

OHCHR REGISTRY

17 JUL 2009

July 15, 2009

Recipients :

HR Committee
DD (Encl.)

Human Rights Committee
Palais des Nations
UNOG-OHCHR
CH-1211 Geneva 10
Switzerland

Re: Supplementary Information on Ecuador, scheduled for review
by the U.N. Human Rights Committee during its 97th session (October 2009)

Dear Sir or Madame:

We are hereby submitting a shadow letter regarding Ecuador for the members of the Human Rights Committee. Please find enclosed 25 copies.

In the letter, we have highlighted specific issues of concern for the Committee members and hope they will be useful in the Committee's evaluation of the government's reports.

We greatly appreciate your assistance in distributing these items to the Committee members. We hope to provide similar information to the Committee in the future and would greatly appreciate any feedback or comments you may have.

If you have any questions, please feel free to contact me at +19176373650 or via e-mail at lsepulveda@reprorights.org.

Thank you again for your assistance.

Sincerely,



Lilian Sepúlveda
Regional Manager and Legal Adviser for Latin America and the Caribbean
Center for Reproductive Rights

July 15, 2009

United Nations Human Rights Committee
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. Human Rights Committee during its 97th session (October 2009)

Honorable Committee Members:

This letter is intended to supplement the periodic report submitted by Ecuador, which is scheduled for review by the U.N. Human Rights Committee (“the Committee”) during its 97th session in October 2009. The Center for Reproductive Rights (“the Center”), an independent non-governmental organization, and the Program for Global Justice and Human Rights of the Human Rights Clinic at the University of the Andes (“the Clinic”), hope to further the work of the Committee by providing independent information concerning the rights protected in the International Covenant on Civil and Political Rights (“ICCPR”). This letter will highlight two issues that have become significant structural and systemic problems in Ecuador: sexual violence against girls in schools and, limited or no access to essential reproductive and sexual health care services for adolescents.

Protection from sexual violence in schools and the guarantee of reproductive rights are fundamental to girls’ and women’s rights to life, health, and equality and implicate the exercise of additional imperative human rights recognized by the ICCPR. Therefore, the commitment of States Parties to uphold and ensure these rights deserves serious attention. This letter intends to provide the Committee with specific and detailed information regarding the situation of sexual and reproductive rights of girls and adolescents in Ecuador.

To prevent the continued severe and often permanent harms to one of this State’s most vulnerable populations, and for this State to be in compliance with its Constitution and international treaty obligations, Ecuador should implement effective laws and policies to protect women’s and girls’ sexual and reproductive rights. The State should take necessary measures to eliminate sexual harassment and sexual violence against girls in the school setting and to guarantee adolescents the delivery of timely, comprehensive reproductive and sexual health care services. We hope the Committee will urge the State to prioritize these issues as central to the complete enjoyment and full exercise of human rights for girls and women living in Ecuador, as articulated in the ICCPR.

I. Sexual Violence against Girls in Schools in Ecuador

While Ecuador has enacted legislation and policies to address sexual violence, implementation of these measures has been highly inadequate, and gender violence in schools is still prevalent. According to non-governmental organization (“NGO”) estimates, Ecuadorian girls reporting sexual violence in schools ranges from twenty-two¹ to sixty-three² percent. Girls face significant threats of sexual harassment and sexual violence from both students and teachers, in both public and private education institutions.³ Indeed, NGO studies demonstrate the educational institutions are the principal setting for sexual violence against girls;⁴ one study found that one in four female students had been sexually abused and thirty-seven percent of students who had been sexually abused identified male teachers as the aggressors.⁵ Some girls reported they were coerced into sexual acts in exchange for passing grades and, many girls viewed sexual violence in the school setting as inevitable because administrative authorities do not act to prevent it or are the perpetrators.⁶ For these reasons, and for fear of retaliation and due to the psychological trauma caused by sexual violence, it is assumed the majority of cases go unreported.⁷

Sexual violence against girls in the educational setting is an issue of great concern, particularly when that violence is perpetrated by teachers or administrators who abuse their position of authority to intimidate and instill fear in the very persons they are responsible to protect and whose lives they are responsible to enrich. The consequences are often devastating. In the case of Paola Guzmán, currently pending before the Inter-American Commission on Human Rights,⁸ which illustrates the State’s failure to prevent sexual violence in schools, the consequences were fatal. For two years Paola Guzmán was sexually harassed and abused by the vice-principal of her school, who offered to provide her with academic assistance on the condition that she have sexual intercourse with him. At age sixteen, she became pregnant. The vice-principal solicited a school doctor to perform an abortion, but the doctor made this conditional on Paola agreeing to have sexual relations with him, too. Ultimately, Paola ingested white phosphorus to commit suicide, and died in December 2002. In Paola’s case, no person or institution has yet been held accountable for her sexual abuse and mistreatment at school, and her death has not been adequately investigated.⁹

In its fifth report to this Committee, Ecuador mentions the national programs to eradicate sexual violence it has created over the last several years since this Committee issued its Concluding Observations in 1998. However, these programs have not reached a significant number of girls and women, nor are these programs specific to preventing sexual abuse perpetrated in the educational environment. The continued failure of the State to prioritize the protection of girls from sexual violence in the school setting is a violation of its obligations under the ICCPR, including the obligation to guarantee, without discrimination, the rights to life, liberty and security of person, privacy, to be free from cruel, inhuman or degrading treatment, and the special protection of children.

II. Access to Reproductive and Sexual Health Care Services in Ecuador

The lack of access to appropriate reproductive and sexual health care provisions for girls and women in Ecuador is also an issue of grave concern. Reproductive and sexual health care services are critical to a child’s physical, mental and social development and access to these services helps young girls to develop the necessary sense of self-worth and self-awareness to initiate and invest in care for their bodies and to make informed decisions about personal

relationships. In addition, access to reproductive and sexual health care services reduces the incidence of maternal morbidity and mortality, unintended pregnancy and infant mortality, and sexually transmitted infections, including HIV. This Committee recognizes the importance of providing women and girls access to these services and it requires States Parties to report not only their efforts to reduce maternal and infant morbidity and mortality rates, but also to report their efforts to “help women prevent unwanted pregnancies, and to ensure [women and girls] do not have to undergo life-threatening clandestine abortions.”¹⁰

Ecuadorian NGOs report that seventy-six percent of adolescents begin having sexual relations between fifteen and eighteen years of age¹¹ and nearly forty percent of women between fifteen and twenty-four years of age report having been pregnant at least once.¹² According to Ecuador’s Ministry of Health, of the total pregnancies that occur in the country, at least twenty-five percent are teen pregnancies;¹³ of these, more than sixty-one percent are unplanned and between six and twelve percent end in abortion.¹⁴ Adolescents facing unintended and unwanted pregnancies, especially in cases where access to comprehensive health care services are not guaranteed, often resort to suicide or unsafe abortion.¹⁵ Even pregnancies carried to term by adolescents have greater health risks than pregnancies in adult women.¹⁶

