in the United States, there have not been court cases specifically touching on the sterilization or explicit reproductive or sexual rights of people with different cognitive abilities. While some laws touch on sexuality and sexual access for people experiencing intellectual and psychological disabilities, there were not laws specifically written for that purpose. Although legislation is already in place to guarantee human rights to all people experiencing disabilities, the lack of enforcement of laws and treaties already in place, combined with contradictory legislation hinders, if not stops, most people experiencing disabilities, specifically those with different cognitive abilities, from claiming their freedoms and rights. One could argue that rather than work for the full inclusion of people experiencing disabilities, the Guatemalan government actually seeks to specifically exclude people experiencing intellectual and psychological disabilities from most of society while using the services they do provide for them as proof of the government's work for social welfare.

The Law of Attention to People with Disabilities or Decree 135-96 was passed in November of 1996, at the same time as the Peace Accords to end the Guatemalan Civil War. This law states “It is declared as a social benefit, the integral development of equality in conditions for participation in economic, social, cultural, and political development for people with physical, sensory and/or psychological (mental) disabilities in the country.”¹⁷

While this act seems to guarantee equal participation on all fronts, it contains no penalties for non-compliance and is therefore unenforceable. The act also distributes enforcement of the law to municipalities within the country. This decentralization of laws is a neoliberal approach to human rights that allows local and smaller entities to decide whether or not the application or guarantee of specific rights for different groups are of commercial, financial or cultural value in a specific area. This allows the interest of local businesses and commerce to win out over the promotion of accessibility and human

¹⁶ In my own experience working in a high school special education department in Southern California, other staff members and I found out a teacher, whom we assumed to be responsible and caring for his students, was regularly sexually abusing a student with a different cognitive ability as a punishment for masturbating in public spaces.

¹⁷ El Congreso de la República de Guatemala. 1996. *Ley de Atención a las Personas con Discapacidad, y su Reglamento*. November.

rights for everyone. Decentralization of law application takes financial pressure away from the federal government and weighs private interests over public welfare.

The federal government does not even apply this law in its own institutions. As an example, the building for Secretary of Social Welfare (*La Secretaria de Bienestar Social*) is not wheelchair accessible. This is the public entity that distributes the majority of public services and resources for people experiencing disabilities in Guatemala. The government does not follow its own mandates. Several other pieces of legislation and treaties have been passed to give people experiencing disabilities equal rights, including the approval of the Protocol of San Salvador in 2000 and the Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities in 2002. But while both of these ordinances guarantee similar if not the same rights as those promised in the Protection of Persons with Disabilities Act of 1996, little to no enforcement of these pieces of legislation have been enacted.¹⁸

Within the law decree of the attention to people with disabilities (Article 3 of 135-96), disability is defined as “Any physical, mental or sensory deficiency that is congenital or acquired, that substantially limits one or more activities that are considered normal for a person.”¹⁹

This definition, first given in 1996, is the first explicit definition of disability I have been able to find in Guatemalan law. This nebulous definition allows the government to limit what is considered a disability and what is not. Within this law there are not definitions of specific types of disabilities addressed in the section or what are considered “activities normal for a person.”

In decree 59-2008, “The Convention about the Rights of People with Disabilities and its Facultative Protocol” states “The proposition of the present convention is to promote, protect, and assure the plain enjoyment of all fundamental human rights and liberties in conditions of equality for all people with disabilities and to promote the respect of their inherent dignity.”²⁰

This decree defines “discrimination with motives of disability” as “an extension of any distinction, exclusion or restriction motivated by disability that proposes or has the effect of creating obstacles for or preventing the effect of the recognition, enjoyment or exercising of all of the fundamental human rights and liberties in political, economic, social, cultural, civil or any other type of environment in equal conditions. This includes all forms of discrimination and within that, the negation of any reasonable adjustments.”²¹

This law promises again to prevent any form of discrimination on the basis of one's disability as well as promote adaptation to allow people experiencing disabilities to have greater access to the community. Although sexual rights are not detailed in the list of types of human rights, one could assume that they would be included in the vague portion of the definition stating that human rights and liberties could be expressed in “any other

18 United States Bureau of Democracy. 2009. *Human Rights Report: Guatemala 2008*. Human Rights.

19 El Congreso de la República de Guatemala. 1996. *Ley de Atención a las Personas con Discapacidad, y su Reglamento*.

20 Congreso de la República. 2008. *Convención Sobre los Derechos de las Personas con Discapacidad y su Protocolo Facultativo*. October.

