



October 13, 2011

United Nations Committee on Economic, Social and Cultural Rights
Office of the United Nations High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10
Switzerland

Re: Supplementary information on Ecuador, scheduled for review by the U.N. Commission on Economic, Social and Cultural Rights during its 47th Session (December 2011)

Honorable Committee Members,

This letter is intended to supplement the periodic report submitted by Ecuador, which is scheduled for review by the U.N. Committee on Economic, Social and Cultural Rights (“the Committee”) during its 47th Session in December 2011. The Center for Reproductive Rights (“the Center”), an independent non-governmental organization, hopes to further the work of the Committee by providing independent information concerning the rights protected in the International Covenant on Economic, Social and Cultural Right (“ICESCR”). This letter highlights two systemic problems in Ecuador: sexual violence against girls and adolescents in schools, and the impact of little or no access to essential reproductive and sexual healthcare for adolescents. These deficiencies in the Ecuadorian educational and health care systems individually amount to violations under the ICESCR, and when viewed in tandem, compound one another and result in particularly severe human rights violations for adolescent victims of sexual violence.

Protection from sexual violence and the guarantee of sexual and reproductive rights are fundamental to girls’ and women’s right to health, right to nondiscrimination, and right to education, as recognized by the ICESCR.¹ This submission details the situation of sexual violence within Ecuadorian schools, the impunity afforded the perpetrators of such violence in the Ecuadorian judicial system, and the lack of sexual and reproductive healthcare for victims following such abuse. Additionally, this submission examines the Ecuadorian state’s domestic and international legal obligations to prevent such abuse, properly investigate and punish allegations of abuse, and to provide comprehensive reproductive healthcare, including access to abortion and emergency contraception, to the public generally and to victims of sexual abuse in particular.

I. Ecuador's Failure to Protect Students from Sexual Violence in Schools

a. Ecuador's Obligations under the ICESCR (articles 2(2), 3, 12 & 13)

As a State party to the ICESCR, Ecuador is obligated to respect, protect and fulfill the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,² which includes the right to control one's health and body, the right to sexual and reproductive freedom, and the right to be free from torture.³ The definition of health adopted under the ICESCR takes into account social concerns, such as violence,⁴ and underlying determinants of health such as health-related education and information, including information on sexual and reproductive health.⁵

The obligation to respect the right to health requires States to "refrain from interfering directly or indirectly with the enjoyment of the right to health."⁶ When employees of the State violate the obligation to respect the right to health, they are acting as the State's agents and therefore liability is imputed upon the state. As such, a violation of the right to health at the hands of a public employee, such as a teacher or school administrator, is a violation of the ICESCR for which the State is directly responsible.

State parties are obligated to take all necessary measures to protect their populations from infringements on the right to health by third parties.⁷ A failure to do so constitutes a violation of their obligations under the ICESCR. This entails a positive obligation on the part of the State to adopt measures to protect vulnerable and marginalized social groups, including women, children and adolescents, and to protect against gender violence.⁸ A violation of the duty to protect may be based on the omission of a State party to adopt such measures. The Committee has specifically elucidated that "this category includes such omissions as... the failure to protect women against violence or to prosecute perpetrators."⁹ Additionally, victims of violations to the right to health must have access to effective judicial or other appropriate remedies.¹⁰

State parties to the ICESCR are also obligated to ensure the right to education, including free primary education, and secondary education that is generally available and accessible to all,¹¹ and free from discrimination based on prohibited grounds,¹² such as sex. This right to nondiscrimination in education is immediately applicable to all aspects of education and is not subject to progressive realization.¹³ States are obligated to ensure that third parties do not interfere with the right to education,¹⁴ particularly in regards to girls' ability to attend school.¹⁵ State parties must remove gender stereotyping which impedes girls' access to education.¹⁶ The Committee has expressly indicated that the failure to take measures which address *de facto* educational discrimination constitutes a violation of the right to education.¹⁷

b. Sexual Violence in Educational Settings in Ecuador

While the ICESCR recognizes education as a mechanism for empowering women, safeguarding human rights, and protecting youth from sexual exploitation,¹⁸ in numerous instances in Ecuador, sexual violence against girls and adolescents in educational institutions turns the educational setting into a threatening space, in which violations of

numerous human rights are committed. According to non-governmental organization (“NGO”) estimates, between twenty two¹⁹ to sixty three percent of girls in Ecuador are victims of sexual abuse.²⁰ Studies indicate that educational institutions are the primary setting for sexual violence against girls, with one study finding that one in four female students was sexually abused.²¹ Of students who had been sexually abused, thirty seven percent identified male teachers as the perpetrators.²² Further heightening the problem, studies on sexual abuse worldwide have found that many cases are not reported due to fear of retaliation, power dynamics between the aggressor and the victim, fear of ostracism by friends or family members, and/or the belief that the authorities will not punish the abuser.²³ Ecuador is no exception to these reporting obstacles.

When girls are subject to sexual violence in educational settings, the consequences can be devastating. Victims of sexual abuse may “suffer a range of physical injuries, genital and non-genital, or in extreme cases death. Mortality can result either from the act of violence itself or from acts of retribution... or from suicide. In addition, rape victims are at increased risk from: unwanted pregnancy; unsafe abortion; sexually transmitted diseases including HIV/AIDS; sexual dysfunction; infertility; pelvic pain and pelvic inflammatory disease and urinary tract infections.”²⁴ Sexual violence is also linked to poor performance in school,²⁵ elevated drop-out rates,²⁶ and psychological trauma.²⁷ In addition to these physical and psychological impacts, sexual violence and the fear of sexual violence in schools may prevent female adolescents from continuing their education, resulting in lower educational levels, fewer options for their futures and lower socioeconomic statuses. For students who do continue attending school, they are forced each day to endure an environment of abuse and violence, decreasing their ability to perform well in school and making them unable to thrive in their educational environment.

The case of Paola del Rosario Guzmán Albarracín, currently pending before the Inter-American Commission on Human Rights,²⁸ illustrates the state’s failure to adequately address sexual violence in schools, and the devastating consequences of such violence. Paola Guzmán, a student in Ecuador, suffered sexual harassment and abuse by her vice principal over the course of two years. At age 16, she became pregnant as a result of this abuse. Ultimately, Paola committed suicide by ingesting white phosphorus, and died in December 2002. In the criminal trial against the vice-principal, the presiding judge ruled that Paola could not have been the subject of sexual harassment since she had initially approached the vice principal seeking academic assistance. Currently, nine years after her death, the state has failed to hold any person or institution accountable for her abuse and mistreatment, and her death has not been adequately investigated.

As the case of Paola Guzmán demonstrates, the impunity afforded to perpetrators of sexual abuse exacerbates the problem in Ecuador and leaves victims without any form of redress, amounting to additional human rights violations. A study examining the prosecution of sexual crimes in Ecuador over the course of one year found that of the prosecutions which were brought to trial, only 2.75% resulted in the perpetrator receiving a sentence.²⁹ NGOs report that sexual harassment and abuse in schools generally goes unpunished, and that teachers and administrators fail to address the problem and show reluctance in punishing perpetrators.³⁰ While sexual harassment was criminalized in 1998, in 2002 only 15 cases of sexual harassment were presented to the public prosecutor, of which only one went to

sentencing.³¹ The Committee has specifically recognized that when sexual violence is committed with impunity, it “constitutes a serious violation by the State party of its Covenant obligations.”³²

c. Legal Framework

i. Ecuadorian Constitution

In addition to its international legal obligations, the Ecuadorian Constitution guarantees the rights to nondiscrimination, education, and freedom from violence, the rights of the child, and the right to physical, mental and sexual health. It establishes the State’s duty to affirmatively protect women and girls from sexual violence, and to investigate, punish and provide redress for such violations.