There is also a high rate of sexually transmitted infections and HIV among Ecuadorian girls. A study of 870 secondary school students at four schools in Quito and four schools in the Amazon region revealed that sexual activity was reported by forty-one percent of urban and fifty-two percent of rural respondents.¹⁷ Of those sexually active, half never used condoms, and seventy percent had not used a condom at the time of their last sexual intercourse.¹⁸ In general, contraceptive and safer sex supplies are reported to be low and since 2000, “a sharp increase in sexually transmitted infections among fourteen to nineteen-year-olds” has been reported.¹⁹ Without sexual education or access to reproductive and sexual health care, adolescent girls are at high risk for contracting HIV and currently, they are the fastest growing population of persons newly infected with HIV in Ecuador.²⁰ In its report to this Committee, the State acknowledges the ratio of women to men living with HIV climbed to one woman per 2.14 men in 2007 from one woman in 3.7 men in 1999.²¹

Stigma and stereotypes related to sexual abuse, contraception, and pregnancy can lead to discrimination when girls do access the limited health care available.²² In addition to the risk of pregnancy, forced and early sexual activity can have severe health implications for adolescents and girls,²³ including “fistula, pelvic inflammatory disease and other gynecological disorders,”²⁴ sexually transmitted infections, including HIV/AIDS, sexual dysfunction, chronic pelvic pain,²⁵ and gastrointestinal disorders.²⁶ Sexual abuse and/or the presence of a sexually transmitted infection can make girls less willing to seek critical reproductive health care, thus further jeopardizing their lives and violating their human rights.²⁷ In a State such as Ecuador, where there are many instances of sexual violence against girls; girls are extremely young at the time of their first, often forced, sexual encounter; and there are high rates of sexually transmitted infections, it is ever more important to increase access to the nonjudgmental and sensitive provision of reproductive and sexual health care services.

In its periodic report to the Committee on the Elimination of Discrimination Against Women (“CEDAW”) in 2008, Ecuador offered the following as causes of teen pregnancy: “lack of sex education or inappropriate information, early onset of sexual activity, family-related causes, socio-cultural factors such as scant economic means, poor school attendance, lack of

maturity, failure to meet one's responsibility, and lack of knowledge of and failure to use contraceptive measures."²⁸ The fact that several of these hypothetical causes ascribe agency and culpability to the adolescent woman or girl is deeply troubling ("lack of maturity, failure to meet one's responsibility, failure to use contraceptive measures"), as is the fact that the State's mention of "early onset of sexual activity" fails to take into account that a significant portion of adolescents' earliest sexual experiences occur under coercion or by force.²⁹ In Latin America, a full one-third of adolescents report that their first sexual experience took place by force.³⁰ As aforementioned, this phenomenon is clearly indicated by high rates of adolescent pregnancy and sexually transmitted infections, including HIV, in Ecuador.

The rights to life, liberty and security of person, privacy, to be free from cruel, inhuman or degrading treatment, and the special protection of children are implicated when the State fails to provide girls access to quality and adequate reproductive and sexual health care services. We bring this situation to the attention of the Committee in hopes it will recommend to the State to take effective measures to guarantee meaningful access to sexual and reproductive health care services for all Ecuadorian girls and women.

III. Ecuador's Obligation to Protect the Sexual and Reproductive Rights of Girls and Adolescents under the ICCPR (Articles 2, 3, 6, 7, 9, 17, 24, and 26)

Both sexual violence against girls in schools and denying girls access to quality reproductive and sexual health care services impinge the "inherent right to life" [Article 6(1)],³¹ the right to freedom from "cruel, inhuman or degrading treatment" [Article 7],³² including mental suffering, the "right to liberty and security of person" [Article 9],³³ and freedom from "interference with ...privacy" [Article 17(1)].³⁴ Reproductive health and rights receive broad protection under the ICCPR, and the ICCPR makes clear that the right to life [Article 6] and freedom from cruel treatment [Article 7] are non-derogable.³⁵ The State has the express duty to protect "both the dignity and the physical and mental integrity" of persons in its jurisdiction, particularly children, students and patients.³⁶ Sexual abuse in the educational environment and depriving adolescents of reproductive and sexual health care are violations that severely harm the integrity and threaten the lives of girls, persons Ecuador recognizes have the status of "double vulnerability."³⁷

The ICCPR grants special protection to children in Article 24 where it directs States to take "measures of protection as are required by [a child's] status as a minor on the part of [her] family society and the State" [Article 24].³⁸ Along with Article 7, Article 24 is interpreted to include the right of children to live free from violence, especially rape.³⁹ The Committee has emphasized that to ensure these rights, the State must provide effective protection through mechanisms that thoroughly investigate violations and provide appropriate remedies, whether these violations were inflicted by persons acting in an official or private capacity.⁴⁰ With regard to violations of freedom from cruel treatment, special protection for children, and the right to liberty and security of person, as articulated in the ICCPR, this Committee has explicitly indicated that prohibited acts include those that occur within the context of schools, for "educative or disciplinary purposes"⁴¹ and that the State should take "every possible economic and social measure . . . to prevent [children] from being subjected to acts of violence and cruel and inhuman treatment or from being [sexually] exploited . . ."⁴²

Gender-based violence in the context of educational environments is a discriminatory barrier to the ability of girls to exercise their right to equal access to education. Article 24 of the ICCPR is also interpreted to include the State take "every possible measure . . . to foster the

development of [children's] personalit[ies] and to provide them with a level of education" that will enable each child to develop her capacities and enjoy recognized freedoms with measures of protection.⁴³ Moreover, States must not arbitrarily deny education to particular groups of children on the basis of sex, among other protected classifications and it must not allow discrimination that has "the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, by all persons, on equal footing, of all rights and freedoms."⁴⁴

This Committee has also expressly stated that Articles 6, 7, 9, and 17 encompass reproductive rights and health.⁴⁵ Specifically, this Committee notes that States Parties should "ensure that [women and girls] do not have to undergo life-threatening clandestine abortion."⁴⁶ Likewise, the Committee cites women's "reproductive functions" as a zone of privacy protected by Article 17.⁴⁷ In light of these principles, we hope to bring attention to Ecuador's failure to ensure access to reproductive health care services as a breach of its human rights obligations under the ICCPR.