21 Congreso de la República. 2008. *Convención Sobre los Derechos de las Personas con Discapacidad y su Protocolo Facultativo*. October.

type of environment in equal conditions.” Certain articles of this law explicitly guarantee certain sexual rights as well. In Article 23 people experiencing disabilities are guaranteed the right to consent to marriage, the right to reproduce and choose the spacing between children, the right to sexual education and the right to maintain fertility. Article 25 guarantees them the explicit right to sexual and reproductive health. Once again there is no penalty assigned for non-compliance. People are only given the ability to denounce non-compliance to the Secretary General of the United Nations. The denouncement will not come into effect until a year after the Secretary General actually receives the notification.²²

Within this supposed law, the republic's congress explicitly states that people experiencing disabilities should have equal access to justice including declarations of testimonies, both direct and indirect. In an interview I conducted with a psychologist from one of the few domestic abuse and rape crisis centers in the country, she detailed an out-of-court testimony a woman with Down syndrome gave her. The woman with Down syndrome recounted a number of stories of rape and other forms of sexual abuse she survived by her father, that eventually ended with the discovery by her mother that she was pregnant. The woman with Down syndrome drew pictures of her father inserting items into her vagina and her father chasing her around the house. She later explained the pictures to the psychologist in great detail. While the recounting and the pictures could be considered a form of adaptive testimony, the interview with the woman was not for an alternative form of testimony, but rather a mode of giving the woman a mental age. Mental aging is utilized to say that although a person is chronologically a certain age, they can have the mental capacity of a child. While this is used as a tool to increase the penalties of the sexual abuse due to the fact that child abuse receives weighted penalties, the form of diagnosis is desexualizing to the person with different cognitive abilities as well. Mental aging attempts to establish that people experiencing intellectual disabilities are like children even when they are, in fact, adults. This process not only promotes the idea that adults experiencing intellectual disabilities' sexual development is stunted, but it could also prevent them from accessing sexual liberties that many members of society as well as the law only grant to “adults.” Mental aging not only further infantilizes people with different cognitive abilities but also effectively desexualizes them.

In the woman with Down syndrome's case, her drawn and voiced recounting of abuse was not taken as a testimonial, but rather, was taken along with other tests as a mode of giving her a mental age. Instead of using the woman's claims to charge the father, they only used the medical fact of her pregnancy and her mother's testimony as evidence of the sexual violence. Thus, decree 59-2008 was not applied, which should have granted the woman the right to testify for herself in an adaptive form.

Within Guatemalan legislation there are actually codes that completely contradict all of the previously mentioned rights guaranteed to people experiencing disabilities. Within the section of the Guatemalan Civil Code titled “Incapacity” (*Incapacidad*), an already demeaning reference, this section of the code in fact incapacitates people with different cognitive abilities from accessing their civil liberties.

Article 9 states, “Adults that suffer from mental illness that prevents them from discernment, should be declared in the state of interdiction. Those who may also be able to be declared in the state of interdiction can be people who abuse drugs or alcoholic

²² Congreso de la República. 2008. *Convención Sobre los Derechos de las Personas con Discapacidad y su Protocolo Facultativo*. October.

beverages and those who expose themselves or their families to grave economic prejudices.

The declaration of interdiction produces from the date that it is established in a firm sentence, absolute incapability of a person to exercise his or her rights; but acts prior to the declaration can be annulled if it is proven that the incapability existed notoriously at the time of the event's verification.”²³

In other words, once an individual with a different cognitive ability has been declared in the state of interdiction, he or she will be dependent on and subject to acts performed by his or her representative. Article 9 of the Guatemalan Civil Code establishes that people experiencing psychological and intellectual disabilities need to be under “interdiction” and are therefore not allowed to exercise their rights, basically placing them under the category of “incapable.”

Policies towards individuals experiencing psychological and intellectual disabilities who are abandoned or whose families are no longer able to provide for them are even bleaker under the state of interdiction. They can be institutionalized on the basis of a court decision. They are declared legally incapable as well and are often subject to medical procedures, medication and psychiatric therapy without the right to refuse treatment. I visited both the National Hospital of Mental Health and the institution I will call the House of Psychiatry or the HOP, the only two public institutions where people experiencing profound cognitive disabilities who are abandoned and legally placed under interdiction live in Guatemala. The National Hospital of Mental Health, also known as the Federico Mora is primarily for people experiencing psychological disabilities and the House of Psychiatry is primarily for children experiencing profound intellectual disabilities. Representatives from both institutions told me that if “patients” express sexual desires, they are given medication that prevents those desires from manifesting anymore. A representative from the National Hospital of Mental Health told me that if a woman experiencing a psychological or intellectual disability gives birth while in the institution, she does not have the right to raise the child.²⁴ The child will immediately be taken to the National Welfare Center to be put up for adoption. Abortion is illegal in Guatemala, even if a person is raped in the institution.