Article 3 of the Constitution establishes State responsibility for providing all persons “without discrimination, the effective enjoyment of rights under the Constitution and international instruments, including education, [and] health...”³³ Article 11 supplements these rights by prohibiting discrimination on the basis of sex, gender, and age, and obligating the State to take positive measure to ensure the protection of groups of persons historically treated unequally.³⁴

The Constitution guarantees the right to education for all persons throughout their lives.³⁵ It emphasizes the importance of access to education without discrimination and the promotion of gender equity, noting that education is fundamental to understanding and exercising rights.³⁶ Under the Constitution, the State must “eradicate all forms of violence in the education system and ensure the physical, psychological and sexual integrity of female students.”³⁷

The right to health is also expressly recognized in the Constitution, including the right to sexual and reproductive health.³⁸ The Constitution explicitly recognizes the connection between the right to health and the ability to exercise other rights, including the right to education.³⁹ Children who suffer sexual violence are entitled to receive priority attention, and the State must provide “special protection” for people with the status of double vulnerability.⁴⁰ Additionally, the Constitution guarantees special protection for children and adolescents, and establishes the best interests of the child as a guiding principle in both public and private areas.⁴¹ Children have the right to physical and mental integrity, and the State is required to take the necessary steps to ensure that children are protected from abuse, violence and “negligence causing such situations.”⁴² The State must adopt measures to prevent, eliminate, and sanction all forms of violence, specifically including violence against women, children and adolescents.⁴³ The State is required to create special procedures to expedite trials and punishment of crimes of sexual violence, particularly those committed against adolescents and children.⁴⁴

ii. Deficiencies in the Design and Implementation of Legislation to Prevent and Address Sexual Violence

While Ecuador has enacted various pieces of legislation to enhance women's equality, protect girls against violence in schools, and provide for sexual and reproductive education, such legislation has repeatedly failed to explicate concrete measures for implementation. Additionally, the lack of statistics gathering prevents such legislation from having a measurable impact on the population. Furthermore, when statistics have been recorded, such is the case for the modification of the penal code to criminalize sexual harassment, they demonstrate that the law is not being implemented effectively.

The State party notes in its Third Periodic Report that the Penal Code criminalizes sexual harassment against minors, with sentences for such harassment ranging from two to four years in prison.⁴⁵ Yet, in the chart provided by the State party on prosecutions of sexual harassment, it is abundantly clear that the law is minimally enforced. In 2003 and 2004, there were 633 reports of sexual harassment, and not a single one led to a conviction.⁴⁶ The year 2005 barely fared better, with only one conviction out of 358 reports.⁴⁷ As the number of reports increased in 2006 and 2007, the number of convictions remained dismally low, at 25 out of 850.⁴⁸ And in 2009, the number of convictions again dropped to zero.⁴⁹ Therefore, based on the data provided by the State party, over the course of six years following the criminalization of sexual harassment, only 1.3% of reports of sexual harassment led to a conviction. Because the data provided are not disaggregated, it is unknown how many of these reports or prosecutions involved the harassment of minors or harassment in educational settings.

While the State Report provides information on the number of reports of sexual and physical violence, it fails to provide information and statistics on the prosecution, conviction and sentencing in such cases.⁵⁰ In a prior report to the Committee on the Rights of the Child, the State Report indicated that there was an increase in the number of child and adolescent sexual abuse cases which were investigated from 2003-2007, yet while 114 rape cases were advanced to probable cause proceedings, only two resulted in convictions.⁵¹

The State Report mentions several programs aimed at decreasing gender violence and promoting equality, such as the *Política Nacional para la Erradicación de la Violencia* (National Policy for the Eradication of Violence) and the *Plan de Igualdad de Oportunidades* (Plan for Equal Opportunity).⁵² Yet the State's description and reporting on such programs is extremely vague. The reporting on these two programs fails to discuss how either program operates, the concrete steps they will take in order to address the issue of sexual violence and equality, any mechanisms to monitor advancements made through these programs, nor any statistics on the impact of the programs thus far.

Although not mentioned in the current State report, Ecuador has reported on the National Plan on Eradication of Sexual Offenses in the Educational System as a mechanism to combat sexual violence in schools to other international treaty monitoring bodies.⁵³ The National Plan on Eradication of Sexual Offenses in the Educational System suffers from numerous pitfalls demonstrative of the obstacles faced by other legislation in Ecuador. The

legislation is overly vague and lacking in concrete measures and guidelines. It does not designate a government official in charge of overseeing its implementation in order to prevent sexual violence and ensure that reports of such abuse are investigated. Without such specifications, the legislation does not create accountability within the Ecuadorian government, and therefore leaves open the possibility that the plan will never provide concrete improvements to the current system.

The current legislation also fails to ensure that victims of sexual violence have access to services to restore their physical and mental health and to legal mechanisms to protect their rights under the law. Procedurally, the existing legislation permits education institutions to internally investigate allegations of abuse. In order to ensure that full, impartial investigations into allegations of abuse take place, the legislation must be reformed to provide independent investigations by bodies which are not associated with the educational system and do not suffer from conflicting interests. Additionally, a mechanism should be implemented to ensure that reports of sexual violence in educational settings are mandatorily transmitted to the police and the judiciary, who will be obliged to conduct an independent investigation and prosecute offenders.

Further preventing effective implementation of legislation to prevent sexual violence is a lack of understanding within educational leaders, the police and the judiciary about what constitutes sexual abuse. Such actors should be required to undergo training that explicates the various forms of sexual abuse, including sexual harassment, sexual coercion, rape, and extortion, such as conditioning grades in school on sexual acts. Without a proper understanding of the various embodiments of sexual abuse, these actors will be unable to recognize sexual abuse, thereby rendering them incapable of preventing abuse, prosecuting perpetrators and participating in the eradication of sexual violence in the education system.

Ecuador admitted that it lacked statistics on complaints and prevention measures, making it unable to monitor any progress made by the National Plan on Eradication of Sexual Offenses in the Educational System.⁵⁴ This must immediately be remediated so that legislation designed to combat sexual violence can be effectively monitored. No mention of the National Plan on Eradication of Sexual Offenses in the Educational System is made in the current report, and therefore the status of its implementation remains unknown, as does the issue of whether Ecuador has initiated a system to gather statistics in order measure the program's effectiveness.

d. Ecuador's Violations of its International Obligation to Protect Students from Sexual Violence in Schools

Violence against girls in educational settings in Ecuador elevates the individual instances of abuse to the level of institutional violence. The information available indicates that cases of sexual abuse in schools are not just a source of violence produced by the direct perpetrator, but that in many instances the educational institution as a whole is concealing the issue and contributing to the perpetuation of the abuse. For years, Ecuador has been aware of this problem, yet it still has failed to adequately address it. The volume of laws and regulations that Ecuador has produced demonstrates its awareness that sexual violence is a problem, but it does not fulfill its positive obligations under the ICESCR to protect girls

against sexual violence. The mere creation of laws is inadequate to satisfy a State's international obligations. Such laws must also be actually implemented and must effectively address and remediate the human rights violations they aimed to prevent.

This Committee has previously urged Ecuador "to address the issues of sexual abuse,"⁵⁵ and although Ecuador has created piecemeal legislation to address sexual violence in educational settings, it has systematically failed to adequately implement such legislation, properly prosecute perpetrators of sexual harassment and abuse, and monitor the effectiveness of its legislative efforts. Ecuador's failure to take adequate action amounts to violations of the right to health, the right to education and the right to nondiscrimination as recognized by the ICESCR.