The right to life, as articulated by the ICCPR in Article 6 and General Comment 28, requires the State to take measures to prevent the arbitrary deprivation of life by State authorities and to report on the State's measures "to protect women and girls from practices that violate their right to life."⁴⁸ The soaring rates of critical, yet preventable, health and life-threatening problems among Ecuadorian girls, such as early and unintended pregnancy, maternal mortality, sexually transmitted infections, HIV/AIDS, psychological trauma and suicide, demonstrates the State's failure to protect girls in violation of Article 6.

The rights to live free from cruel, inhuman or degrading treatment and to liberty and security of person as articulated by the ICCPR in Articles 7 and 9, and as interpreted in General Comment 20, establish the obligation to protect the dignity and the personal integrity, both mental and physical, of all persons, particularly children.⁴⁹ With regard to access to reproductive and sexual health care services, including abortion in cases of rape, the Committee has indicated that upholding these rights is of utmost importance. A girl's mental and bodily integrity is severely harmed when she is forced to carry an unwanted pregnancy to term. Ecuador's failure to allow women and girls to decide when or if to have children by denying them access to reproductive health care services, including contraception and abortion, is a violation of Articles 7 and 9 of the ICCPR.

The right of women to enjoy privacy on a basis equal to men, as articulated by the ICCPR in Article 17 and General Comment 28, is implicated when a State interferes with the "sexual life of a woman" as it decides the extent of her legal rights and protections, including during instances of rape.⁵⁰ The State must ensure all individuals the rights recognized by the ICCPR "without distinction" and must "adopt such laws or other measures as may be necessary to give effect to [those] rights" [Article 2].⁵¹

This Committee has expressed concern about Ecuador's failure to adequately implement its own laws on violence against women and reproductive and sexual health care access, and it has called for the State to undertake specific activities to enforce protective laws and increase access to essential health care.⁵² Sexual violence against girls in schools and state interference with the "sexual life of a woman" have a disparate impact on young and adolescent girls. Thus, Ecuador must act especially to enforce the "equal right of men and women to the enjoyment of *all* civil and political rights" [Article 3]⁵³ and the right to freedom from discrimination, the "guarantee to all persons equal and effective protection against discrimination" [Article 26].⁵⁴

IV. Ecuador's Constitution

The new Constitution of Ecuador enacted in 2008, provides specific guarantees regarding the rights to be free from discrimination, to education, freedom from violence, rights of the child, and the right to physical, mental and sexual health. Article 3 of the Constitution establishes that the State has the responsibility to provide all persons "without any discrimination, the effective enjoyment of rights under the Constitution and international instruments, including education, health . . ."⁵⁵ This guarantee is reinforced by Article 11, which prohibits discrimination, on the basis of sex, age, gender and other status, and it obligates the State to take positive measures to ensure the protection of groups of persons historically treated unequally.⁵⁶

Ecuador's Constitution guarantees the right to education for all persons throughout their lives and charges the State with the duty of making access to education a "priority of public policy and government investment."⁵⁷ It elaborates on the importance of universal access to education without discrimination the promotion of gender equity, and orders that "education is essential to understanding [rights] and to the exercise of rights."⁵⁸ The Constitution establishes that the State must "eradicate all forms of violence in the education system and ensure the physical, psychological and sexual integrity of female students . . ."⁵⁹

Article 32 recognizes the right to health, and specifically, the right to sexual and reproductive health.⁶⁰ It also expressly links the realization of the right to health to the exercise of the right to education.⁶¹ The Constitution further declares that children who suffer sexual violence will receive priority attention and the State will provide "special protection" to people with the status of double vulnerability.⁶²

The Constitution also guarantees special protection for children and adolescents in Article 39. It establishes the child's best interests as the guiding criterion in public and private areas.⁶³ Articles 45 and 46 explicitly recognize the rights of children to physical and mental integrity and require the State to take necessary steps to ensure that children are protected from abuse and violence "or against negligence causing such situations."⁶⁴ It also establishes the obligation, by law, for the State to create special procedures to expedite the trial and punishment of crimes of sexual violence, particularly those committed against children and youth.⁶⁵

Article 43 is written to ensure pregnant women receive priority protection and care during pregnancy, childbirth and postpartum and that they are not discriminated against based on their pregnant status, especially with regard to access to education and maternal health care services.⁶⁶ Article 66 further delineates the right to make free, responsible and informed decisions regarding reproductive health and to decide the number and spacing of children.⁶⁷ The Constitution further makes the State responsible for ensuring "reproductive and sexual health services to guarantee the health and lives of women, especially during pregnancy, childbirth and postpartum."⁶⁸

Ecuador's Constitution establishes the duty of Ecuador to affirmatively protect girls from sexual violence so there is no interference with the exercise of other human rights, to respond to and repair the damage caused to those girls who have suffered such a breach, and to provide girls and women with reproductive care. Today, Ecuador has a progressive and comprehensive legislative and policy framework to address issues of sexual violence and

access to reproductive and sexual health care services. But it is not enough to merely enact legislation to address these issues: to be in compliance with its Constitution, the ICCPR and other international treaties, Ecuador must prioritize the implementation of programs that ensure girls live free from sexual violence and have access to essential health care.

V. Inadequate State Protection for Girls' and Adolescents' Sexual and Reproductive Rights

a. National Plans to Eliminate Sexual Violence against Girls in Schools

Despite Ecuador's obligations under the ICCPR and other international human rights treaties to protect women and girls from gender-based violence, NGOs report that the climate of sexual harassment and sexual violence in schools is one of relative impunity, where teachers and administrators have minimized the problem, and are reluctant to punish perpetrators.⁶⁹ Sexual harassment in educational settings was criminalized in 1998,⁷⁰ but in 2002, only 15 cases of sexual harassment were presented to the public prosecutor, with only one case going to sentencing.⁷¹ The public prosecutor believed many more cases existed, but that victims did not speak out for fear of reprisal by the perpetrators.⁷² Victims of sexual violence may be ostracized and excluded by their families, friends and communities, making it more difficult to seek redress.⁷³ The State itself notes that suicide is one example of the way that sexual violence in schools endangers girls' lives.⁷⁴ This climate of intimidation and fear, apparent in the case of Paola Guzmán, reveals a conspicuous failure of the State to provide effective protections and remedies, and as such, constitutes a violation of the rights contained in the ICCPR.