While conducting interviews and doing observations in the Federico Mora, I heard several horror stories in regards to sexual violence. The national mental hospital is infamous due to the fact that while also housing people experiencing profound psychological disabilities and at times people experiencing intellectual disabilities, it also jails people who have been proclaimed “criminally insane.” Many journalists and all of my interlocutors in the institution said that these charged criminals placed in the Federico Mora often do not in fact have a different cognitive ability. They have either bribed or threatened a judge in order to be placed in the hospital as opposed to jail. Although the staff of the hospital has complained of the situation, nothing has been done to move the interns to a different facility. The convicted criminal half of the population placed in the

²³ El Congreso de la República de Guatemala. *Incapacidad*.

²⁴ I cannot detail job titles of members of the institution providing services to people with different cognitive abilities that I interviewed because I guaranteed anyone interviewed privacy and anonymity. Privacy is maintained both to encourage my interlocutors to speak more freely and so that they don't experience any negative repercussions due to information that I obtain or publish.

hospital brings a large police staff onto the hospital grounds as well. The guards are notoriously corrupt and are cycled in and out of the hospital in three day spurts, so it is difficult for a patient to report abuse by guards unless it is immediately identified. Immediate identification of abuse of a patient by a guard is unlikely due to the fact that the guards carry very large and intimidating guns.

According to one of my interlocutors from the hospital, in recent years there was an issue with guards placing two holes at a time in the walls of the women's barracks. In one hole, the guards would place their penis and in the other their gun. From there, the police would force the women in the barracks to perform fellatio on them at gunpoint. Although hospital staff began to place video cameras around the barracks after the situation came to light, nothing has been done to uncover which police officers sexually abused the women with different cognitive abilities. The sub-director explained that there is no way of knowing which guards did it due to the fact that the officers are cycled in and out of the facility so quickly. Even though the hospital staff has requested a change in the system that promotes impunity for police officers' actions in the hospital, the government has done little to nothing to acknowledge those requests.

One of the urgent issues caused by sexual violence and the denial of people with different cognitive abilities' sexuality is the increase in the number of residents and hospital staff who are HIV positive. No sexual education or contraceptives are provided in the hospital. According to the human rights procurator for people with disabilities, the hospital does not have enough financial resources to prevent sexually transmitted diseases from being spread by the perpetrators to the hospitalized people with different cognitive abilities and between them.²⁵

Due to the fact that people placed in these two institutions are under interdiction by the government, they have no option to leave. Besides violations of the sexual rights of the "patients" in these hospitals, other basic human rights otherwise guaranteed are violated on a daily basis as well. While in the HOP, I witnessed more than thirty people walking around in a large cement cage as two nurses stood outside and watched the group through a few sections of metal bars. In the Federico Mora, I witnessed herds of people wandering the grounds in unfitted bag-like clothes that were often falling off the "patients." Not a single "patient" I came across was wearing shoes and I saw broken glass on the ground the instant I stepped out of the car while I was in the facility. When considering these very visible violations of human rights, one must question at what point are the extremely taboo sexual rights of people with different cognitive abilities even considered?

While article 9 of the Civil Code works to fully usurp the human rights that would have otherwise been granted to people experiencing intellectual and psychological disabilities, it also works to place them in situations that already violate the rights that the supposed assigned guardians are supposed to protect. This code is not only paternalistic and dehumanizing to people with different cognitive abilities, but it also contributes to

²⁵ An example of how the importance of the sexual health of "mental patients" in Guatemala was revealed in October, 2010. A person researching the Tuskegee cases in the United States explained that she found records that revealed that the United States government went into public institutions in Guatemala from 1946-1948 and deliberately infected "mental patients" with syphilis. It is unclear whether or not these patients were cured. See McNeil Jr., Donald G. 2010. "U.S. Apologizes for Syphilis Tests in Guatemala." *The New York Times*, October 1.

their isolation in institutions and in the homes of their family members. If a family member is suddenly in charge of all of the actions of a person with a different cognitive abilities, he or she may fear that that person's actions must be controlled and that can only be done in the privacy of the home. They also may feel authoritarian-like power over their family member. This privileges the desires and wants of the family member over the rights of the person experiencing a psychological or intellectual disability. These instances of increased paternalistic attitudes, dehumanization and isolation are all noted as risk factors for sexual abuse.

In recent years, sexual violence, specifically against women and sexual exploitation have received consideration in Guatemalan legislation. This is due, in part, to a large movement for women's rights as a reaction to the high rate of violent murders and violent rapes of women committed with nearly complete impunity in the Central American country.²⁶ The Law Against Sexual Violence, Exploitation and the Treatment of People (Decree 9-2009) was signed into effect in 2009 in response to this movement against sexual violence. Article 23 of the decree works to make special considerations for people experiencing disabilities.²⁷

Article 23 states “Whosoever through whichever action or omission provokes (exploitation or violence) against a minor or a person with a volitive, cognitive, physical or psychological incapacity or sickness or places a minor who is at great risk of suffering from any of those illnesses will be sanctioned to prison for two to five years, without first judging applicable sanctions for other crimes.”