Recently, the Committee Against Torture ("CAT") noted "its deepest concern about the numerous and consistent reports received describing the scale of the problem of abuse and sexual violence against minors in educational establishments in Ecuador," noting that even with the National Plan on Eradication of Sexual Offenses in the Educational System, Ecuador had not yet taken adequate action to address sexual violence in schools.⁵⁶ The CAT noted that the lack of response by the State party "is one reason why victims frequently prefer not to report instances of abuse," and expressed concern about cases where victims have identified teaching staff as their aggressors.⁵⁷ The CAT specifically cited the case of Paola Guzman as one to be monitored for advancements,⁵⁸ and urged Ecuador to investigate, bring to trial and punish the perpetrators of sexual violence; allocate resources for the elimination of abuse and sexual violence in educational settings; ensure complaints mechanisms are available to victims and their families; and increase efforts to provide victims with redress and the fullest possible rehabilitation.⁵⁹

CEDAW has also expressed concern about Ecuador's "high incidence of violence against women and girls... including domestic and sexual violence, and at the gaps in coverage and limitations in resources directed at the programmes to protect women victims,"⁶⁰ noting that the rate of violence against girls and women remained rampant in spite of the measures initiated by the State party.⁶¹ CEDAW urged Ecuador to promptly design and implement a comprehensive strategy to combat and eradicate all forms of violence against women and girls, with adequate funding allocation, to strengthen protection and assistance to victims of violence,⁶² and to "ensure that existing legislation to combat violence against women and girls is appropriately enforced."⁶³ CEDAW has further noted that while Ecuador has made advancements in efforts to combat violence, "corrupt practices in the judicial system and sexist cultural attitudes continue to impede full implementation of the law."⁶⁴

This Committee has called upon State parties to provide adequate information on the number and nature of reported cases of sexual violence, convictions and sanctions imposed on perpetrators,⁶⁵ which Ecuador has failed to provide. The Human Rights Committee and CEDAW have issued comments on the lack of reliable statistics in Ecuador,⁶⁶ with CEDAW requesting Ecuador to provide "data and statistics on cases of different forms of violence against women and access by victims to the justice system, as well as information on protection and assistance provided to victims and on the number of trials and convictions."⁶⁷

This Committee has highlighted the importance of ensuring education for women and girls without discrimination on numerous occasions.⁶⁸ When women are targeted as victims of sexual violence in schools, they are unable to exercise their right to education without discrimination. The right to nondiscrimination in the right to health and the right to education is nonderogable and is not subject to progressive realization.⁶⁹ As such, State parties are obligated to immediately take steps to ensure that men and women are equally able to exercise their rights to health and education,⁷⁰ and refrain from discriminatory practices that result in a denial of equal rights.⁷¹

As evidenced by Ecuador's Third Periodic Report and the aforementioned information, Ecuador has not implemented the various recommendations issued by the Committee and other treaty monitoring bodies relating to sexual violence in educational settings. Ecuador's failures to prevent sexual violence, provide proper redress for victims, and adequately monitor the effects of legislation amount to violations under the ICESCR of the right to education, the right to health and the right to nondiscrimination.

II. Ecuador's Failure to Provide Comprehensive Reproductive Healthcare (Articles 2, 3, 12, 15(1)(b) of ICESCR)

Under Article 12(2) of the ICESCR, State parties are required to implement "measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information."⁷² In interpreting the right to health, in conjunction with the right to nondiscrimination (Articles 2.2 and 3), the Committee has determined that State parties are obligated to ensure that access to health care and underlying determinants of health are not hindered due to discrimination based on sex.⁷³ The "realization of women's right to health requires the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health."⁷⁴ Such barriers to health services and information also impede the right to enjoy the benefits of scientific progress and its applications.

Ecuador's restrictive abortion laws and recent attacks on the legality of emergency contraception (EC) inhibit its fulfillment of the right to health, as is pertains to comprehensive reproductive health care. This situation is particularly destructive for victims of sexual violence who may be forced to carry to term an unwanted pregnancy resulting from a rape. International legal standards dictate that forcing victims of sexual violence to carry to term a resulting pregnancy may violate the right to health, the right to nondiscrimination, and the right to be free from cruel, inhumane and degrading treatment.⁷⁵

a. Ecuador's Failure to Provide Access to Emergency Contraception Violates the Right to Health, the Right to Nondiscrimination, and the Right to Enjoy the Benefits of Scientific Progress

i. International Guidelines

In ensuring the right to the highest attainable standard of health, State parties must respect the right to control one's health and body, including in matters of reproductive health.⁷⁶ At the same time, States must provide comprehensive reproductive health services for women and girls, which includes a full range of contraceptive choices and information about these options. As part of the obligation to respect the right to health, State parties "should refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health."⁷⁷

Within the provision of comprehensive reproductive health care and the right to the enjoyment of the benefits of scientific progress, emergency contraception must be available and accessible to women and adolescents, including victims of sexual violence. This right has been recognized by United Nations treaty monitoring bodies and the Inter-American Commission on Human Rights (IACHR).⁷⁸ As part of the provision of adequate medical and psychological services for victims of sexual violence, the IACHR directed the Haitian government to ensure access to emergency contraception in displacement camps.⁷⁹ The Human Rights Council's independent expert on Human Rights in Haiti reinforced this critical need,⁸⁰ and the World Health Organization advises that victims of sexual violence should have access to EC.⁸¹

ii. Access to Emergency Contraceptives in Ecuador

The legality of EC has recently been under siege in several Latin American countries, including Ecuador. While EC is recognized by international medical associations not to be an abortifacient,⁸² it has nonetheless recently been subject to legal challenges in Ecuador. In 2006, the Constitution Court affirmed the suspension of Postinor-2, a Levonorgestrol-based form of EC, from the Ecuadorian market by relying on an interpretation of the Constitution that would protect life unconditionally from the moment of conception – understood by this Court as equivalent to the moment of fertilization.⁸³ This goes against medical research widely accepted in the international community that EC does not interrupt or terminate pregnancies, and that it has no effect on the implantation of a fertilized ovum.⁸⁴ This precedent creates a dangerous pattern for the future availability and accessibility of EC in Ecuador.

A survey of the accessibility of EC ranked Ecuador in the bottom five out of eighteen Latin American countries.⁸⁵ Of the four countries Ecuador ranked above, three have blanket bans on EC, demonstrating that of countries with legal access to EC, Ecuador ranks in the bottom two for its accessibility.⁸⁶ The survey also found that health services providers in Ecuador tended not to have knowledge on laws permitting access to EC, and that there existed a misperception among some physicians that it should be used only for instances of rape.⁸⁷

In spite of international guidelines to the contrary,⁸⁸ under Ecuador's guidelines, physicians and health professionals treating victims of sexual violence are merely required to inform victims of the availability of emergency contraception and the possibility of being transmitted a sexually transmitted infection. They are not required to screen victims of sexual abuse for pregnancy, sexually transmitted infections or HIV, nor are they required to provide emergency contraceptives upon the patient's request.⁸⁹ Access to EC is particularly important in instances of sexual assault, because a resulting pregnancy may exacerbate the impact of the assault by reinforcing the trauma and by harming the woman's right to life and health. Furthermore, access to EC is of paramount importance in the treatment of victims of sexual violence when viewed in light of Ecuador's restrictive abortion laws. The impact of being forced to carry to term a pregnancy resulting from rape can be devastating, jeopardizing women's right to life and right to health.

