

September 13, 2012

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 49<sup>th</sup> Session (November 2012)**

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 49 Session in November 2012. 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 rights to health, nondiscrimination, and education, as recognized by the ICESCR.<sup>1</sup> 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.

## **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,<sup>2</sup> 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.<sup>3</sup> The definition of health adopted under the ICESCR takes into account social concerns, such as violence,<sup>4</sup> and underlying determinants of health such as health-related education and information, including information on sexual and reproductive health.<sup>5</sup>

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.”<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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.”<sup>9</sup> Additionally, victims of violations to the right to health must have access to effective judicial or other appropriate remedies.<sup>10</sup>

State parties to the ICESCR are also obligated to ensure that the right to education<sup>11</sup> is free from discrimination based on prohibited grounds,<sup>12</sup> such as sex. This right to nondiscrimination in education is immediately applicable to all aspects of education and is not subject to progressive realization.<sup>13</sup> States are obligated to ensure that third parties do not interfere with the right to education,<sup>14</sup> particularly in regards to girls' ability to attend school.<sup>15</sup> State parties must remove gender stereotyping which impedes girls' access to education.<sup>16</sup> 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.<sup>17</sup>

#### 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,<sup>18</sup> 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 two<sup>19</sup> to sixty three percent of girls in Ecuador are victims of sexual abuse.<sup>20</sup> Studies indicate that educational institutions are the primary setting for sexual violence against girls, with one study finding that one in four female students were sexually abused.<sup>21</sup> Of students who had been sexually abused, thirty seven percent identified male teachers as the perpetrators.<sup>22</sup> 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.<sup>23</sup> 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; [and] sexually transmitted diseases including HIV/AIDS”.<sup>24</sup> Sexual violence is also linked to poor performance in school,<sup>25</sup> elevated drop-out rates,<sup>26</sup> and psychological trauma.<sup>27</sup> 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.<sup>28</sup> 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,<sup>29</sup> 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.<sup>30</sup> NGOs

report that sexual harassment and abuse in schools generally go unpunished, and that teachers and administrators fail to address the problem and show reluctance in punishing perpetrators.<sup>31</sup> 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.<sup>32</sup> 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.”<sup>33</sup>

c. Domestic Legal Framework

i. Ecuadorean Constitution

In addition to its international legal obligations, there are domestic laws that establish the State’s duty to affirmatively protect women and girls from sexual violence and to investigate, punish and provide redress for such violations. The Ecuadorean Constitution, under Article 3, establishes the State’s responsibility for providing all persons “without discrimination, the effective enjoyment of rights under the Constitution and international instruments, including education, [and] health...”<sup>34</sup> 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.<sup>35</sup>

The Constitution also guarantees the right to education for all persons throughout their lives.<sup>36</sup> 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.<sup>37</sup> 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.”<sup>38</sup> The right to health is also expressly recognized in the Constitution, which establishes the right to sexual and reproductive health<sup>39</sup> and notes the connection between the right to health and the ability to exercise other rights, including the right to education.<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup> 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.”<sup>43</sup> The State must adopt measures to prevent, eliminate, and sanction all forms of violence, specifically including violence against women, children and adolescents.<sup>44</sup> Furthermore, 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.<sup>45</sup>

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 assessment of the legislation's actual impact. Furthermore, when such statistics have been recorded, as is the case for the modification of the penal code to criminalize sexual harassment, they demonstrate that the law is not being implemented effectively.

In the chart provided by the State party on prosecutions of sexual harassment in its Third Periodic Report, it is abundantly clear that laws designed to address the issue are minimally enforced. In 2003 and 2004, there were 633 reports of sexual harassment, and not a single one led to a conviction.<sup>46</sup> The year 2005 barely fared better, with only one conviction out of 358 reports.<sup>47</sup> As the number of reports increased in 2006 and 2007, the number of convictions remained dismally low, at 25 out of 850.<sup>48</sup> In 2009, the number of convictions again dropped to zero.<sup>49</sup> 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.<sup>50</sup> 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.<sup>51</sup>

The State's report on the programs aimed at decreasing gender based violence and promoting equality is extremely vague. The reporting on the two programs, 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),<sup>52</sup> 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 either these programs, nor any statistics on the impact of the programs thus far.