The government has enacted a series of policies on this issue, but the policies do not seem to be implemented adequately or monitored for efficacy. In 2002, the Ministry of Education, Culture, Sports, and Recreation issued Agreement 4794, a detailed statement of procedures for dealing with sexual offenses in the educational system,⁷⁵ yet in the Paola Guzmán case, none of these procedures were followed. Between 2006 and 2008 at least four decrees have been issued⁷⁶ dealing with gender discrimination and sexual violence in educational settings, but in its report to this Committee the state does not provide any evidence of having assessed the impact of these decrees. In its most recent Concluding Observations to the State, this Committee expressed regret for the "overall lack of reliable statistics" in Ecuador's fourth periodic report.⁷⁷ In addition, the CEDAW Committee also noted that although some improvements had been made in efforts to curtail violence against women, "corrupt practices in the judicial system and sexist cultural attitudes continue to impede full implementation of the law."⁷⁸

One of the decrees, the National Plan on Eradication of Sexual Offenses in the Educational System, established in 2006, and institutionalized by the Ministry of Education in 2008,⁷⁹ is particularly vague and lacking in details. It refers to teacher training, but it does not specify whether this training should be mandatory, nor does it designate a government official in charge of prevention and investigation, and, while the ministries and agencies responsible for implementation of the policies are listed, the plan does not include a budget, nor does it describe funding sources.⁸⁰ According to Amnesty International, national plans to address school-related violence against girls should include, "guidelines for schools, compulsory training for teachers and students, the designation of a government official responsible for preventing and investigating incidents of violence and adequate public funding to address the problem."⁸¹ The State admits that one of the main difficulties encountered in the process of

implementing the National Plan has been “resistance on the part of national and local education authorities and a lack of sensitivity of union educators to the subject,” but Ecuador has still not explained how it will overcome this resistance.⁸²

Sexual violence is linked to poor school performance,⁸³ high drop-out rates,⁸⁴ and psychological trauma.⁸⁵ As recently as 2008, the State has admitted that “the reasons that girls and adolescents do not enroll are well known, as are the reasons for dropping out associated with gender discrimination factors, especially the obligation to care for younger siblings and elderly family members (thirteen percent of girls compared with 0.8 percent of boys), teen pregnancy (nine percent) or simply being unable to continue higher education because of economic hardship”⁸⁶ The State did not mention sexual harassment and sexual violence as additional factors for poor school performance though these factors have invariably been identified by Ecuadorian NGOs.

Sexual violence maintains women and girls in subordinate roles and contributes to their lower level of education, skills and work opportunities.⁸⁷ Girls in Ecuador who face the possibility of sexual abuse and harassment in schools from the very people entrusted with their care and protection, face a barrier to fulfill their right to education. The abuse itself causes negative physical, emotional, and developmental consequences that affect girls’ academic performance or keep them away from school altogether, which are additional obstacles to exercising their right to education.⁸⁸ Low reporting of abuse and the failure to provide effective institutional responses to reports of sexual violence against girls in schools⁸⁹ demonstrates severe shortcomings of Ecuador’s education and legal systems.

This Committee has expressed its concern with the “many instances of violence against women and the very few judicial decisions thereon”⁹⁰ and it has stressed that “all reported acts of violence against women should be investigated and appropriate judicial proceedings instituted.”⁹¹ Again, we would like to draw the Committee’s attention to the case of Paola Guzmán and Ecuador’s noncompliance with the ICCPR. We recommend the Committee insist the State focus on improving conditions for Ecuadorian girls.

b. National Plans to Provide Reproductive and Sexual Health Care

Ecuador has introduced policies that identify some aspects of the problem of little or no access to reproductive and sexual health care provisions and proposed some measures to improve it. But, like the measures introduced to address sexual violence against girls in schools, these measures are also falling short of guaranteeing Ecuadorian girls their human rights.⁹² In 2005, the National Plan on Health and Sexual and Reproductive Rights (“National Plan”) was developed for the prevention of early and unwanted pregnancies in Ecuador.⁹³ The National Plan describes some of the issues faced by the adolescent population when accessing available sexual and reproductive health care services, including the limitations and inadequacies in access to services, the lack of information and sexuality education, a gap in knowledge about and use of methods of contraception, the inconsistencies in the delivery of sexual health information and services in schools and public hospitals, and the lack of confidentiality in health services.⁹⁴

Despite its recognition of the human rights implications of adolescent pregnancy, the identification of problems faced by adolescents and solutions proffered by the State in its report to this Committee are inadequate. The State does not list sexual harassment and sexual violence against girls in schools as an issue related to high rates of teen pregnancy,

HIV/AIDS and sexually transmitted infections. While the State has acknowledged the increased maternal mortality risk posed by teen pregnancy, it has not linked sexual violence to the high rate of maternal mortality.⁹⁵

The State fails to consider the restrictive abortion law as related to high rates of adolescent pregnancy. In Ecuador, abortion is illegal⁹⁶ except to save a woman's life or health. If a woman is raped, she may only procure a legal abortion if she is mentally-ill or developmentally delayed.⁹⁷ In its report to this Committee, with "hopes of solving the problem of unwanted pregnancies," the State references the medical protocol in place for physicians and health professionals treating victims of sexual violence. This protocol merely requires physicians and health professionals to inform the victim of the availability of emergency contraception and the possibility of having contracted a sexually transmitted infection; it does not necessarily require physicians and health professionals to screen for pregnancy, sexually transmitted infections or HIV, or to provide emergency contraception upon the patient's request.⁹⁸ The restrictiveness of the rape exception to access abortion, and the casual approach of the State to the likelihood of unintended pregnancy as a result of rape, means that young girls raped by their teachers who become pregnant must have an illegal abortion or remain pregnant, and may suffer devastating consequences, as in the case of Paola Guzmán.

Moreover, there is no protocol in place for physicians and health professionals treating girls and women who experience unintended or unwanted pregnancies outside circumstances of sexual violence. The State does not address the severe impact refusing access to safe and legal abortion has on Ecuadorian girls and women overall. Ecuador's dismissal of its obligation to guarantee all Ecuadorian girls and women access to reproductive health care, including access to safe and legal abortion, is in direct violation of its duties under the ICCPR, which requires States Parties to report on measures it is taking to prevent clandestine, life-threatening abortion and suicide.

The State reports to this Committee the third cause for morbidity in Ecuador is due to sexually transmitted infections, which are preventable with access to reproductive and sexual health care services and education, but the State does not elaborate on how it attempts to prevent incidence rates, including for HIV, from rising among the adolescent population.⁹⁹ The State mentions the institution of Project Ecuador, another program it lists under the direction of the National Council for Women, which is supposed to work to provide adolescents access to reproductive health care.¹⁰⁰ However, instead of describing how the State's efforts to increase access to reproductive and sexual health care will be implemented, it simply reports that the National Plan and related programs will "enable the men and women of Ecuador to have a better quality of life, including the ability to enjoy a fulfilling sex life and the freedom to decide whether, when, and how to have children."¹⁰¹ These goals cannot be achieved when adolescents are refused access to evidence-based sexuality education and information, effective contraception, screening for sexually transmitted infections, HIV and pregnancy and even, routine gynecological exams for the early detection of cervical or breast cancer.¹⁰²

Although Ecuador referenced various State agencies and programs that seek to address the lack of access to reproductive and sexual health care in its report to this Committee, there are serious flaws in implementation, not the least being a general lack of specificity in which State agency is responsible to implement what program and what long and short term goals are intended by each of the programs. Plans are vague and imprecise, there is an overlap in activities and agencies responsible for the activities and there are not effective monitoring

and accountability mechanisms in place. Furthermore, there is often no defined budget to be allocated. This failure to guarantee access to adequate sexual and reproductive health care services is in breach of Ecuador's obligations under Articles 2, 3, 6, 7, 9, 17, 24 and 26 of the ICCPR.

