



**Submission on the combined eighth and ninth periodic report of Ecuador to the United Nations Committee on the Elimination of Discrimination against Women
February 19, 2015**

We write in advance of the Committee on the Elimination of Discrimination Against Women's upcoming review of Ecuador to highlight areas of concern regarding the Ecuadoran government's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This submission is based on the Human Rights Watch report on sexual and reproductive health and rights in Ecuador published in 2013, "Rape Victims as Criminals: Illegal Abortion After Rape in Ecuador" (Annex 1) and is focused on violations of the right to health, which are inconsistent with Article 12 of the Convention.

Ecuadorian law imposes prison terms ranging from one to five years for women and girls who receive abortions. Medical professionals who provide them are subject to harsher penalties. The criminal code provides for only three exceptions to criminal punishment: 1) in the case of a threat to the life of a pregnant woman, when the danger cannot be averted by other means, 2) in the case of a threat to the health of a pregnant woman, when the danger cannot be averted by other means, or 3) when the pregnancy is the result of a rape or statutory rape of a woman with an intellectual or psychosocial disability. Ecuador's laws do not allow other women or girls to seek abortion in the case of rape, this despite the fact that a 2011 nationwide government survey estimated that one out of four Ecuadorian women has been a victim of sexual violence.

When Human Rights Watch conducted research in 2013, many advocates and health care providers believed prosecutions of women and girls who receive abortions or doctors who perform them to be rare. In September 2014, however, the government released information upon request by domestic non-governmental organizations that indicate as many as 58 criminal cases have been brought since 2009 to September 2014 for presumed abortions.¹ This worrying statistic suggests that punitive aspects of

¹ See, Coalición Nacional de Mujeres para la Elaboración del informe sombra de la CEDAW, *Elaboración del informe sombra al Comité de la CEDAW: Ecuador 2014* (Quito: November 2014), Annex 5, http://media.wix.com/ugd/273e4d_8109bbb4e95042f79388c7e102fb9600.pdf (accessed December 15, 2014).

Ecuador's laws are being invoked against women and girls at a higher rate than previously believed.

Even in the absence of prosecution, as this Committee has recognized, criminal restrictions on abortions have very real consequences. In 2013, Human Rights Watch evaluated the impact of Ecuador's existing abortion law on the basis of interviews with individual women and girls, health care professionals, government officials, and other experts. We found that Ecuador's criminal ban on abortions, including in the case of rape (except in the case of so-called "idiot or demented" women, the term used in the criminal code prior to its recent amendment which changes the language to women with a "mental disability"):

1. Hinders medical professionals' ability to detect sexual violence or other forms of gender-based violence;
2. Contributes to Ecuador's high maternal mortality and morbidity rates;
3. Creates delays or obstacles for women and girls needing potentially life-saving care; and,
4. Perpetuates negative stereotypes about and discrimination against women and girls living with disabilities, which may risk depriving them of their legal right to make decisions about when and whether to have children.

Detection and Prevention of Sexual Violence and Other Forms of Gender-Based Violence

Ecuador has high rates of violence against women and girls, including sexual violence. A 2011 government-conducted nationwide survey of almost 19,000 households in all of Ecuador's 24 provinces found that 60 percent of Ecuadoran women respondents had experienced some type of gender-based violence in their lifetimes.² This is the most recent survey of its type in Ecuador. According to government estimates based on its analysis of data from the survey, one out of every four women in Ecuador has suffered sexual violence in her lifetime.³ Of women who reported sexual violence in the survey, 53.3 percent said their partner or ex-partner was the perpetrator, while 46.5 percent reported that the perpetrator was someone other than a partner or ex-partner.⁴

² The survey was conducted in accordance with Ecuador's 2007 National Plan for the Eradication of Gender-based Violence. It defined gender-based violence as physical, psychological, or sexual violence, as defined in domestic law, and patrimonial violence, as defined by Ecuador's international obligations under the American Convention Belém do Pará. See *Ley contra la violencia a la mujer y la familia*, 2007, art. 4, literal a, b, y c. INEC, *Encuesta Nacional sobre Relaciones Familiares y Violencia de Género contra las Mujeres*, 2011.