This Committee has recognized the importance of providing victims of sexual violence with appropriate measures for medical, psychological and social rehabilitation.⁹⁰ When victims of sexual assault are unable to access EC to prevent pregnancy, their ability to recover from the trauma and move forward through rehabilitation services may be extremely inhibited. As Ecuador's abortion laws are highly restrictive for victims of sexual violence, if they are unable to access EC, they may be compelled to carry to term a pregnancy resulting from the sexual violation.

This Committee has previously recommended that Ecuador "continue with its prevention and care efforts in the field of health by providing sexual and reproductive health services, particularly to women and young people."⁹¹ This should include the provision of EC both to victims of sexual violence and to women and adolescents experiencing a failed contraceptive method. The CAT has urged Ecuador to guarantee victims access to health services including family planning and the prevention and diagnosis of sexually transmitted diseases.⁹² The Committee on the Rights of the Child has expressed concern about the prohibition of some types of EC in Ecuador,⁹³ and has urged the State to make all types of EC available to adolescents.⁹⁴

Since women are the sole bearers of the physical and mental health risks resulting from an unwanted pregnancy, especially one resulting from sexual violence, the attack on access to EC violates the right to nondiscrimination in the right to health and the right to enjoy the benefits of scientific progress. Furthermore, any further restrictions on the current laws regulating emergency contraception would constitute a retrogressive measure in violation of the right to health.⁹⁵ In order to be in compliance with its international obligations under the ICESCR, Ecuador must ensure that women and adolescents, especially victims of sexual violence, are able to access emergency contraception. Furthermore, Ecuador must refrain from any actions that further restrict the availability and accessibility of emergency contraception.

b. Ecuador's Failure to Permit Access to Abortion Violates the Right to Health, and the Right to Nondiscrimination

Abortion is illegal in Ecuador, except in instances when it is the only option available to preserve a woman's life or health.⁹⁶ When a pregnancy is the result of rape, a woman or

girl may only procure a legal abortion if she is *developmentally delayed* or *mentally ill*.⁹⁷ This means that women facing unwanted pregnancies are unable to access safe, legal abortions and are either forced to carry to term the pregnancy or seek a clandestine abortion. When women turn to clandestine abortions, they face the potential for unsafe practices, which can result in maternal mortality or morbidity. In Ecuador, unsafe abortion is the second leading cause of maternal mortality.⁹⁸

Lack of access to safe abortion services can be particularly dangerous for adolescents who become pregnant. In Ecuador, 20 percent of adolescents have had at least one pregnancy.⁹⁹ Sixty one percent of adolescent pregnancies in Ecuador are unwanted, and up to twelve percent end in abortion.¹⁰⁰ Adolescent childbearing carries with it increased health risks and negative social implications. Adolescents between the ages of 15 and 19 have twice the risk of dying from pregnancy-related complications as compared to women in their twenties,¹⁰¹ and girls under the age of fifteen face five times the risk of pregnancy-related death worldwide.¹⁰² Adolescent mothers are also more likely to drop out of school, live in poverty, and experience decreased social mobility.¹⁰³

This Committee has repeatedly noted and expressed concern over the connection between unsafe abortion, maternal mortality, and adolescent pregnancies.¹⁰⁴ When maternal mortality is linked to unsafe abortion, as is the case in Ecuador, it serves as an indication that the government is failing to fulfill the rights of its female citizens.¹⁰⁵ Since abortion is a health service that only women need, its prohibition in Ecuador amounts to discrimination against women in the right to health.¹⁰⁶ CEDAW expressed concern regarding the high pregnancy rate among teenage and young women in Ecuador, as well as the high rate of maternal mortality, noting that the second leading cause of maternal mortality is unsafe abortion.¹⁰⁷ CEDAW also expressed concern about the lack of information regarding the magnitude of the problem of unsafe abortion and its impact on maternal mortality,¹⁰⁸ recommending that the “Ministry of Public Health undertake a thorough investigation or study on the issue of unsafe abortions and their impact on women’s health in particular maternal mortality, to serve as a basis for legislative and policy action to address this issue.”¹⁰⁹

i. Ecuador’s Failure to Permit Abortion for Victims of Sexual Violence

The harmful effects of adolescent pregnancy are further compounded when such pregnancies result from forced sexual activity. As noted previously, abortion in instances of rape in Ecuador are only legal if the woman is *developmentally delayed* or *mentally ill*.¹¹⁰ Therefore, all rape victims who do not fall into one of these two categories are unable to access safe and legal abortions, and may be forced to carry to term a pregnancy resulting from the rape. This perilous situation is further exacerbated by the inadequate availability of emergency contraception, which undoubtedly influences the number of pregnancies resulting from sexual violence.

Forced sexual activity can cause serious physical ailments including fistula, pelvic inflammatory disorders and other gynecological disorders,¹¹¹ sexually transmitted infections, HIV/AIDS, chronic pelvic pain and gastrointestinal disorders.¹¹² According to the WHO, “victims of sexual assault require comprehensive, gender sensitive health

services in order to cope with the physical and mental health consequences of their experience and to aid their recovery from an extremely distressing and traumatic event.”¹¹³ Victims of sexual violence may face a variety of psychological impacts, including rape trauma syndrome, post-traumatic stress disorder, depression, anxiety and suicidal behavior.¹¹⁴ The WHO recommends that victims of sexual abuse are offered access to safe abortions.¹¹⁵

As the CAT has noted, for a survivor of gender violence who is unable to access legal abortion, her “situation entails constant exposure to the violation committed against her and causes serious traumatic stress and a risk of long-lasting psychological problems such as anxiety and depression.”¹¹⁶ The Human Rights Committee has noted the connection between the high number of suicides of young women in Ecuador and the prohibition on abortion.¹¹⁷ It further criticized Ecuador’s “failure to address the resulting problems faced by adolescent girls, in particular rape victims, who suffer the consequences of such acts for the rest of their lives.”¹¹⁸

Prohibitions on abortion in instances of rape amount to violations of the right to health, and the right to nondiscrimination as well as the right to comprehensive reproductive healthcare, the right to control one’s body and the right to be free from torture, as recognized under the right to health in the ICESCR. Treaty monitoring bodies have emphatically stated that States must provide for therapeutic abortion in instances of rape and incest,¹¹⁹ and by not guaranteeing this right, Ecuador is in violation of the ICESCR.

This Committee has repeatedly recognized the importance of decriminalizing abortion in instances of rape, and has consistently urged States to revise their legislation to allow for therapeutic abortions in such instances.¹²⁰ The CEDAW Committee, the CAT, the Human Rights Committee, and the Committee on the Rights of the Child have also recognized the harmful impact of laws criminalizing abortion in instances of rape and have urged States to revise such legislation.¹²¹ Additionally, the United Nations Special Rapporteur on the Right to Health has noted that “the respect of physical integrity and the freedom to control one’s own body are fundamental rights of all human beings, including women. The ultimate decision on whether or not to give birth should be made by the woman concerned.”¹²²

In order to be in compliance with its international legal obligations, it is imperative that Ecuador ensure that all adolescents and women are provided access to emergency contraception and safe, legal abortion, especially in instances of sexual violence. By failing to take such actions, Ecuador is forcing women to either carry to term unwanted pregnancies or to seek unsafe, clandestine abortions. Ecuador’s lack of comprehensive reproductive healthcare and its failure to protect girls from sexual harassment and sexual violence in educational settings amount to violations of the human rights to health, nondiscrimination, education, and the enjoyment of the benefits of scientific progress. We urge this Committee to join in the recommendations of other treaty monitoring bodies in requesting that Ecuador take action to remediate these violations of its international obligations by adopting and prioritizing all necessary measures to guarantee the human rights of adolescent girls.