VI. Questions and Recommendations for Ecuador

In failing to protect girls from sexual harassment and sexual violence in the school setting, and in failing to make reproductive and sexual health care provisions accessible to all girls and women, Ecuador continues to violate the human rights to life, personal integrity, liberty and security of person, freedom from violence and cruel, inhuman and degrading treatment, non-discrimination, health, and equal access to education, which are recognized by the ICCPR and other international human rights treaties to which Ecuador is a State Party. Having identified serious problems of implementation, we urge the Committee to recommend to Ecuador to adopt all necessary legislative and policy measures and to prioritize the guarantee of sexual and reproductive rights to girls and adolescents.

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

Questions:

1. What steps have been taken to implement the National Plan on Health and Sexual and Reproductive Rights to prevent sexually transmitted infections, including HIV, and to prevent early and unwanted pregnancies? What has been done to make emergency contraception available?
2. Is there a mechanism to monitor the National Plan for Eradication of Sexual Offenses in Education or the National Plan on Health and Sexual and Reproductive Rights? If so, what progress has been identified? What are the indicators of success?
3. What are the quantitative and qualitative results of the plans, programs and policies established by the State to combat and prevent sexual violence in schools and to guarantee access to reproductive and sexual health care services? What was the budget allocated to implement them? For how long are they intended to exist?
4. What measures have been implemented to identify and effectively punish the perpetrators of various forms of sexual violence in schools, including sexual harassment? What measures have been implemented to protect victims of sexual violence and ensure that they are not deterred from reporting these abuses?
5. Have these programs been coordinated and implemented on both the national and the local level?

Recommendations:

1. Create specific long and short term goals, for both the National Plan for the Eradication of Sexual Offenses in Education and the National Plan on Health and Sexual and Reproductive Rights, and delegate specific responsibilities to the State agency that will monitor the program operating directly under it.
2. Prioritize the various plans, policies and programs that address the situation of sexual violence in schools and access to reproductive and sexual health care services, allocating adequate resources for such programs and allowing for the appropriate mechanisms of monitoring and accountability.

3. Act with due diligence in the investigation and punishment of all cases of sexual violence in schools; guarantee a proper redress for the victims, and establish effective prevention mechanisms.
4. Guarantee adolescents' access to quality and confidential sexual and reproductive health care services, including access to family planning information and services, access to evidence-based sexuality education and access to safe and legal abortion.

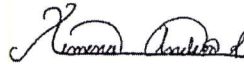
There remains a significant gap between the rights protected in the ICCPR and the reality of girls' and women's lives in Ecuador. We applaud the Committee for its commitment to the rights of girls and women, and the strong Concluding Observations and recommendations the Committee has issued to governments in the past, which stress the need to enact, implement, and monitor policies geared toward widening access to the full complement of human rights for women.

We hope this information is useful during the Committee's review of Ecuador's report. If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

Sincerely,



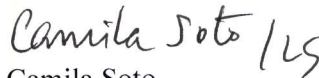
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de la Universidad de los Andes

¹ TATIANA CORDERO & GLORIA MAIRA, *A mí también: Acoso y abuso sexual en colegios del Ecuador: Discursos opuestos y prácticas discriminatorias*, CONSEJO NACIONAL DE LAS MUJERES (CONAMU) TALLER DE COMUNICACIÓN MUJER, Quito, Ecuador, 2001 [hereinafter CORDERO & MAIRA]; MARIA CORREIA & BERNICE VAN BRONKHORST, WORLD BANK ECUADOR GENDER REVIEW: ISSUES AND RECOMMENDATIONS 23, (Washington D.C., 2000) (citing GUADALUPE LEÓN, DEL ENCUBRIMIENTO A LA IMPUNIDAD, DIAGNÓSTICO SOBRE VIOLENCIA DE GÉNERO, ECUADOR, 1989-1995 (1995)).

² 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 (February 2005) [hereinafter CEPAM GUAYAQUIL].

³ CORDERO & MAIRA, *supra* note 1, at 36.

⁴ COMITÉ DE AMÉRICA LATINA Y EL CARIBE PARA LA DEFENSA DE LOS DERECHOS DE LA MUJER - ECUADOR, (CLADEM-ECUADOR) ET AL., INFORME SOMBRAS: UNA MIRADA ALTERNATIVA A LA SITUACIÓN DE DISCRIMINACIÓN DE LA MUJER EN EL ECUADOR, PERIODO 1990-1998 (CLADEM - ECUADOR ET AL., SHADOW REPORT: AN ALTERNATIVE LOOK AT THE STATUS OF DISCRIMINATION OF AGAINST WOMEN IN ECUADOR 1990-1998), at 7, *available at*

<http://www.uasb.edu.ec/padh/centro/Informes%20alternativos/informediscriminacionmujer1990-1998.pdf> [hereinafter CLADEM-ECUADOR, SHADOW REPORT ON DISCRIMINATION].

⁵ See CORDERO & MAIRA, *supra* note 1; see also CLADEM-ECUADOR ET AL., ALTERNATIVE REPORT TO THE CONVENTION ON CHILDREN'S RIGHTS 1996 – 2002, at 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).

⁶ One report concerning sexual violence against girls in Ecuador documented that of 680 students of public and private schools, 226 had experienced some form of sexual abuse, and their teachers were identified as third in the list of most frequent offenders. See CORDERO & MAIRA, *supra* note 1; see also CEPAM GUAYAQUIL, *supra* note 2.

⁷ See AMNESTY INTERNATIONAL, SAFE SCHOOLS: EVERY GIRL'S RIGHT 46 (2008), *available at* <http://www.amnesty.org/en/library/asset/ACT77/001/2008/en/c3fb8b67-db24-11dc-b4a6-0fa73a85cd41/act770012008eng.pdf> [hereinafter SAFE SCHOOLS]; see also 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), June 2006 [hereinafter National Plan on the Eradication of Sexual Offenses], at 13, *available at* http://www.cinna.gov.ec/archivos/plan_erradicacion_delitos_sexuales_v04.pdf.