³ *Ibid.*, According to the survey, 25.7 percent of women in Ecuador have suffered sexual violence in their lifetimes. The sample also included girls age 15 years and over.

⁴ *Ibid.*

The criminalization of abortion after rape creates obstacles for Ecuador to effectively tackle the high rates of violence against women and girls. The Ecuadoran Ministry of Public Health has developed detailed norms for the comprehensive treatment and care of pregnant and post-partum women and girls, including the detection of sexual abuse and intra-familial violence and treatment of incomplete abortions. However, when victims of sexual violence seek post-abortion medical care for complications from clandestine, illegal abortions, the current abortion law serves as a disincentive to reporting the violence, because the victims may fear that clinic or hospital staff will conclude they illegally induced the abortions themselves. This makes detection of violence against women and girls more difficult, and contributes to impunity for such violence.

The majority of medical professionals interviewed by Human Rights Watch said that they believe fear of criminal penalties distorts what women and girls are willing to tell them, and thus leads them to miss opportunities to refer the women and girls to appropriate services. According to a 2013 WHO report on gender-based violence globally, women who have been physically or sexually abused by their partners are more likely to seek an abortion than women who have not experienced partner violence.⁵ In its analysis, the WHO emphasizes the importance of health-care providers “identify[ing] opportunities to provide support and link women with other services they need....”⁶ But as the WHO notes, and Human Rights Watch research in Ecuador confirms, women and girl survivors of violence may seek health care, particularly sexual and reproductive services including post-abortion care, and not disclose information about the violence to providers.⁷

Maternal Mortality and Morbidity

Global studies underscore that the criminalization of abortion does not reduce the number of abortions,⁸ but instead drives women and girls to seek clandestine and unsafe abortions that contribute to maternal mortality and morbidity. This is a major concern for Ecuador, which has high rates of both. Recent government statistics

⁵ The study states that victims of sexual or physical violence are two times more likely to seek an abortion than women who have not experienced partner violence, but the impact of the legal status of abortion on this decision is not clear. World Health Organization, *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*, 2013, p. 2, http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf (accessed December 15, 2014) [hereinafter WHO Report]. WHO also identifies other poor health outcomes for women victims of violence, including increased “incident HIV infection, incident sexually transmitted infections (STIs), [...], low birth weight, premature birth, growth restriction in utero and/or small for gestational age, alcohol use, depression and suicide, injuries, and death from homicide. WHO Report, p. 21.

⁶ *Ibid.*, p. 3.

⁷ *Ibid.*, p. 35.

⁸ See, G. Sedgh, S. Singh, S. K. Henshaw, and, A. Bankole, “Induced abortion: incidence and trends worldwide from 1995 to 2008,” *The Lancet*, February 18, 2012, vol. 379, issue 9816, pp. 625-632. WHO, *Unsafe Abortion: Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008*, 6th ed. (WHO: Geneva, 2011), p. 6.

indicate Ecuador is not on track to meet its goal of reducing maternal deaths by 75 percent from 1990 levels—from estimates as high as 150—to 29 maternal deaths per 100,000 live births.⁹ Since 2008, the Ministry of Health has undertaken significant efforts to reduce the maternal mortality ratio, including the development of detailed norms and technical guides on maternal health. Such efforts have led to a reduction in maternal deaths caused by post-partum hemorrhaging. Nevertheless, maternal mortality in Ecuador remains stubbornly high. Lack of data and differences in the methodologies used by the government and international agencies in their calculations have led to conflicting estimates of maternal mortality ratios, but none of the government's most recent calculations publicly reported by the National Institute for Statistics and Census put Ecuador on track to meet its goal.