III. Questions for Ecuador

We respectfully submit the following questions to be considered by the Honorable Committee during Ecuador's periodic review:

Questions:

1. Is Ecuador planning to amend the National Plan on Eradication of Sexual Offenses in the Educational System to ensure the bodies investigating allegations of abuse are independent and autonomous from the educational institutions? How does Ecuador plan to guarantee that allegations of abuse in educational settings will be transmitted to the police and judiciary?
2. What measures has Ecuador implemented to identify and effectively punish perpetrators of sexual violence in schools? What has been the result of those measures and efficacy? What measures are being implemented to ensure that victims of sexual violence are granted proper redress?
3. Does the State have a plan for collecting data and statistics on cases of sexual violence and sexual harassment in educational settings? If so, will that data collection include the rate in which those cases are reported to the police annually, and how many go to court and result in convictions for the perpetrators?
4. Is Ecuador planning to adopt measures to educate teachers, school administrators, police and judges about the various facets of sexual abuse, including its numerous forms, how to recognize it, and how to address it within their various capacities?
5. Is Ecuador considering taking steps to effectuate the National Plan for the Eradication of Violence, the National Plan for the Eradication of Sexual Offenses in the Education System and the Plan for Equal Opportunity? What is the current budget allocation for each of these programs? Who is ultimately responsible for overseeing their effective implementation?
6. Could Ecuador describe the mechanisms in place to monitor the impact of the various pieces of legislation that have been implemented to prevent sexual violence in schools? What are the qualitative and quantitative results of these programs? Is the State planning to continue monitoring their impact and improve upon the programs?
7. Is the State considering taking steps to address the current abortion law in light of its restrictive provisions for pregnancies resulting from rape?
8. Is the State planning to take steps to ensure that adolescents have access to emergency contraception and that the right to access emergency contraception is protected?

There remains a significant gap between the rights protected in the ICESCR and the reality of women's and girl's lives in Ecuador. We applaud the Committee for its commitment to the rights of girls and women, and the strong Concluding Observation and recommendations the Committee has issued to governments in the past which stress the need to enact, implement, and monitor policies geared toward ensuring that women and girls can lead lives free from violence.

We hope this information is useful during the Committee's review of Ecuador's report. In case any questions in regard to this letter should arise, or if the Committee would like further information, please do not hesitate to contact the undersigned.

Sincerely,



María Alejandra Cárdenas
Legal Adviser for Latin
America and the Caribbean
Center for Reproductive Rights



Katherine Mayall
Legal Fellow for Latin America
and the Caribbean
Center for Reproductive Rights

¹ International Covenant on Economic, Social and Cultural Rights (ICESCR), *adopted* Dec. 16, 1966, at 49, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 3 (*entered into force* Jan. 3, 1976) [hereinafter ICESCR].

² *Id.* art. 12(1).

³ Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The right to the highest attainable standard of health*, (22nd Sess., 2000), ¶ 8, U.N. Doc. E/C.12/2000/4 (2000) [hereinafter CESCR, *General Comment No. 14*].

⁴ *Id.* ¶ 10.

⁵ *Id.* ¶ 11.

⁶ *Id.* ¶ 33.

⁷ *Id.* ¶ 51.

⁸ *Id.* ¶ 35.

⁹ *Id.* ¶ 51.

¹⁰ *Id.* ¶ 59.

¹¹ ICESCR, *supra* note 1, art. 13.

¹² CESCR, *General Comment No. 13: The right to education*, (21st Sess., 1999), ¶ 6(b)(1), U.N. Doc. E/C.12/1999/10 (1999) [hereinafter CESCR, *General Comment No. 13*].

¹³ *Id.* ¶ 31.

¹⁴ *Id.* ¶ 47.

¹⁵ *Id.* ¶ 50.

¹⁶ *Id.* ¶ 55.

¹⁷ *Id.* ¶ 59.

¹⁸ *Id.* ¶ 1.

¹⁹ MARIA CORREIA & BERNICE VAN BRONKHORST, WORLD BANK ECUADOR GENDER REVIEW: ISSUES AND RECOMMENDATIONS 23 (Washington D.C., 2000) (citing GUADALUPE LEON, DEL ENCUBRIMIENTO A LA IMPUNIDAD, DIAGNOSTICO SOBRE VIOLENCIA DE GÉNERO, ECUADOR (1995)).

²⁰ A survey of 1,000 young people conducted in five Ecuadorian cities found that 63 percent of girls – as compared to 37 percent of boys – reported having been sexually assaulted. In 2003, the National Directorate for Women, Children and Adolescents received 81 reports of sexual harassment by teachers in both public and private schools. Girls are the preferred victims of educators who objectify their bodies through lewd jokes, offensive stares, rude comments and unwanted flirtatious remarks. CEPAM-GUAYAQUIL, FINAL REPORT TO THE REGIONAL WOMEN'S TRIBUNAL ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS 2 (2005) [hereinafter CEPAM-GUAYAQUIL].