(“En este caso existe una relación de poder donde las situaciones de abuso van acompañadas de amenazas que inhiben a las víctimas a denunciar a los agresores o agresoras.”); CLADEM-ECUADOR, INFORME ALTERNATIVO DE DERECHOS ECONÓMICOS, SOCIALES Y CULTURALES DE LAS MUJERES 2004 (CLADEM-ECUADOR, ALTERNATIVE REPORT ON THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF WOMEN 2004 [hereinafter CLADEM-ECUADOR, ALTERNATIVE REPORT ON ESCR], at 8, *available at* <http://www.upr-info.org/IMG/pdf/CLADEMadd3.pdf> (“El acoso sexual, perpetrado en las relaciones laborales y educativas...es uno de los delitos sexuales que mayor dificultad ha tenido en ser procesado y sancionado. Por un lado, está el temor a sufrir represalias, sean éstas agresiones físicas, psicológicas y/o sexuales, pero además está el miedo a perder el ingreso económico, que en la mayor parte de casos, constituye la única fuente de sustento. En el año 2002, se presentaron ante la Fiscalía, quince casos de acoso sexual, tanto en el ámbito educativo como en el laboral, y solamente uno llegó a la sentencia. La propia Ministra Fiscal, reconoce que existen muchos casos más, pero que no llegan a conocimiento del Ministerio público, porque las personas que son víctimas no denuncian por temor a represalias de sus victimarios”).

⁸ The factual allegations are taken from the admissibility report No. 76/08 of April 20, 2009 by the Center for Reproductive Rights (CRR) in the matter of CIDH, Caso 12.678, *Paola del Rosario Guzmán Albarracín y familia v. Ecuador*, 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).

⁹ *Id.*

¹⁰ Human Rights Committee (HRC), *General Comment 28 (art. 3): Equality of rights between men and women*, para. 10, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000) [hereinafter HRC, *General Comment 28*].

¹¹ See José Alfredo Andaluz Prado, *En Marcha Plan de Educación Sexual en Colegios*, EL DIARIO CORREO, Sept. 13, 2007, *available at* <http://www.diariorcorreio.com.ec/archivo/2007/09/13/en%20marcha%20plan%20de%20educacion%20sex>

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<http://www.diariocorreio.com.ec/archivo/2007/09/13/en%20marcha%20plan%20de%20educacion%20sexual%20en%20colegios> (citing statistics collected from Asociación Pro Bienestar de la Familia Ecuatoriana (APROFE)), available at <http://www.aprofe.org.ec/>.

¹² *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined sixth and seventh periodic reports of States parties, Ecuador*, para. 41, U.N. Doc. No. CEDAW/C/ECU/7 [hereinafter *Ecuador Report to CEDAW* (2008)].

¹³ APROFE, *supra* note 11.

¹⁴ *Id.*

¹⁵ SAFE SCHOOLS, *supra* note 7, at 14.

¹⁶ *Ecuador Report to CEDAW* (2008), *supra* note 12, para. 43. (“Pregnant teens between 15 and 19 years old run a risk of dying during childbirth twice that of the 20 to 29 age group; the risk for those under 15 is five times higher.”).

¹⁷ UNAIDS ET AL., EPIDEMIOLOGICAL FACTSHEET 2004 UPDATE 2, ECUADOR, available at http://data.unaids.org/Publications/Fact-Sheets01/ecuador_en.pdf.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Consideration of reports submitted by States parties under article 40 of the Convention on Civil and Political Rights, fifth report of States parties, Ecuador*, para. 130, U.N. Doc. No. CCPR/C/ECU/5 (2008) [hereinafter *Ecuador Report to CCPR* (2008)].

²² JUDITH BERMAN BRANDENBURG, CONFRONTING SEXUAL HARASSMENT: WHAT SCHOOLS AND COLLEGES CAN DO 42 (1997); MICHELE A. PALUDI & RICHARD BARICKMAN, SEXUAL HARASSMENT, WORK, AND EDUCATION: A RESOURCE MANUAL FOR PREVENTION 120 (1998) [hereinafter PALUDI & BARICKMAN] (explaining how sexual harassment victims are victimized secondarily when they are blamed for their own harassment).

²³ SAFE SCHOOLS, *supra* note 7, at 14 (citing Secretary General’s in-depth study on all forms of violence against women, U.N. Doc. A/61/122/Add.1 (2006)).

²⁴ *Id.*, at 19.

²⁵ *Id.*, at 15 (citing J. Mirsky, *Beyond Victims and Villains: Addressing Sexual Violence in the Education Sector*, PANOS 2003, at 27-29, available at www.panos.org.uk/resources/reportdownload.asp?type=report&id=1060).

²⁶ *Id.*, at 14.

²⁷ *Id.*

²⁸ *Ecuador Report to CEDAW* (2008), *supra* note 12, at 26.

²⁹ National Plan for the Eradication of Sexual Offenses, *supra* note 7, para. 2.2. (“Una significativa proporción de mujeres jóvenes señalan que su primer contacto sexual se produjo bajo coerción.”) (Citing OPS/OMS 2002, Roses Mirta, *Directora OPS/OMS, Reunión de expertas, Alternativas de atención en el sector salud para mujeres sobrevivientes de violencia sexual*; OPS/OMS – IPAS, Aug. 2-4, 2005, Washington D.C.).

³⁰ *Id.* (“Una tercera parte de las adolescentes ha sufrido una iniciación sexual forzada”).

³¹ International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, art. 6(1) U.N. Doc A/6316 (Dec. 16, 1966), 999 U.N.T.S. 171, (entered into force March 23, 1976) [hereinafter ICCPR].

³² *Id.*, art. 7; see also HRC, *General Comment 20 (art. 7): Replaces general comment 7 concerning prohibition of torture and cruel treatment or punishment*, para. 5, U.N. Doc. HRI/GEN/1/Rev.7 (1992) [hereinafter HRC, *General Comment 20*].

³³ ICCPR, *supra* note 31, art. 9.

³⁴ *Id.*, art. 17.

³⁵ *Id.*, art. 4(2).

³⁶ HRC, *General Comment 20*, *supra* note 32, paras. 2, 5: “The aim of the provisions of article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity”; “The prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. In the Committee’s view, moreover, the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an

educative or disciplinary measure. It is appropriate to emphasize in this regard that article 7 protects, in particular, children, pupils and patients in teaching and medical institutions.”

³⁷ ECUADOR CONST. (2008), chap. 3, art. 35: “Las personas adultas mayores, niñas, niños y adolescentes, mujeres embarazadas, personas con discapacidad, personas privadas de libertad y quienes adolezcan de enfermedades catastróficas o de alta complejidad, recibirán atención prioritaria y especializada en los ámbitos público y privado. La misma atención prioritaria recibirán las personas en situación de riesgo, las víctimas de violencia doméstica y sexual, maltrato infantil, desastres naturales o antropogénicos. El Estado prestará especial protección a las personas en condición de doble vulnerabilidad”.