Although not mentioned in the current State Report, Ecuador has previously 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.<sup>53</sup> The National Plan suffers from numerous pitfalls demonstrative of the obstacles faced by other

legislation in Ecuador. The legislation fails to contain concrete measures and guidelines and 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 not result in concrete improvements to the current system.

The legislative framework 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 educational institutions to internally investigate allegations of abuse. In order to ensure that full, impartial investigations into allegations of abuse occur, the legislation must be reformed to provide independent investigations by bodies which are not associated with the educational system and are not hindered by conflicting interests. Additionally, a mechanism should be implemented to ensure that each report of sexual violence in an educational setting is mandatorily transmitted to the police and the judiciary, who will be obliged to conduct an independent investigation and prosecute offenders.

The lack of understanding by educational leaders, the police and the judiciary about what constitutes sexual abuse further prevents effective implementation of the legislation. These 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.

In 2008, Ecuador admitted to the Committee on the Elimination of Violence against Women (CEDAW Committee) 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.<sup>54</sup> To date, this has not been addressed. 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. This Committee has previously urged Ecuador “to address the issues of sexual abuse,”<sup>55</sup> 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. As the Inter-American Commission on Human Rights (IACHR) has stated, “the duty of States to provide judicial recourses is not limited to making them formally available for victims, but also that States should guarantee that these recourses are adequate and effective...”<sup>56</sup> The mere creation of laws is inadequate to satisfy a State’s international obligations. 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.

Various comments issued by this Committee and other treaty monitoring bodies have raised the issue of violence against girls in schools. These bodies expressed concern over the consistent reports of high incidences of violence against woman and girls in schools and the government’s failure to take adequate measures to address the problem.<sup>57</sup> This lack of response by the State party was also recognized as a contributing factor for the under-reporting of the incidences by the victims.<sup>58</sup>

The Committee against Torture (CAT), CEDAW Committee and Committee on the Rights of the Child (CRC) have all called upon Ecuador to adopt the necessary measures to address the issue of sexual violence against girls in schools. CAT has 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.<sup>59</sup> The CEDAW Committee has urged the State party to promptly design and implement a comprehensive strategy to combat and eradicate all forms of violence against women and girls,<sup>60</sup> and has 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.”<sup>61</sup> The CAT specifically cited the case of Paola Guzmán as one to be monitored for advancements.<sup>62</sup>

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,<sup>63</sup> which Ecuador has failed to provide. The Human Rights Committee and CEDAW Committee have issued comments on the lack of reliable statistics in Ecuador,<sup>64</sup>

with the CEDAW Committee requesting that Ecuador 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.”<sup>65</sup>

This Committee has highlighted the importance of ensuring education for women and girls without discrimination on numerous occasions.<sup>66</sup> 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 non-derogable and is not subject to progressive realization.<sup>67</sup> 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,<sup>68</sup> and refrain from discriminatory practices that result in the denial of equal rights.<sup>69</sup>

As evidenced by Ecuador’s Third Periodic Report and the aforementioned information, Ecuador has not implemented the various recommendations issued by this 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. Questions for Ecuador**

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

1. Is Ecuador planning to adopt concrete measures to ensure the bodies investigating allegations of abuse are independent and autonomous from the educational institutions? Is Ecuador planning to guarantee that allegations of abuse in educational settings will be reported to the police and judiciary?
2. Can Ecuador provide information on the level of efficacy of current identification and accountability towards perpetrators of sexual violence in schools? Has Ecuador implemented measures to ensure that victims of sexual violence are granted proper redress?
3. Does the State plan to collect 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. Has Ecuador adopted mechanisms to monitor the impact of the various pieces of legislation that have been implemented to prevent sexual violence in schools? Are there any qualitative and quantitative results? Is the State planning to continue monitoring their impact and improve upon the programs?

### **III. Recommendations for Ecuador**

In light of the information provided above, we hope that this Committee will consider making the following recommendations to Ecuador:

1. Adopt all measures to prevent, investigate and punish all cases of sexual violence in schools.
2. Adopt measures to guarantee access to comprehensive and quality sexual and reproductive health care services particularly in cases of sexual abuse.