-
- ²¹ TATIANA CORDERO & GLORIA MAIRA, A MI TAMBIÉN: ACOSO Y ABUSO SEXUAL EN COLEGIOS DEL ECUADOR: DISCURSOS OPUESTOS Y PRÁCTICAS DISCRIMINATORIAS, CONSEJO NACIONAL DE LAS MUJERES (CONAMU) TALLER DE COMUNICACIÓN MUJER 36 (Quito, Ecuador, 2001) [hereinafter CORDERO & MAIRA].
- ²² CLADEM-ECUADOR ET AL., ALTERNATIVE REPORT TO THE CONVENTION ON CHILDREN'S RIGHTS: PERIOD 1996 – 2002 11, *available at* [http://www.crin.org/docs/resources/treaties/crc.39/Ecuador_CLADEM_ngo_report\(E\).pdf](http://www.crin.org/docs/resources/treaties/crc.39/Ecuador_CLADEM_ngo_report(E).pdf) (citing CORDERO & MAIRA, *supra* note 21, at 34-35).
- ²³ AMNESTY INTERNATIONAL, SAFE SCHOOLS: EVERY GIRL'S RIGHT 54 (2008), *available at* <http://www.amnesty.org/en/library/asset/ACT77/001/2008/en/c3fb8b67-db24-11dc-b4a6-0fa73a85cd41/act770012008eng.pdf> [hereinafter AMNESTY INTERNATIONAL, SAFE SCHOOLS]; Inter-American Commission on Human Rights (IACHR), *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V/II, Doc. 68 (2007), *available at* <http://www.cidh.oas.org/women/Access07/Report%20Access%20to%20Justice%20Report%20English%2020507.pdf> [hereinafter IACHR, *Access to Justice for Women Victims of Violence in the Americas*].
- ²⁴ WORLD HEALTH ORGANIZATION (WHO), GUIDELINES FOR MEDICO-LEGAL CARE FOR VICTIMS OF SEXUAL VIOLENCE (2003), *available at* <http://whqlibdoc.who.int/publications/2004/924154628X.pdf> [hereinafter WHO GUIDELINES].
- ²⁵ NAN STEIN, CLASSROOMS AND COURTROOMS: FACING SEXUAL HARASSMENT IN K-12 SCHOOLS 25-26 (1999) [hereinafter STEIN]; MICHELE A. PALUDI & RICHARD BARICKMAN, SEXUAL HARASSMENT, WORK AND EDUCATION: A RESOURCE MANUAL FOR PREVENTION 120 (1998) [hereinafter PALUDI & BARICKMAN].
- ²⁶ STEIN, *supra* note 25, at 25-26; PALUDI & BARICKMAN, *supra* note 25, at 120.
- ²⁷ See ACTIONAID INTERNATIONAL, STOP VIOLENCE AGAINST GIRLS IN SCHOOL (2004), *available at* <http://www.actionaid.se/files/StopViolenceAgainstGirls.pdf>.
- ²⁸ The factual allegations are taken from the admissibility Report No. 76/08 of Apr. 20, 2009 by the Center for Reproductive Rights (CRR) in the matter of Paola del Rosario Guzmán Albarracín and next of kin v. Ecuador, Case 12.678, Inter-Am. Comm'n H.R., Report No. 76/08, OEA/Ser.L/V/II.130 Doc. 22, rev. 1 (2008), *submitted to* the Inter-American Commission on Human Rights by CRR and the Centro Ecuatoriano Para la Promoción y Acción de la Mujer-Guayaquil (CEPAM-GUAYAQUIL).
- ²⁹ IACHR, *Access to Justice for Women Victims of Violence in the Americas*, *supra* note 23, ¶ 18.
- ³⁰ COMITÉ DE AMÉRICA LATINA Y EL CARIBE PARA LA DEFENSA DE LOS DERECHOS DE LA MUJER – ECUADOR, (CLADEM-ECUADOR) ET AL., INFORME SOMBRA: UNA MIRADA ALTERNATIVA A LA SITUACIÓN DE DISCRIMINACIÓN DE LA MUJER EN ECUADOR, PERÍODO 1990-1998 (ALTERNATIVE REPORT ON THE SITUATION OF DISCRIMINATION AGAINST WOMEN IN ECUADOR, PERIOD 1990-1998) 7, *available at* http://www.cladem.org/monitoreo/informes-alternativos/Ecuador/Comite_CEDAW/Inf-Som-Ecuador-2006.pdf.
- ³¹ CLADEM-ECUADOR, INFORME ALTERNATIVO DE DERECHOS ECONOMICOS, SOCIALES, Y CULTURALES DE LAS MUJERES (ALTERNATIVE REPORT ON THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF WOMEN) 8 (2004), *available at* <http://www.upr-info.org/IMG/pdf/CLADEMadd3.pdf>.
- ³² CESC, *Concluding observations: Jamaica*, ¶ 14, U.N. Doc. E/C.12/1/Add.75 (2011).
- ³³ ECUADOR CONST. (2008), art. 3 [hereinafter ECUADOR CONST.].
- ³⁴ *Id.* art. 11, ¶ 2.
- ³⁵ *Id.* art. 26 (“La educación es un derecho de las personas a lo largo de su vida y un deber ineludible e inexcusable del Estado. Constituye un área prioritaria de la política pública y de la inversión estatal, garantía de la igualdad e inclusión social y condición indispensable para el buen vivir. Las personas, las familias, y la sociedad tienen el derecho y la responsabilidad de participar en el proceso educativo”).
- ³⁶ *Id.* arts. 27 & 28 (Art 27: “La educación se centrará en el ser humano y garantizará su desarrollo holístico, en el marco del respeto a los derechos humanos, al medio ambiente sustentable y a la democracia; será participativa, obligatoria, intercultural, democrática, incluyente y diversa, de calidad y calidez; impulsará la equidad de género, la justicia, la solidaridad y la paz; estimulará el sentido crítico, el arte y la cultura física, la iniciativa individual y comunitaria, y el desarrollo de competencias y capacidades para crear y trabajar. La educación es indispensable para el conocimiento, el ejercicio de los derechos y la construcción de un país soberano, y constituye un eje estratégico para el desarrollo nacional”); (art. 28: “La educación responderá al interés público y no estará al servicio de intereses individuales y corporativos. Se garantizará el acceso universal, permanencia, movilidad y egreso sin discriminación alguna y la obligatoriedad en el nivel inicial, básico y bachillerato o su equivalente”).

³⁷ *Id.* art. 347, ¶ 4 (“Será responsabilidad del Estado...Asegurar que todas las entidades educativas impartan una educación en ciudadanía, sexualidad y ambiente, desde el enfoque de derechos”).

³⁸ *Id.* art. 32 (“La salud es un derecho que garantiza el Estado, cuya realización se vincula al ejercicio de otros derechos, entre ellos el derecho al agua, la alimentación, la educación, la cultura física, el trabajo, la seguridad social, los ambientes sanos y otros que sustentan el buen vivir. El Estado garantizará este derecho mediante políticas económicas, sociales, culturales, educativas y ambientales; y el acceso permanente, oportuno y sin exclusión a programas, acciones y servicios de promoción y atención integral de salud, salud sexual y salud reproductiva. La prestación de los servicios de salud se regirá por los principios de equidad, universalidad, solidaridad, interculturalidad, calidad, eficiencia, eficacia, precaución y bioética, con enfoque de género y generacional”).

³⁹ *Id.* art. 347, ¶ 4 (“Asegurar que todas las entidades educativas impartan una educación en ciudadanía, sexualidad y ambiente, desde el enfoque de derechos.”).

⁴⁰ *Id.* art. 35.

⁴¹ *Id.* ch. 3, art. 44 (“El Estado, la sociedad y la familia promoverán de forma prioritaria de desarrollo integral de las niñas, niños y adolescentes, y asegurarán el ejercicio pleno de sus derechos; se atenderá al principio de su interés superior y sus derechos prevalecerán sobre los de las demás personas. Las niñas, niños y adolescentes tendrán derecho a su desarrollo integral, entendido como proceso de crecimiento, maduración y despliegue de su intelecto y de sus capacidades, potencialidades y aspiraciones, en un entorno familiar, escolar, social y comunitario de afectividad y seguridad”).

⁴² *Id.* art. 4.5.

⁴³ *Id.* art. 66, ¶ 3. (“El derecho a la integridad personal, que incluye: (b) Una vida libre de violencia en el ámbito público y privado. El Estado adoptará las medidas necesarias para prevenir, eliminar y sancionar toda forma de violencia, en especial la ejercida contra las mujeres, niñas, niños y adolescentes, personas adultas mayores, personas con discapacidad y contra toda persona en situación de desventaja o vulnerabilidad”).

⁴⁴ *Id.* art. 81.

⁴⁵ CESCR, *Implementation of the International Covenant on Economic, Social and Cultural Rights, Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant, Ecuador*, ¶ 152, U.N. Doc. E/C.12/EQU/3 (2011) [hereinafter CESCR, *Third Periodic Report (Ecuador)*].

⁴⁶ *Id.* at 35-36, table 3, Sexual Harassment Cases.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *See id.* ¶ 288 – 297.

⁵¹ Committee on the Rights of the Child (CRC), *Fourth periodic report (Ecuador)*, ¶ 574, U.N. Doc. CRC/C/EQU/4 (2009).

⁵² *See* CESCR, *Third Periodic Report (Ecuador)*, *supra* note 45, ¶ 80 & ¶ 299 – 306.

⁵³ Ministerio de Educación y Cultura, Plan Nacional para La Erradicación de los Delitos Sexuales en el Ambito Educativo (Ministry of Education and Culture, National Plan on the Eradication of Sexual Offenses in the Educational System) 61, June 2006, *available at*

<http://webapps01.un.org/vawdatabase/uploads/Plan%20Nacional%20Para%20la%20Erradicacion%20de%20os%20Delitos%20Sexuales%20en%20el%20Ambito%20Educativo%202006.pdf>.