While this added time to a person's prison sentence for sexually violating or exploiting a person experiencing a disability is meant to further prevent the sexual abuse of people with different cognitive abilities, it also promotes the perception that adults experiencing different cognitive abilities have less sexual agency and do not have the same sexual rights or desires as adults who are not experiencing a psychological or intellectual disabilities. This increased penalty is a double-edged sword; it could help prevent the sexual abuse of a group of people with heightened risk factors from having that experience; but it could also further marginalize them as sexual beings and stifle a call for them to be able to access their sexuality as adults.

Feminist scholar and queer theorist, Steven Angelides, examines how laws and discourse in the 1970's that arose from the feminist movement in the United States against child abuse helped overturn the patriarchal myth of stranger danger.²⁸ The movement produced evidence that fathers, brothers, uncles and other family members were the most common perpetrators of sexual violence. This movement helped deny that children were in someway complicit in acts of sexual assault and helped promote an important critique of patriarchal family relations and adult/child power relations. However, he found negative side effects in this movement as well. Angelides notes that while the discourse surrounding child sexual abuse expanded, the discourse surrounding child sexuality was both repressed and denied. In this argument Angelides charge that the

26 Musalo, Karen, Elisabeth Pellegrin, and S. Shawn Roberts. 2010. “Crime Without Punishment: Violence Against Women in Guatemala.” *Hastings Women's Law Journal* 21 (2) (April 19): 161-221.

27 El Congreso de la República de Guatemala. *Ley Contra la Violencia Sexual. Explotación y Trata de Personas.*

28 Angelides, Steven. 2004. “Feminism, Child Sexual Abuse, and the Erasure of Child Sexuality.” *GLQ* 10:141-177.

imaginary line created between age and sexuality is a failed attempt by the feminist movement to “hierarchize sexuality by way of a linear and sequential logic of age stratification.” (2004: 142)

While Angelides would not deny the importance of preventing child sexual abuse, he argues that establishing that children can not be complicit in any sexual activity because they are not yet true sexual beings, usurps the child's agency and unnecessarily constricts and disempowers children. The same argument holds true in certain laws and codes passed like the Guatemalan Law Against Sexual Violence, Exploitation and the Treatment of People. The specific harsher penalties for people who abuse those with different cognitive abilities privileges the gravity of their abuse while it denies their status as developed sexual beings. The abuse of this group of people should hold the same weight as the abuse of people who do not experience disability so their positive sexual experience and sexuality can hold the same weight as well.

SAVING FACE IN A NEOLIBERAL STATE: CONADI AND DECREE 135-96

Although there were a few laws and codes passed regarding access to rights for people experiencing disabilities before decree 135-96, I was unable to find proof of enforcement of any laws or codes regarding disability outside of the section of the civil code that mandates interdiction over people experiencing intellectual and psychological disability. Most of the time this code was enforced without knowledge that the code existed. The vast majority of my 30 interlocutors had no knowledge that this code was real, but understood that people experiencing intellectual and psychological disabilities were not to be granted decision-making power. The only time this code seemed to be enforced via official mandate was when people were forced into the public institutions like the Federico Mora.

One reason for this lack of application of laws, outside of enforcement of interdiction, could be the lack of government interest in promoting actual inclusion of people experiencing disabilities. This group, already deemed unproductive, societal burdens, and for the most part non-voting could not be seen as contributors to the Guatemalan government's goals in the midst of a civil war. The transitions out of the Guatemalan Civil War, however, brought about a need to identify and acknowledge a demand for services to promote or understand diversity in Guatemala. With the world's eyes on the peace-keeping agreements in the Central American country, there were expectations that work would be done to promote human rights and to correct the atrocities that had been detailed in work by Rigoberta Menchu, Guatemalan memoir writers, academics and other human rights advocates. However, this push for civil and human rights of different minority groups in Guatemala came during the ascendance of a neoliberal system in Guatemala.