³⁸ ICCPR, *supra* note 31, art. 24.

³⁹ HRC, *General Comment 28*, *supra* note 10, para. 11.

⁴⁰ HRC, *General Comment 20*, *supra* note 32, para. 2.

⁴¹ *Id.*

⁴² HRC, *General Comment 17 (art. 24): Rights of the Child*, para. 3, 35th Sess., 1989, in *Compilation of General Comments and General Recommendations, adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1, at 23 (1994), available at <http://www.unhcr.org/refworld/docid/45139b464.html>; see also generally HRC, *General Comment 8 (art. 9)*, para. 1, 16th Sess. 1982, in *Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1, at 8 (1994); HRC, *General Comment 20*, *supra* note 32, para. 5; HRC, *General Comment 28*, *supra* note 10, at para. 3.

⁴³ HRC, *General Comment 17*, *supra* note 42.

⁴⁴ HRC, *General Comment 18: Non-discrimination*, para. 7, 37th Sess., 1989, in *Compilation of General Comments and General Recommendations, adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1, at 26 (1994).

⁴⁵ See HRC, *General Comment 28*, *supra* note 11; para. 1, “The Committee points out that paragraph 1 is applicable to all deprivations of liberty...”; para. 10, “States parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions. States parties should also report on measures to protect women from practices that violate their right to life...”; para. 11, “The Committee needs to be provided information on national laws and practice with regard to domestic and other types of violence against women, including rape. It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape...”; para. 20, “States parties must provide information to enable the Committee to assess the effect of any laws and practices that may interfere with women's right to enjoy privacy and other rights protected by article 17 on the basis of equality with men. An example of such interference arises where the sexual life of a woman is taken into consideration in deciding the extent of her legal rights and protections, including protection against rape.”

⁴⁶ *Id.*, para. 10.

⁴⁷ *Id.*, para. 20.

⁴⁸ ICCPR, *supra* note 31, art. 6, para. 1; HRC, *General Comment 28*, *supra* note 10, para. 10.

⁴⁹ See ICCPR, *supra* note 31, arts. 7, 9; HRC, *General Comment 20*, *supra* note 32, para. 2.

⁵⁰ ICCPR, *supra* note 31, art. 17; HRC, *General Comment 28*, *supra* note 10, para. 20.

⁵¹ ICCPR, *supra* note 31, art. 2, paras. 1-2.

⁵² See HRC, *General Comment 3 (art. 2): Implementation at the national level*, para. 1, 13th Sess. 1981, in *Compilation of General Comments and General Recommendations, adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1, at 4 (1994); see also HRC, *General Comment 28*, *supra* note 11, para. 3: “The State party must not only adopt measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women. States parties must provide information regarding the actual role of women in society so that the Committee may ascertain what measures, in addition to legislative provisions, have been or should be taken to give effect to these obligations, what progress has been made, what difficulties are encountered and what steps are being taken to overcome them.”

⁵³ ICCPR, *supra* note 31, art. 3 (*emphasis added*).

⁵⁴ *Id.*, art. 26.

⁵⁵ ECUADOR CONST. (2008), art. 3: “Son deberes primordiales del Estado: 1. Garantizar sin discriminación alguna el efectivo goce de los derechos establecidos en la Constitución y en los instrumentos internacionales, en particular la educación, la salud, la alimentación, la seguridad social y el agua para sus habitantes”.

⁵⁶ ECUADOR CONST. (2008), art. 11, para. 2: “Todas las personas son iguales y gozarán de los mismos derechos, deberes y oportunidades. Nadie podrá ser discriminado por razones de etnia, lugar de nacimiento, edad, sexo, identidad de género, identidad cultural, estado civil, idioma, religión, ideología,

filiación política, pasado judicial, condición socio-económica, condición migratoria, orientación sexual, estado de salud, portar VIH, discapacidad, diferencia física; ni por cualquier otra distinción, personal o colectiva, temporal o permanente, que tenga por objeto o resultado menoscabar o anular el reconocimiento, goce o ejercicio de los derechos. La ley sancionará toda forma de discriminación. El Estado adoptará medidas de acción afirmativa que promuevan la igualdad real en favor de los titulares de derechos que se encuentren en situación de desigualdad”.

⁵⁷ ECUADOR CONST. (2008), 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”.

⁵⁸ ECUADOR CONST. (2008), 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”.

⁵⁹ ECUADOR CONST. (2008), art. 347, para. 4: “Asegurar que todas las entidades educativas impartan una educación en ciudadanía, sexualidad y ambiente, desde el enfoque de derechos. 6. Erradicar todas las formas de violencia en el sistema educativo y velar por la integridad física, psicológica y sexual de las estudiantes y los estudiantes”.

⁶⁰ ECUADOR CONST. (2008), 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”.

⁶¹ *Id.*

⁶² ECUADOR CONST. (2008), art. 35, *supra* note 37.

⁶³ ECUADOR CONST. (2008), chap. 3, art. 44: “El Estado, la sociedad y la familia promoverán de forma prioritaria el 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. Este entorno permitirá la satisfacción de sus necesidades sociales, afectivo-emocionales y culturales, con el apoyo de políticas intersectoriales nacionales y locales”.

⁶⁴ ECUADOR CONST. (2008), 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. Las niñas, niños y adolescentes tienen derecho a la integridad física y psíquica; a su identidad, nombre y ciudadanía; a la salud integral y nutrición; a la educación y cultura, al deporte y recreación; a la seguridad social; a tener una familia y disfrutar de la convivencia familiar y comunitaria; a la participación social; al respeto de su libertad y dignidad; a ser consultados en los asuntos que les afecten; a educarse de manera prioritaria en su idioma y en los contextos culturales propios de sus pueblos y nacionalidades; y a recibir información acerca de sus progenitores o familiares ausentes, salvo que fuera perjudicial para su bienestar. El Estado garantizará su libertad de expresión y asociación, el funcionamiento libre de los consejos estudiantiles y demás formas asociativas. Art. 46 - El Estado adoptará, entre otras, las siguientes medidas que aseguren a las niñas, niños y adolescentes: 4. Protección y atención contra todo tipo de violencia, maltrato, explotación sexual o de cualquier otra índole, o contra la negligencia que provoque tales situaciones”.

⁶⁵ ECUADOR CONST. (2008), art. 81: La ley establecerá procedimientos especiales y expeditos para el juzgamiento y sanción de los delitos de violencia intrafamiliar, sexual, crímenes de odio y los que se cometan contra niñas, niños, adolescentes, jóvenes, personas con discapacidad, adultas mayores y personas que, por sus particularidades, requieren una mayor protección. Se nombrarán fiscales y defensoras o defensores especializados para el tratamiento de estas causas, de acuerdo con la ley.