In 2013 the government-reported maternal mortality ratio was approximately 46 maternal deaths for every 100,000 live births¹⁰—down from 105 in 2011,¹¹ but still significantly higher than its target ratio. In 2013, the maternal mortality ratio was as high as 144 for every 100,000 live births in the province of Carchi,¹² a higher ratio than in Guatemala, which has one of the highest ratios in the region.¹³

According to government data, complications from abortion—whether a legal abortion or one procured illegally—killed at least 15 women or girls in Ecuador in 2013, the most recent year for which data is available.¹⁴ The number of women or girls that died from unsafe abortions in fact is likely to be higher, because few doctors report the actual cause of death or morbidity, instead reporting cases of abortion as sepsis, hemorrhaging, and other pregnancy and post-partum complications.

According to government data, abortion (no breakdown was provided differentiating between legally and illegally procured abortions) was the leading cause of morbidity in women in Ecuador's hospitals in 2011, with over 23,000 cases of disease, disability, or physical harm.¹⁵ This classification is widely understood by medical professionals to be

⁹ See Human Rights Watch, *Rape Victims as Criminals: Illegal Abortion After Rape in Ecuador* (New York: 2013), located in the Annex, for analysis and statistics.

¹⁰ INEC-Estadísticas Vitales: Nacimientos y Defunciones 2013, p. 33, http://www.ecuadorencifras.gob.ec/documentos/web-inec/Poblacion_y_Demografia/Nacimientos_Defunciones/Publicaciones/Anuario_Nacimientos_y_Defunciones_2013.pdf (accessed January 11, 2015).

¹¹ INEC-Estadísticas Vitales: Nacimientos y Defunciones 2011, p. 15, http://www.inec.gob.ec/estadisticas_sociales/nac_def_2011/anuario.pdf (accessed January 11, 2015).

¹² INEC-Estadísticas Vitales: Nacimientos y Defunciones 2013, p. 33.

¹³ See World Bank, Maternal mortality ratio, 2013, <http://data.worldbank.org/indicator/SH.STA.MMRT/countries/1W?display=default> (accessed January 11, 2015).

¹⁴ INEC-Estadísticas Vitales: Nacimientos y Defunciones 2013, p. 190.

¹⁵ INEC, Anuario de Estadísticas Hospitalarias Egresos, 2011, http://www.inec.gob.ec/estadisticas_sociales/Cam_Egre_Hos_2011/anuario.pdf (accessed December 15, 2014)..

one of the categories under which health facilities report treatment of women who have complications arising from unsafe, induced abortion (as opposed to spontaneous miscarriages). The situation improved slightly by 2013, the most recent year for which data is available, with abortion moving to the second leading cause of morbidity in women in Ecuador's hospital with nearly 17,000 cases.¹⁶

Of great concern is the number of cases of abortion-related morbidity affecting girls and adolescents. Ecuador estimates that in 2011, there were at least 286 cases of abortion-related morbidity in girls ages 10 to 14 (up from 258 in 2011),¹⁷ and nearly 4,000 cases in girls and women ages 15 to 19.¹⁸ The WHO has warned that pregnant adolescents are more likely than adults to have unsafe abortions, and that such abortions contribute substantially to lasting health problems and maternal deaths.¹⁹ Government statistics showed a 74 percent increase in pregnancies among 10- to 14-year-olds in the period spanning 1996 to 2010)²⁰, and childbirth was the second leading cause of morbidity in girls ages 10 to 14 in Ecuador.²¹ According to the age of consent, any pregnancy in a girl under the age of 14 would be a product of statutory rape.