As discussed by the anthropologist, Charles R. Hale, in his work on the rights of indigenous peoples, neoliberalism, which is driven by the logic of transnational capitalism, works to strip down federal responsibilities for the social welfare of citizens, emphasizes individual responsibility and choice, and takes away restrictions in the world market on goods and capital.²⁹ Hale details how in Guatemala, during the beginning of

29 Hale, Charles R. 2002. “Does Multiculturalism Menace? Governance, Cultural Rights and the Politics of Identity in Guatemala.” *Journal of Latin American Studies* 34 (3)

the Maya movement and the transition to “peace” in the 1990's, proponents of the neoliberal doctrine actually promoted a significant, if limited, version of indigenous cultural rights, as a means to resolve their own problems and advance their own political agendas. Due to the fact that the Mayan movement was making ground and pushing for collective bargaining rights, changes in government policies needed to be made to assure the interests of transnational capitalism were kept. As Hale highlights, “neoliberalism is predicated on recreating or recapturing the individualist essence, in danger of being lost.” (Hale 2002: 496) As strange as it may sound, “this recuperation of the individual takes place primarily through strengthened ties with the non-state entities - communities, civic and voluntary organisations, churches, NGOs – that supposedly are the guardians of values lost.”(Hale 2002: 496)

In the pursuit of expunging the state of social welfare responsibilities while actively promoting subject formation, the Guatemalan government began to purposely reinforce organizations of civil society that would serve these interests. By providing limited funding and support to organizations that did not push for “radical” collective rights but rather “basic cultural rights,” the Guatemalan government's cultural project was able to “harness and redirect the abundant political energy of cultural rights activism, rather than directly to oppose it.” (Hale 2002: 498)

In 1996, at the time of the signing of the Guatemala Peace Accords, there was a motivating force to include and at least discuss all forms of minority rights outside of just indigenous and cultural rights. Along with the push of several different disability rights activists and the impetus of international and highly influential American laws like the Americans with Disabilities Act of 1990 in the United States, there was a need to create a government entity to advocate for the rights and accessibility for people experiencing disabilities. Thus CONADI, the National Council for Attention to Persons with Disabilities (*El Consejo Nacional para la Atención a Personas con Discapacidad*) was created through decree 135-96.

Utilizing Hale's analysis of the effects of neoliberal policies in Guatemala on the Maya movement and the promotion of “neoliberal multiculturalism,” we can see how these ideas transfer to the the disability rights movement by way of CONADI and through other details of decree 135-96 already discussed. The government council instigates a form of neoliberal ableism in the Central American country as a sort of subject forming neoliberal gate-keeper. Looking at the structure and funding provided by CONADI demonstrates which groups the Guatemalan government feels are able and should be made into “proper subjects.” CONADI also reveals how the government is able to symbolically care for and advocate for accessibility for people experiencing disabilities while providing minimal resources.

Although CONADI was created through the Attention to Persons with Disabilities Act of 1996 or decree 135-96, it was not actually founded until 1997.³⁰ The creation of this entity was a huge advancement for acknowledging the existence of people experiencing disabilities in Guatemala and a need for services. While there had been some NGO's, some non-profits (mostly in Guatemala City) and a few public centers, CONADI created a gathering point or a council for all of the organizations providing

(August): 485-524.

30 El Congreso de la República de Guatemala. 1996. *Ley de Atención a las Personas con Discapacidad, y su Reglamento*. November.

services to people experiencing disabilities that fit its criteria. There is a board of directors that has representatives from the different branches of the entity. These members of the board of directors meet semi-regularly. I have been in the building when one meeting was held but was unable to observe the meeting.

CONADI is separated into seven different civil social sectors or branches in which different organizations providing services for or advocating for people experiencing disabilities are placed. The seven civil social sectors include: Organizations of People with Visual Disabilities, Organizations of People with Auditory Disabilities, Associations of People with Physical Disabilities, Institutions that Provide Services to People with Disabilities, Institutions that Advocate in Favor of People with Disabilities, Organizations of People with Disabilities as a Result of Armed Conflict and lastly the Federation of Parents and Friends of People with Disabilities.³¹ One may note that in this extensive list, not one of the sectors mentions intellectual or psychological disability. This is because organizations advocating and providing services for people experiencing intellectual disabilities are all placed in the sector of “The Federation of Parents and Friends of People with Disabilities.” When I questioned two separate officials from CONADI, they both explained that it is assumed that people experiencing intellectual and psychological disabilities are unable to access services and support independently. It is necessary for someone else to advocate for them. Therefore, although the sector of CONADI provides services to people experiencing intellectual disabilities, it is really that group's family members who have access to the services. In a situation in which the dependency and incapability of people with different cognitive abilities is assumed, how can one argue for the sexual autonomy of people with different cognitive abilities? When I questioned what a person with different cognitive abilities could do if he or she was looking for resources to report abuse or to advocate for him or herself, one of CONADI's officials said that if a person with different cognitive abilities is able to do that, they can figure out that “The Federation of Parents and Friends of People with Disabilities” is the place they can go. There are no services or institutions affiliated with CONADI that provide services for people experiencing psychological disabilities.