⁵⁴ Committee on the Elimination of Discrimination Against Women (CEDAW Committee), *Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports: Ecuador*, Pre-sessional Working Group, (42nd Sess.), ¶ 2, U.N. Doc. CEDAW/C/EQU/Q/7/Add.1 (2008).

⁵⁵ CESCR, *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: concluding observations of the Committee on Economic, Social and Cultural Rights: Ecuador*, ¶ 48, U.N. Doc. E/C.12/1/Add.100 (2004).

⁵⁶ Committee Against Torture (CAT), *Conclusions and Recommendations of the Committee Against Torture: Ecuador*, ¶ 18, U.N. Doc. CAT/C/EQU/CO/4-6 (2010).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ CEDAW Committee, *Concluding Observations: Ecuador*, ¶ 20, U.N. Doc. CEDAW/C/EQU/CO/7 (2008) [hereinafter CEDAW Committee, *Concluding Observations: Ecuador*].

⁶¹ *Id.*

⁶² *Id.* ¶ 21.

⁶³ *Id.*

⁶⁴ United Nations General Assembly, *Report on the Commission on Elimination of Discrimination against Women*, 58th Sess., Supp. No. 38, ¶ 26, U.N. Doc. A/58/38 (2003). The Human Rights Committee and the CRC have also recognized high rates of violence against women and child abuse in Ecuador. *See* CRC, *Concluding Observations: Ecuador*, ¶ 54(c), U.N. Doc. CRC/C/ECU/CO/4 (2005); Human Rights Committee, *Concluding Observations of the Human Rights Committee, Ecuador*, ¶ 9, U.N. Doc. CCPR/C/ECU/CO/5 (2009).

⁶⁵ *See* CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Kenya*, ¶ 22, U.N. Doc. E/C.12/KEN/CO/1 (2008); CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Angola*, ¶ 24, U.N. Doc. E/C.12/AGO/CO/3 (2008); CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights : document submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK)*, ¶ 23, U.N. Doc. E/C.12/UNK/CO/1 (2008).

⁶⁶ Human Rights Committee, *Concluding Observations: Ecuador*, ¶ 3, U.N. Doc. CCPR/C/79/Add.92 (1998) [hereinafter Human Rights Committee, *Concluding Observations: Ecuador*].

⁶⁷ CEDAW Committee, *Concluding Observations: Ecuador*, *supra* note 60, ¶ 21.

⁶⁸ *See* CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Bolivia*, ¶ 29, U.N. Doc. E/C.12/BOL/CO/2 (2008); CESCR, *Concluding Observations: El Salvador*, ¶ 45, U.N. Doc. E/C.12/SLV/CO/2 (2008); CESCR, *Concluding Observations: Morocco*, ¶ 32, U.N. Doc. E/C.12/1/Add.55 (2000); CESCR, *Concluding Observations, Algeria*, ¶ 26, U.N. Doc. E/C.12/1995/17 (1995).

⁶⁹ CESCR, *General Comment No. 16, The equal right of men and women to the enjoyment of all economic, social and cultural rights*, ¶ 17, U.N. Doc. E/C.12/2005/4 (2005) [hereinafter CESCR, *General Comment No. 16*]; CESCR, *General Comment No. 14, supra* note 3, ¶ 30.

⁷⁰ CESCR, *General Comment No. 16, supra* note 69, ¶ 21.

⁷¹ *Id.*

⁷² CESCR, *General Comment No. 14, supra* note 3, ¶ 14.

⁷³ *Id.* ¶ 18.

⁷⁴ *Id.* ¶ 21.

⁷⁵ For a discussion on treaty monitoring bodies' concluding observations relating to safe and legal access to abortion in instances of rape, see CENTER FOR REPRODUCTIVE RIGHTS, BRINGING RIGHTS TO BEAR, ABORTION AND HUMAN RIGHTS, GOVERNMENT DUTIES TO EASE RESTRICTIONS AND ENSURE ACCESS TO SAFE SERVICES, *available at* http://reproductiverights.org/sites/crr.civicaactions.net/files/documents/BRB_abortion_hr_revised_3.09_WEB.PDF.

⁷⁶ CESCR, *General Comment No. 14, supra* note 3, ¶ 8.

⁷⁷ *Id.* ¶ 34.

⁷⁸ *See* CEDAW Committee, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Mexico*, ¶ 32, U.N. Doc. CEDAW/C/MEX/CO/6 (2006) (Expressing concern that women do not have adequate access to emergency contraception); CEDAW Committee, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Peru*, ¶ 25, U.N. Doc.

CEDAW/C/PER/CO/6 (2007) (urging Peru to increase the provision of family planning information and services, including emergency contraception); CEDAW Committee, *Draft concluding observations of the Committee on the Elimination of Discrimination against Women: Lithuania*, ¶ 25, U.N. Doc.

CEDAW/C/LTU/CO/4 (2008) (requesting Lithuania to make “a comprehensive range of contraceptives and family planning methods more widely available and affordable, including emergency contraception”);

IACHR, *Annual Report of the Inter-American Commission on Human Rights*, ch. 7, Follow up Report on the situation of human rights in Haiti, ¶ 77(1), *available at*

www.cidh.oas.org/annualrep/2010eng/Chap.V.HAITI.doc (instructing Haiti to provide emergency contraception in internal displacement camps).

⁷⁹ *Id.*

⁸⁰ Louis Joinet, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled “Human Rights Council”*, *Situation of human rights in Haiti, Report prepared by the independent expert, Louis Joinet*, ¶ 95(g), U.N. Doc. A/HRC/4/3 (2007).

⁸¹ WHO GUIDELINES, *supra* note 24, at 64.

⁸² *Id.*

⁸³ ECUADOR CONST., *supra* note 33, art. 45 (“Las niñas, niños y adolescentes gozarán de los derechos comunes del ser humano, además de los específicos de su edad. El Estado reconocerá y garantizará la vida, incluido el cuidado y protección desde la concepción.”).

⁸⁴ See World Health Organization, *Levonorgestrel for Emergency Contraception (Fact Sheet)* (Mar. 2005), available at http://www.cecinfo.org/what/pdf/WHO_EC_factsheet_English.pdf; see also International Federation of Gynecologists and Obstetrics (FIGO) & International Consortium for Emergency Contraception, Mechanism of Action, *How do levonorgestrel-only emergency contraceptive pills (LNG ECPs) prevent pregnancy?* (Mar. 2011), http://www.cecinfo.org/UserFiles/File/MOA_FINAL_2011_ENG.pdf.

⁸⁵ CONSORCIO LATINOAMERICANO DE ANTICONCEPCIÓN DE EMERGENCIA (LATIN AMERICAN CONSORTIUM ON EMERGENCY CONTRACEPTION), LA SITUACIÓN DE LA ANTICONCEPCIÓN DE EMERGENCIA EN AMÉRICA LATINA Y EL CARIBE: BARRERAS Y FACILITADORES EN LA ACCESIBILIDAD (THE SITUATION OF EMERGENCY CONTRACEPTION IN LATIN AMERICA AND THE CARIBBEAN, BARRIERS AND FACILITATORS TO ACCESSIBILITY) 22 (2010), available at <http://redece.org/indiceclae.pdf>.

⁸⁶ *Id.*

⁸⁷ *Id.* at 21 (“No hay información acerca de este derecho, los y las proveedoras tienen resistencia de tipo moral o no se encuentran el momento en que la mujer va. Los y las profesionales de la salud no saben que es legal y está en la norma, o creen que sólo es para casos de violación.”).

⁸⁸ See WHO GUIDELINES, *supra* note 24.