Obstacles to Obtaining Potentially Life-Saving Care

The illegality of abortion, including after rape, leads some women and girls who experience abortion-related complications to delay seeking important medical care. Their reluctance to speak about the abortion can also compromise the quality of treatment they receive. All of the medical professionals interviewed by Human Rights Watch said that when women and girls who have had illegal abortions do seek care, most often they do not tell healthcare professionals how they went about trying to induce an abortion. Medical professionals told us that women and girls come in bleeding, sometimes with infections, yet offer little information. They said this forces them to guess what happened to their patients, and undermines their ability to provide timely, quality care.²²

¹⁶ INEC, Anuario de Estadísticas Hospitalarias Egresos, 2013, p. 36, http://www.ecuadorencifras.gob.ec/documentos/web-inec/Estadisticas_Sociales/Camas_Egresos_Hospitalarios/Publicaciones-Cam_Egre_Host/Anuario_Camas_Egresos_Hospitalarios_2013..pdf (accessed January 11, 2015)

¹⁷ INEC, Anuario de Estadísticas Hospitalarias Egresos, 2011.

¹⁸ INEC, Anuario de Estadísticas Hospitalarias Egresos, 2013, p. 357.

¹⁹ World Health Organization. Adolescent pregnancy, Geneva, World Health Organization, 2012. 2012. <http://www.who.int/mediacentre/factsheets/fs364/en/index.html>, (accessed December 15, 2014).

²⁰ Presentation of Ministerio de Salud Pública, Experiencia en la Implementación de Servicios de Salud Amigables para Adolescentes en el Primer Nivel Ecuador, August 2012, citing Estadísticas Vitales, Registro de nacidos vivos desde el año 1996 al 2010.

²¹ Dirección de Normatización del Sistema Nacional de Salud, Normas y Procedimientos para la atención integral de salud a adolescentes, annex 1, p. 70, 2009.

²² See, for example, Human Rights Watch interview with Dra. A., Esmeraldas, July 2, 2013; Human Rights Watch interview with Dr. W., Quito, July 9, 2013; Human Rights Watch interview with Dra. S, Quinindé, July 1, 2013; Human Rights Watch interview with Lcda. A.M., Santo Domingo, July 4, 2013; Human Rights Watch interview with Obst. C., Cajabamba, July 14, 2013.

Negative Stereotypes and Discrimination against Women and Girls Living with Intellectual or Psychosocial Disabilities

The current criminal code article related to abortion after rape, which exempts only rape victims with “mental disabilities” from penalties for abortion, perpetuates negative stereotypes about women and girls living with disabilities, implying that they are more likely to be “unfit” mothers. This also may lead some doctors to rely on a woman or girl’s legal guardian to make decisions about her health and reproductive choices, making it more likely they will undergo abortions without their consent.

Human Rights Watch joins with Ecuadoran organizations in urging the Committee on the Elimination of All Forms of Discrimination against Women to call on the Ecuadoran government to remove criminal penalties for abortion.

In your review of Ecuador in February 2015, **Human Rights Watch encourages the Committee to ask the State party questions about the following issues, and recommend that the State party take steps to address them:**

- What steps is it taking to ensure that its criminal prohibition on abortion after rape does not undermine its efforts to reduce high levels of sexual violence in the country?
- What is the country doing to collect and publish data on the societal and economic costs of maternal mortality and morbidity related to illegal abortion in Ecuador?
- What is the country doing to ensure that women and girls have access to high quality abortion services in all cases of legal abortion, and that post-abortion care is available for all abortion-related complications?
- How is the state party working to eliminate negative stereotypes against women and girls with disabilities and ensure that all health care and services provided to women and girls with disabilities are based on the free and informed consent of the individual concerned?
- How many women and girls are currently incarcerated for having an abortion? How many active cases does the prosecutor have against women and girls for alleged criminal abortions?

We also hope that you will urge Ecuador to decriminalize abortion in a broader range of circumstances, in line with the Committee’s February 2014 statement on sexual and reproductive health and rights.

We hope you will find these comments relevant to your examination of the Ecuadoran government's compliance with the Convention, and would welcome an opportunity to discuss them further with you.