This lack of a sector named for people experiencing intellectual disabilities and lack of any resources for people experiencing psychological disabilities presents a hierarchy within in the government's view of the disability community. It shows who is worth turning into a model citizen, and who the government assumes can't be molded. The fact that parents and friends of people experiencing intellectual disabilities have a sector as opposed to the people experiencing the disabilities themselves, demonstrates who these services are actually there for. This could be due in part to the fact that under interdiction, people with different cognitive abilities cannot vote. People experiencing other forms of disabilities are and have actively pushed for collective rights and accessibility. Only the parents and friends of people experiencing intellectual disabilities were able to lobby for the group's rights. Therefore those sets of people were, in Hale's words, the groups from whom it was needed to “harness and redirect the abundant political energy.” (Hale 2002: 498) Due to interdiction and possible mental impairments, people experiencing intellectual disabilities could not engage in political debate or voice their demands. According to my interlocutors, the lack of services for people experiencing psychological disabilities could also be a consequence of the high rate of

31 Escobar Sarti, Carolina. 2007. *Nuestra Historia... CONADI: 10 Años de Camino*. Guatemala City: CONADI, May.

stigmatization of mental health in Guatemala and a lack of people willing to advocate for the group as a population.

The non-profits and councils that are a part of CONADI also receive the benefit of small amounts of funding. Non-profits often provide services that the government does not provide and through CONADI's funding, the Guatemalan government has a hand in how the entities are run. These services also work to begin to fill a gap left by a lack of government services and funding. They allow for the government to get away with not providing what it is supposed to provide, as mandated in the laws that they have passed. The majority of these non-profits not only provide higher quality services, but they also are used by CONADI as examples of the Guatemalan government's dedication to disability issues. For example, an image of the matron of one of the institutions with her son who is experiencing disabilities is one of the most common images found on posters in CONADI's building. The government can claim support of these institutions by dividing a portion of CONADI's funds to a few non-profit organizations. This money is a miniscule amount and is normally designated to pay for printing and promotional material for the non-profit institutions. In this manner, most pieces of printed material from the non-profits they support say "This material was realized thanks to the support of CONADI," even though the printing of promotional materials is the only thing CONADI funds for a particular non-profit. The non-profits must work to get the funds for everything other than the printing of their promotional materials. CONADI does not fund the research to create the materials, only the printing. In this way, the non-profits do the lion's share of the work to provide services to people experiencing disabilities, but the government can claim some of the credit by having their representative emblem on all promotional material given to the outside public through the non-profits that they provide printing funds to.

Through printed materials of different non-profits and councils and divvying out other small amounts of funding, CONADI not only advertises which organizations the Guatemalan government deems fit to participate in subject making, it also has a hand in how organizations are run. All of the organizations that CONADI provides funding to must meet a certain criteria and espouse certain values and ideas. They provide simple and non-inclusive services like separate special education and daycare, but do not promote full inclusion of people experiencing disabilities in society or ask the government to provide the tools so that accessibility be promoted in public arenas. A few members of the board of CONADI have formed an organization that does not fit CONADI's criteria and promotes independent living of adults experiencing physical and sensory disabilities. The ideas are much more radical in regards to demands for accessibility and collective rights and this group does not receive CONADI's stamp of approval or funding.

CONADI is a complicated government entity to understand and to describe for several reasons. While it seems to have many functions and a number of members and contributors, very little is comparatively produced and important issues are ignored like psychological disabilities. According to one informant from a public institution "It (CONADI) isn't an institution that actually has a presence, it doesn't provoke anything." Another interlocutor from a public institution said, "CONADI is good for nothing (*no sirve para nada*)!" (his emphasis).

As the national council on disability issues, CONADI is required to give recommendations yearly about methods of improving the lives of people experiencing disabilities. The United States Annual Human Rights Report (2000-2009) has pointed out

that the Guatemalan government has rarely if never followed CONADI's recommendations. CONADI does not have power to make changes to government policy although it serve as an arm of the government.³²

When CONADI has been given specific tasks to consider law application, it has not produced. According to one member of the board of directors, CONADI was given the task of creating a plan of action to apply decree 59-2008. According to this board member, meetings have yet to include discussion on how these laws should be applied. The frustration voiced by this board member was voiced by a number of my interlocutors who were board members or who were a part of organizations that receive funding from the institution.

Serving as the national council for all people with disabilities in Guatemala and the only public institution that works specifically for accessibility for people experiencing disabilities, the funding for CONADI is mandated in Article 8 of Decree 135-96. It states that the Guatemalan Ministry of Public Finances must allocate a minimum of five million Quetzales or Q (about \$625,000) each year. Even though CONADI was established in 1996, it did not begin to receive a regular budget from the government until 2000. Rather than increase the budget for CONADI as the council has grown and inflation has taken hold, the Guatemalan government has actually decreased the budget from 6.5 million Q³³ in 2007, to 5.5 million Q in 2008 and finally to 5 million Q in 2009 where it remained the same for 2010. As detailed above, this is the minimal amount of funding CONADI should receive annually. When one considers that CONADI has claimed that 12% of the population is experiencing some form of disability, this amounts to 1.72 million people in the country.³⁴ Considering all of that, this means that about 1/3 of one American dollar (\$0.33), is granted annually for each citizen experiencing disabilities through CONADI. This is without discounting operation, capital and salary costs of the organization itself. The sparse amount of funding granted to the project exemplifies both the little amount of influence and funds needed to instigate controls on domestic non-profits Guatemala in addition to the lack of credibility the movement for the rights of people experiencing disabilities has received in the Central American country.