⁶⁶ ECUADOR CONST. (2008), art. 43.

⁶⁷ ECUADOR CONST. (2008), art. 66: El derecho a tomar decisiones libres, responsables e informadas sobre su salud y vida reproductiva y a decidir cuándo y cuántas hijas e hijos tener.

⁶⁸ ECUADOR CONST. (2008), art. 363: Asegurar acciones y servicios de salud sexual y de salud reproductiva, y garantizar la salud integral y la vida de las mujeres, en especial durante el embarazo, parto y postparto.

⁶⁹ CLADEM-ECUADOR, SHADOW REPORT ON DISCRIMINATION, *supra* note 4, at 7.

⁷⁰ CLADEM-ECUADOR, ALTERNATIVE REPORT ON ESCR, *supra* note 7, at 8.

⁷¹ *Id.*

⁷² *Id.*

⁷³ SAFE SCHOOLS, *supra* note 7, at 46.

⁷⁴ National Plan on the Eradication of Sexual Offenses, *supra* note 7, para. 2.2.2.

⁷⁵ El Ministro de Educación, Cultura, Deportes, y Recreo, Reglamento Especial de Procedimientos y Mecanismos sobre Delitos Sexuales en el Sistema Educativo: Acuerdo No. 4794, Dec. 13, 2002 (Minister of Education, Culture, Sports, and Recreation, Special Regulation of Procedures and Mechanisms regarding Sexual Offenses in the Educational System: Agreement No. 4794), *available at* <http://ecuador.unfpa.org/delitosexuales.htm>.

⁷⁶ In 2006, after the National Plan on the Eradication of Sexual Offenses, *supra* note 7, was issued, Agreement No. 403 purported to institutionalize sexual education in the form of the National Plan for Education on Sexuality and Love (PRONESA). (Minister of Education, Agreement No. 403, Sept. 10, 2006). Subsequently, in March 2007, Agreement No. 089 was issued on the prohibition of discrimination against pregnant students and again on the implementation of sexual education (Minister of Education, Agreement No. 089, March 8, 2007). Next, in May 2007, Agreement No. 196 again reformed the procedures and mechanisms on the knowledge and treatment of sexual offenses in schools (Ministry of Education, Agreement No. 196, May 30, 2007), *available at* <http://www.educacion.gov.ec/acuerdos/documentos/normassisedu/acuerdo%20196.pdf>. Most recently, in February 2008, Agreement No. 062 was issued, again on the institutionalization of the National Plan on the Eradication of Sexual Offenses, *supra* note 7, and PRONESA (Minister of Education, Agreement No. 062, Feb 26, 2008), *available at* <http://www.educacion.gov.ec/php/codigo/acuerdos/documentos/ACUERDO%20062.pdf>.

⁷⁷ Human Rights Committee (HRC), *Concluding Observations: Ecuador*, para. 3, U.N. Doc. CCPR/C/79/Add.92 (1998), *available at*

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.79.Add.92.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.79.Add.92.En?Opendocument).

⁷⁸ Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Concluding Observations: Ecuador*, para. 286, U.N. Doc. A/58/38 (2003), *available at* <http://www2.ohchr.org/english/bodies/cedaw/docs/co/EcuadorCO29.pdf>; *see also* CEDAW Committee, *Concluding Observations: Uganda*, para. 340, U.N. Doc. A/50/38 (1995) (recommending that “measures be taken to raise the awareness of teachers and citizens in order to halt sexual abuse against children.”).

⁷⁹ National Plan on the Eradication of Sexual Offenses, *supra* note 7. *See also* references note 81.

⁸⁰ *Id.* at 20-27.

⁸¹ SAFE SCHOOLS, *supra* note 7, at 61.

⁸² *Ecuador Report to CEDAW* (2008), *supra* note 12.

⁸³ NAN STEIN, CLASSROOMS AND COURTROOMS: FACING SEXUAL HARASSMENT IN K-12 SCHOOLS 25-26 (1999) [hereinafter STEIN]; PALUDI AND BARICKMAN, *supra* note 22, para. 120 (Results from studies show that sexual harassment of girls affects their feelings toward and performance in school negatively.).

⁸⁴ *Id.*

⁸⁵ *See generally* ACTIONAID INTERNATIONAL, STOP VIOLENCE AGAINST GIRLS IN SCHOOL (2004).

⁸⁶ *Ecuador Report to CEDAW* (2008), *supra* note 12, para. 36.

⁸⁷ CEDAW Committee, *General Recommendation 19: Violence against Women*, para. 11, U.N. Doc. A/47/38 (1992) [hereinafter CEDAW Committee, *General Recommendation 19*].

⁸⁸ STEIN, *supra* note 83; PALUDI & BARICKMAN, *supra* note 22, at 119.

⁸⁹ CLADEM-ECUADOR, ALTERNATIVE REPORT ON ESCR, *supra* note 7, at 8.

⁹⁰ *Id.* para. 10. (“The Committee is concerned at the many instances of violence against women and the very few judicial decisions thereon. The Committee stresses that all reported acts of violence against women should be investigated and appropriate judicial proceedings instituted.”).

⁹¹ *Id.*

⁹² The Ministry of Education, the Ministry of Health, the Economic and Social Welfare Council, the National Council for Women, the National Council for Children and Adolescents, and Project Ecuador are among the State agencies responsible for creating and implementing programs that address adolescent health, especially with regard to sexual health and pregnancy.

⁹³ *Ecuador Report to CCPR* (2008), *supra* note 21, para. 79.

⁹⁴ PLAN NACIONAL DE PREVENCIÓN DEL EMBARAZO EN ECUADOR (2007) 4, para. 1.2.

⁹⁵ *Ecuador Report to CEDAW* (2008), *supra* note 12, para. 43 (“Pregnant teens between 15 and 19 years old run a risk of dying during childbirth twice that of the 20 to 29 age group; the risk for those under 15 is five times higher.”).

⁹⁶ Ecuador Penal Code, art. 444.

⁹⁷ Ecuador Penal Code, art. 447.

⁹⁸ *Ecuador Report to CCPR* (2008), *supra* note 21, para. 78.

⁹⁹ *Id.*, para. 119.

¹⁰⁰ *Id.*, para. 380.

¹⁰¹ *Id.*, para. 79.

¹⁰² *Id.*, at 118. In 2006, only 190,149 women, corresponding to 2.84% of women between 35 and 64 years performed a test for early detection of cervical cancer in the units of the Ministry of Public Health, pathology constitutes a major cause death in the country.