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 Observations and recommendations the Committee has issued to governments in the past which emphasize 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,



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Center for Reproductive Rights



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

<sup>2</sup> *Id.*, art. 12(1).

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

<sup>4</sup> *Id.*, ¶ 10.

<sup>5</sup> *Id.*, ¶ 11.

<sup>6</sup> *Id.*, ¶ 33.

<sup>7</sup> *Id.*, ¶ 51.

<sup>8</sup> *Id.*, ¶ 35.

<sup>9</sup> *Id.*, ¶ 51.

<sup>10</sup> *Id.*, ¶ 59.

<sup>11</sup> ICESCR, *supra* note 1, art. 13.

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

<sup>13</sup> *Id.*, ¶ 31.

<sup>14</sup> *Id.*, ¶ 47.

<sup>15</sup> *Id.*, ¶ 50.

<sup>16</sup> *Id.*, ¶ 55.

<sup>17</sup> *Id.*, ¶ 59.

<sup>18</sup> *Id.*, ¶ 1.

<sup>19</sup> 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 GENERO, ECUADOR (1995)).

<sup>20</sup> 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 (Feb. 2005) [hereinafter CEPAM GUAYAQUIL].

<sup>21</sup> 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].

<sup>22</sup> 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).

<sup>23</sup> 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%200507.pdf>.

<sup>24</sup> 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].

<sup>25</sup> 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].

<sup>26</sup> STEIN, *supra* note 25, at 25-26; PALUDI & BARICKMAN, *supra* note 25, at 120.

<sup>27</sup> See ACTION AID INTERNATIONAL, STOP VIOLENCE AGAINST GIRLS IN SCHOOL (2004), *available at* <http://www.actionaid.se/files/StopViolenceAgainstGirls.pdf>.

<sup>28</sup> UNICEF, *Fact Sheet: Young People and Family Planning: Teenage Pregnancy* (July 2008) *available at* [http://www.unicef.org/malaysia/Teenage\\_Pregnancies\\_-\\_Overview.pdf](http://www.unicef.org/malaysia/Teenage_Pregnancies_-_Overview.pdf)

<sup>29</sup> 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 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).

<sup>30</sup> Inter-American Commission on Human Rights, Acceso la a Justicia para las Mujeres Víctimas de Violencia en las Américas, ¶ 18, OEA/Ser.L/V/II, Doc. 68 (2007),

<http://www.cidh.org/pdf%20files/Informe%20Acceso%20a%20la%20Justicia%20Espanol%20020507.pdf>.

<sup>31</sup> 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, PERIODO 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](http://www.cladem.org/monitoreo/informes-alternativos/Ecuador/Comite_CEDAW/Inf-Som-Ecuador-2006.pdf).

<sup>32</sup> 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>.

<sup>33</sup> CESCR, *Concluding observations: Jamaica*, ¶ 14, U.N. Doc. E/C.12/1/Add.75 (Dec. 6, 2011).

<sup>34</sup> ECUADOR CONST. (2008), art. 3.

<sup>35</sup> ECUADOR CONST. (2008), art. 11, ¶ 2.

<sup>36</sup> 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”).

<sup>37</sup> ECUADOR CONST. (2008), art. 27 y 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”).

<sup>38</sup> ECUADOR CONST. (2008), 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”).

<sup>39</sup> 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. 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”).

<sup>40</sup> ECUADOR CONST. (2008), art. 347, ¶ 4 (“Asegurar que todas las entidades educativas impartan una educación en ciudadanía, sexualidad y ambiente, desde el enfoque de derechos.”).

<sup>41</sup> ECUADOR CONST. (2008), art. 35.

<sup>42</sup> ECUADOR CONST.. (2008), 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 aseguraran 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”).

<sup>43</sup> ECUADOR CONST. (2008), art. 4.5.

<sup>44</sup> ECUADOR CONST. (2008), 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”).

<sup>45</sup> ECUADOR CONST. (2008), art. 81.

<sup>46</sup> 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*, Table 3 at 35-36, U.N. Doc. E/C.12/ECU/3 (May 20, 2011) [hereinafter CESCR, *Third Periodic Report (Ecuador)*].