Within the several atrocities, inadequacies, discrepancies and repressive practices promulgated by the government through the law-mandated neoliberal entity of CONADI, there must be an examination of how this affects the application and understanding of the human rights of people with disabilities in Guatemala. Looking at how the sexual rights of people with different cognitive abilities are treated or understood through these policies in CONADI, allows for a case study of effects of neoliberal entities on perceptions and applications of important human rights. This also gives an example of abuses that are promoted in a system that overtly denies the personal agency of people with different cognitive abilities.

While both representatives from CONADI that I interviewed demonstrated concern about the sexual abuse of people with different cognitive abilities, there was little to no concern for their access to their sexuality or positive sexual experience. An official

32 United States Bureau of Democracy. 2009. *Human Rights Report: Guatemala 2008*. Human Rights.

33 The Quetzal or Q is the Guatemalan currency. The average exchange rate in 2010 is about eight Quetzales for one U.S. Dollar.

34 Escobar Sarti, Carolina. 2007. *Nuestra Historia... CONADI: 10 Años de Camino*. Guatemala City: CONADI, May.

in one of the highest positions in CONADI told me that if a person experiencing an intellectual disability masturbates, it is a sign that that person must have been sexually abused. He explained that a person with an intellectual disability could not possibly learn to masturbate autonomously.

This belief by my interlocutor from CONADI that people with different cognitive abilities could not learn to masturbate by themselves, demonstrates how people with different cognitive abilities are not understood as being natural sexual beings with sexual needs by key members of the institution, even by those who are supposed to work for their rights.³⁵ While it is important to be vigilant of signs of sexual abuse, a hyper-victimization of a group of people, as discussed by Angelides, only usurps that groups' sexual agency. While the slogan of CONADI is "For total participation," the workers in CONADI that I interviewed do not believe that people with different cognitive abilities can autonomously participate in sexual activities, even personal sexual stimulation.

One representative from CONADI told me that people experiencing intellectual disabilities cannot have meaningful romantic relationships, but rather any romantic relationship they have will be a situation of "*novios de fulanito*" or "partners of whoever (in diminutive form)." This means it doesn't matter who they are with in regards to personality, they will just form relationships with whoever is willing to be with them. This interlocutor went on to describe how they will treat each other like a prince or princess but then impulsive conduct and aggression will take over, and the relationship will no longer function. This heteronormative assumption demonstrates one way institutional workers justify disallowing people with different cognitive abilities from forming relationships in the first place. Setting up the idea that any relationships formed are imagined or meaningless chips away at the understanding of this group's humanity and in turn, the need to provide all human rights.

The same interlocutor explained to me that she does not believe and discourages people with different cognitive abilities from having physical sexual relationships. She explained that this group only functions on impulsive behaviors and they are therefore unfit and not mature enough for sexual relationships even as adults. These assumptions are not only generalizations about people experiencing intellectual disabilities, but they also animalize the entire groups and categorize them as primitive beings while attempting to prevent them from making choices in regards to their sexuality. This discourse of both infantilization and animalization is reinforced by the structure of CONADI and lack of a sector actually intended to provide services for people experiencing intellectual disabilities. As discussed before, an overt denial of access to positive sexual experience is not only a form of abuse in itself, but also instigates the risk that if sexual violence occurs, it will not be understood as such.

While CONADI does not work directly with sexual violence or sexual access for people with different cognitive abilities, the non-profits it financially backs provide the

35 It also must be noted that this official in a high position in CONADI does not have a disability and only officially worked to provide services to people experiencing disabilities for two years before he was appointed to his position. When questioned about how he found employment at CONADI in an interview I had with him in July, 2010, he told me the position was "*un puesto de confianza*." The term in English basically means that he received the job because he was friends with someone on the board that trusts him. He was not hired due to qualifications he had or his ability to perform the tasks the work entails.

face of disability services in Guatemala. Therefore CONADI's criteria for non-profits to be backed sets up how the non-profits can and often do understand and treat the sexuality and sexual abuse of this group. Most of the institutions that work directly with people experiencing intellectual disabilities under CONADI's influence work with children and claim it is not in their agenda to work with sexuality. My interlocutor in the only institution affiliated with CONADI that works with adults experiencing disabilities still refers to the adults as “niños especiales” or “special children.” When I asked this interlocutor if her students should have access to physical sexual experience, she responded “They are very innocent and for that reason they don't need to get to that point. It's for that reason that they are children, children in adult bodies, but they're children.”