⁸⁹ Human Rights Committee, *Fifth periodic report (Ecuador)*, ¶ 78, U.N. Doc. CCPR/C/ECU/5 (2008).

⁹⁰ CESCR, *Concluding Observations: Algeria*, ¶ 16, U.N. Doc. E/C.12/DZA/CO/4 (2010).

⁹¹ CESCR, *Concluding Observations: Ecuador*, ¶ 54, U.N. Doc. E/C.12/1/Add.100 (2004).

⁹² CAT, *Conclusions and Recommendations of the Committee Against Torture: Ecuador*, ¶ 18, U.N. Doc. CAT/C/ECU/CO/4-6 (2010).

⁹³ CRC, *Concluding observations of the Committee on the Rights of the Child: Ecuador*, ¶ 60(c), U.N. Doc. CRC/C/ECU/CO/4 (2010).

⁹⁴ *Id.* ¶ 61.

⁹⁵ See CESCR, *General Comment No. 14, supra* note 3, ¶ 32 (“there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party’s maximum available resources.”).

⁹⁶ ECUADOR PENAL CODE (1983), art. 447(1) [hereinafter ECUADOR PENAL CODE].

⁹⁷ *Id.* art. 447(2) (“El aborto... no será punible:... Si el embarazo proviene de una violación o estupro cometido en una mujer idiota o demente. En este caso, para el aborto se requerirá el consentimiento del representante legal de la mujer.”).

⁹⁸ CEDAW Committee, *Concluding Observations: Ecuador, supra* note 60, ¶ 38.

⁹⁹ CENTRO DE ESTUDIOS DE POBLACIÓN Y DESARROLLO SOCIAL, ENCUESTA DEMOGRÁFICA Y DE SALUD MATERNA E INFANTIL, section 14(4), available at http://www.cepar.org.ec/endemain_04/nuevo05/pdf/texto/14_adolescentes.pdf.

¹⁰⁰ José Alfredo Andaluz Prado, *En Marcha plan de Educación Sexual en Colegios (Running the Sexual Education Plan in Schools)*, Sept. 13, 2007.

¹⁰¹ United Nations Population Fund (UNFPA), *State of the World Population 2004* 76, available at http://www.unfpa.org/swp/2004/pdf/en_swp04.pdf.

¹⁰² *Id.*

¹⁰³ WHO Bulletin, *Adolescent Pregnancy: A Culturally Complex Issue*, <http://www.who.int/bulletin/volumes/87/6/09-020609/en/index.html> (June 2009).

¹⁰⁴ See CESCR, *Concluding Observations: Dominican Republic*, ¶ 28, U.N. Doc. E/C.12/DOM/CO/3 (2010); CESCR, *Concluding Observations: Panama*, ¶ 20, U.N. Doc. E/C.12/1/Add.64 (2001); CESCR, *Concluding Observations: Russian Federation*, ¶ 35, U.N. Doc. E/C.12/1/Add.94 (2003); CESCR, *Concluding Observations: Paraguay*, ¶ 21, U.N. Doc. E/C.12/PRY/CO/3 (2008).

¹⁰⁵ CEDAW Committee, *Concluding Observations: Belize*, ¶ 56, U.N. Doc. A/54/38 (1999).

¹⁰⁶ See CESCR, *General Comment No. 16, supra* note 69, ¶ 29 (explaining that women’s ability to enjoy their right to health under Article 12 on an equal basis with men requires “the removal of legal and other obstacles that prevent men and women from accessing and benefiting from health care on a basis of equality. This includes, inter alia, ... the removal of legal restrictions on reproductive health provisions.”); Human Rights Committee, *General Comment No. 28: The Equality of Rights Between Men and Women*, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000) (discussing “life-threatening clandestine abortions” as implicating women’s right to life under Article 6, and thus a potential barrier to women’s equal enjoyment of rights).

¹⁰⁷ CEDAW Committee, *Concluding Observations: Ecuador, supra* note 60, ¶ 39.

¹⁰⁸ *Id.* ¶ 38.

¹⁰⁹ *Id.* ¶ 39.

¹¹⁰ ECUADOR PENAL CODE, *supra* note 96, art. 447(2) (“El aborto... no será punible:... Si el embarazo proviene de una violación o estupro cometido en una mujer idiota o demente. En este caso, para el aborto se requerirá el consentimiento del representante legal de la mujer.”).

¹¹¹ AMNESTY INTERNATIONAL, *SAFE SCHOOLS, supra* note 23, at 19.

¹¹² *Id.* at 14-15.

¹¹³ WHO GUIDELINES, *supra* note 24, at 2.

¹¹⁴ *Id.* at 13-14.

¹¹⁵ *Id.* at 63.

¹¹⁶ Committee against Torture (CAT), *Concluding Observations: Nicaragua, ¶ 16*, U.N. Doc. CAT/C/NIC/CO/1 (2009).

¹¹⁷ Human Rights Committee, *Concluding Observations: Ecuador, supra* note 66, ¶ 11.

¹¹⁸ *Id.*

¹¹⁹ See, e.g. CEDAW Committee, *Concluding Observations: Panama, ¶ 201*, U.N. Doc. A/55/38/Rev.1 (1998); CEDAW Committee, *Concluding Observations: Nicaragua, ¶ 17*, U.N. Doc. CEDAW/C/NIC/CO/6 (2007); CRC, *Concluding Observations: Chile, ¶ 56*, U.N. Doc. CRC/C/CHL/CO/3 (2007); CRC, *Concluding Observations: Guatemala, ¶ 40*, U.N. Doc. CRC/C/15/Add.154 (2001); CAT, *Concluding Observations: Nicaragua, ¶ 16*, U.N. Doc. CAT/C/NIC/CO/1 (2009); CRC, *Concluding Observations: Nicaragua, ¶ 58, 59, 64, & 65*, U.N. Doc. CRC/C/NIC/CO/4 (2010); Human Rights Committee, *Concluding Observations: Nicaragua, ¶ 13*, U.N. Doc. CCPR/C/NIC/CO/3 (2008); CESCR, *Concluding Observations: Nicaragua, ¶ 26*, U.N. Doc. E/C.12/NIC/CO/4 (2008); CRC, *Concluding Observations: Argentina, ¶ 57-58, CRC/C/ARG/CO/3-4* (2010).

¹²⁰ See CESCR, *Concluding Observations: Nicaragua, ¶ 26*, U.N. Doc. E/C.12/NIC/CO/4 (2008); CESCR, *Concluding Observations, El Salvador, ¶ 44*, U.N. Doc. E/C.12/SLV/CO/2 (2007); CESCR, *Concluding Observations, Malta, ¶ 41*, U.N. Doc. E/C.12/1/Add.101 (2004); CESCR, *Concluding Observations: Kenya, ¶ 33*, U.N. Doc. E/C.12/KEN/CO/1 (2008).

¹²¹ For a discussion on treaty monitoring bodies’ concluding observations relating to safe and legal access to abortion in instances of rape, see CENTER FOR REPRODUCTIVE RIGHTS, BRINGING RIGHTS TO BEAR, ABORTION AND HUMAN RIGHTS, GOVERNMENT DUTIES TO EASE RESTRICTIONS AND ENSURE ACCESS TO SAFE SERVICES, *available at*

http://reproductiverights.org/sites/crr.civicactions.net/files/documents/BRB_abortion_hr_revised_3.09_WEB.PDF.

¹²² Human Rights Council, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the highest attainable standard of physical and mental health, Anand Grover, Addendum, Mission to Poland, ¶ 37*, U.N. Doc. A/HRC/14/20/Add.3 (2010).