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> See *Id.*, ¶ 288 – 297.

<sup>51</sup> Children’s Rights Committee (CRC), *Fourth periodic report (Ecuador)*, ¶ 574, U.N. Doc. CRC/C/ECU/4 (July 10, 2009).

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

<sup>53</sup> 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>.

<sup>54</sup> 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, 42<sup>nd</sup> Sess., ¶ 2, U.N. Doc. CEDAW/C/ECU/Q/7/Add.1 (Apr. 25, 2008).

<sup>55</sup> 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 (June 7, 2004).

<sup>56</sup> Inter-American Commission on Human Rights (IACHR), *Access to Justice for Women Victims of Sexual Violence: Education and Health*, ¶ 164 OEA/Ser.L/V/II.Doc. (Dec.28, 2011), available at <http://www.oas.org/en/iachr/women/docs/pdf/SEXUALVIOLENCEEducHealth.pdf>.

<sup>57</sup> Committee Against Torture (CAT), *Conclusions and Recommendations of the Committee Against Torture: Ecuador*, ¶ 18, U.N. Doc. CAT/C/ECU/CO/4-6 (Nov. 18, 2010) [Hereinafter CAT, *Conclusion and Recommendation: Ecuador*] (The Committee expressed “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. While it takes note of the existence of a plan to eradicate sexual offences in educational establishments, the Committee considers that there has not yet been an adequate institutional response by the State party...”); CEDAW Committee, *Concluding Observations: Ecuador*, ¶ 20, U.N. Doc. CEDAW/C/ECU/CO/7 (Nov.7, 2008) [Hereinafter CEDAW, *Concluding Observations: Ecuador*] (The Committee expressed concern over the “high incidences of violence against women and girls...including domestic and sexual violence, and at the gaps in coverage and limitations in resources directed at the programs to protect women victims.”); The Human Rights Committee and the Committee on the Rights of the Child (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 (Sep. 15, 2005); Human Rights Committee, *Concluding Observations of the Human Rights Committee, Ecuador*, ¶ 9, U.N. Doc. CCPR/C/ECU/CO/5 (Nov. 4, 2009).

<sup>58</sup> CAT, *Conclusion and Recommendation: Ecuador*, ¶ 18.

<sup>59</sup> *Id.*

<sup>60</sup> CEDAW, *Concluding Observations: Ecuador*, ¶ 21.

<sup>61</sup> 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 Committee on the Rights of the Child (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 (Sep. 15, 2005); Human Rights Committee, *Concluding Observations of the Human Rights Committee, Ecuador*, ¶ 9, U.N. Doc. CCPR/C/ECU/CO/5 (Nov. 4, 2009).

<sup>62</sup> CAT, *Conclusion and Recommendation: Ecuador*, *supra* note 57.

<sup>63</sup> See CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Kenya*, ¶ 22, U.N. Doc. E/C.12/KEN/CO/1 (December 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 (December 1, 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 (December 1, 2008).

<sup>64</sup> Human Rights Committee, *Concluding Observations: Ecuador*, ¶ 3, U.N. Doc. CCPR/C/79/Add.92 (Aug. 18, 1998).

<sup>65</sup> CEDAW, *Concluding Observations: Ecuador*, *supra* note 56, ¶ 21.

<sup>66</sup> See CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Bolivia*, ¶ 29, U.N. Doc. E/C.12/BOL/CO/2 (August 8, 2008); CESCR, *Concluding Observations, El Salvador*, ¶ 45, U.N. Doc. E/C.12/SLV/CO/2 (June 27, 2008); CESCR, *Concluding Observations: Morocco*, ¶ 32, U.N. Doc. E/C.12/1/Add.55 (Dec. 1, 2000); CESCR, *Concluding Observations, Algeria*, ¶ 26, U.N. Doc. E/C.12/1995/17 (Dec. 28, 1995).

<sup>67</sup> 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 (Aug. 11, 2005) [hereinafter CESCR, *General Comment No. 16*]; CESCR, *General Comment No. 14*, *supra* note 3, ¶ 30.

<sup>68</sup> *Id.*, ¶ 21.

<sup>69</sup> *Id.*