This is an example of the infantilizing beliefs that are cemented into CONADI's structure. These ideas underpin the measures taken to assure that people experiencing intellectual disabilities will not gain real ground in receiving accessibility in Guatemalan society. Rather than supporting institutions that portray people experiencing intellectual disabilities as people with agency, CONADI supports and advertises institutions that paint people experiencing disabilities as infants, objects of charity and pity, and beings unable to make decisions on their own or with assistance.

CONCLUSIONS

As exemplified in this paper, the Guatemalan government has only enforced laws and codes as applied to disability when it has worked in the interests of capitalism, neoliberal agendas, and other individualistic systems that came before neoliberalism. Rather than promoting social welfare and applying the laws and codes that would advance the access to human rights of people experiencing intellectual and psychological disabilities, the only laws and codes actively applied are the interdiction within the Civil Code and Decree 135-96. The Civil Code section titled Incapacity effectively removes abandoned people with different cognitive abilities from society and places them in dangerous institutions. It takes away the civil rights of people with different cognitive abilities who are not institutionalized as well. While Decree 135-96 seems to guarantee important human rights for all people experiencing disabilities, the decree immediately takes away any federal responsibility for enforcing these rights. This is done by inserting a clause that divests all liability of enforcement of these rights onto municipalities, which do not have to comply with the requirements if it is not in their economic or cultural interests. Decree 135-96 also serves the neoliberal agenda of the Guatemalan state by creating CONADI to help control and disperse subject making responsibilities onto non-profit organizations that they deem fit. CONADI also serves as an entity that shows the international human rights organizations as well as domestic disability rights advocates and sympathizers that the state at least symbolically cares about promoting the welfare of people with disabilities. Neoliberal policies not only create a wider disparity between the rich and the poor in any country by putting business interests above the interests of social welfare, but they also instigate grave human rights abuses such as those experienced by people with intellectual and psychological disabilities in Guatemala. As CONADI can not justify promoting services directly to people experiencing disabilities nor any services to people experiencing psychological disabilities, the inherent exclusionary practices of neoliberal entities are revealed.

Analyzing how the two stigmatized topics of sexuality and cognitive disabilities combine in the law and government policies instigates questions and dialogues that the Guatemalan government does not seem to directly want to identify but indirectly and directly effects. While I do not argue for privileging the sexual rights of people with different cognitive abilities over those who are not experiencing disabilities, I do argue that we must understand the group of people experiencing cognitive disabilities as persons with intersectional identities who deserve the same rights regardless of whether or not they are dependent on another person, group of people or institution for access to those rights. People experiencing disabilities may need certain adaptations in society to have access but that does not indicate that they are not sexual beings, do not have a gender, or do not have a sexual orientation. As certain considerations and adaptations are necessary to take down barriers to promote the inclusion of people with different cognitive abilities in society and prevent risk factors for abuse, their inherent human agency must be taken into consideration. In order to promote the sexual rights of people experiencing intellectual and psychological disabilities, paternalistic structures must be taken down that specifically take away their rights and deny their ability to advocate for themselves if they choose to. The legislation in Guatemala must be restructured to stop treating people with different cognitive abilities as separate and deficient populations. Punishments for crimes against them must receive the same consideration, prosecution and penalties. In addition, penalties for the discrimination of people experiencing disabilities must be created or incorporated into the legislation supposedly guaranteeing their rights. There must be an ongoing conversation about alternatives to institutionalization as well as the medicalization of people experiencing psychological and intellectual disabilities. If a person's different ability does not allow him or her to testify the way people without a disability can, alternative methods of testimony must actively be allowed and promoted. There should be research on how one can promote self-advocacy for people with different cognitive abilities in the "developing world" and what an independent living situation would look like in low income countries. There is also a great need for studies that include people experiencing intellectual and psychological disabilities as interlocutors in Guatemala in order to paint a truer and more complete image of the state of their lives contemporarily and discrimination, challenges, and barriers they face in their homes, in the public arena and in institutions, both public and private.

A number of my interlocutors and colleagues have questioned why it is important to advocate for the sexual rights of people with different cognitive abilities when egregious violations of other human rights are committed on a daily basis. Sexuality is an intricate part of our humanity and once it is established that a person is a sexual being with sexual needs there is no denial of one's humanity. As both sexuality and different cognitive ability have been socially and historically constructed as taboos, they must be reconstructed together to occupy a larger part of the discussion of human experience and equal rights in Guatemala as well as the rest of the world.

20 Samantha Serrano

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