



HUMAN
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WATCH

“It’s a Constant Fight”

School-Related Sexual Violence and Young Survivors’ Struggle
for Justice in Ecuador



“It’s a Constant Fight”

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for Justice in Ecuador**

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Summary

This is the pain that I have – I’m not only fighting against my child’s abuser, and his lawyer... No, this is a constant fight against the whole education system... the prosecutor... it’s a constant fight. They [school and prosecutor’s office] tell us they’ll give us support. [But] when the time comes, [we] get nothing at all.

—Fabián Salguero, whose son, 5 at the time, was raped by a teacher in a public school in Quito in 2018

Sexual and gender-based violence has been a long-standing, endemic problem in Ecuador’s education system, with high levels of sexual violence from pre-school to high school. For decades, Ecuador has failed hundreds of children and adolescents, impacting their right to education, their right to be protected from violence, the integrity of their sexual and reproductive rights, and their right to redress. Between 2014 and May 2020, Ecuador’s Ministry of Education registered 3,607 complaints of school-related sexual violence. Some cases involved more than one student: 4,221 children and adolescents suffered sexual violence by teachers, school staff, janitors, school bus drivers, and fellow students. Given the generally low levels of reporting of gender-based violence and school-related sexual violence in Ecuador, those cases likely represent only a proportion of actual school-related cases of sexual violence across the country.

Over the last decade, Ecuador’s governments have approached the issue in disparate ways. Between 2011 and 2017, under President Rafael Correa, the government adopted a protocol and a national plan to eradicate sexual offenses in the education system and rolled out a national campaign. But virtually no money was spent on the plan’s execution. At national level, civil society groups were often not able to conduct crucial prevention work in schools. Ecuador’s state comptroller and evaluations conducted by the National Assembly afterwards established that ministers under the Correa administration had been responsible for the failure to systemically tackle and respond to cases of sexual violence, and for the rise in cases of school-related sexual violence.

In mid-2017, Ecuador's incumbent government under President Lenín Moreno acknowledged the very high levels of school-related sexual violence perpetrated against students. The trigger for this development was a devastating case of sexual abuse that only came to light seven years after the fact when families affected relied on the media to amplify the serious barriers to justice they faced. In 2010, 41 children, ages 10 to 11, were systematically assaulted, some raped, and subjected to horrific physical and psychological abuse for two years by a man who lacked teaching qualifications but was able to enroll as a teacher at the Academia Aeronáutica Mayor Pedro Traversari (AAMPETRA), a private school in the south of Quito, Ecuador's capital.

In 2016, after long and traumatic judicial proceedings, the defendant was found guilty of abusing and assaulting the children, and for raping one student. Prosecutor Mayra Soria, one of the very few prosecutors working in the Prosecutor's Office gender-based violence unit, requested financial and holistic reparative measures for all the children and their families. The court agreed and ordered a host of measures to require the school's authorities to publicly apologize to survivors and families for its failings, including hanging a plaque outside the classroom in memory of children who suffer sexual abuse in schools. It also requested the state to provide other reparations to the victims, including psychosocial therapy and university scholarships.

However, the school stalled on these measures, humiliating the parents and children affected by refusing to conduct a meaningful symbolic ceremony on the school's grounds. The school's owner also challenged the orders in court, arguing that the school itself was not part of the judicial proceedings, and claiming the proceedings had caused grave social damage to the school. Families wrote to senior politicians and members of Ecuador's National Assembly to demand justice for their children. This resulted in the creation of the AAMPETRA Commission by the National Assembly in July 2017. Triggered by the facts in the AAMPETRA case, the Commission sought to investigate cases of school-related sexual violence against children in Ecuador, and look into and evaluate actions taken by all relevant ministries and judicial and human rights institutions to tackle this problem.

According to survivors, lawyers, and experts connected to the case interviewed by Human Rights Watch, the AAMPETRA case revealed a perfect storm of failings within the school, the Ministry of Education, and the justice system. Yet, cases that happened over a decade later show ongoing failures in both systems. Some have shared similar characteristics with

AAMPETRA, such as those at the public Colegio Réplica Aguirre Abad and the private Colegio Interamericano, both schools in the city of Guayaquil, where teachers sexually abused large groups of pre-school children.

Based on 83 interviews, an analysis of 38 cases, and official data on school-related sexual violence, this report focuses on cases of sexual violence that have occurred in Ecuador's educational institutions between 2010 and 2019. The report focuses particularly on the responses by education and judicial authorities, with attention to cases that happened from 2017 onwards when the incumbent government implemented a series of key policy and legal measures to acknowledge and tackle school-related sexual violence as a national priority.

In October 2017, President Moreno and Fander Falconí, then-Minister of Education, declared zero tolerance against sexual violence in educational institutions, announced the government's commitment to ending impunity for cases of school-related sexual violence, and re-opened hundreds of cases of sexual violence that had been archived or suspended prior to 2017.

Since then, Ecuador's Ministry of Education has engaged in notable efforts to acknowledge and tackle the scale of sexual violence affecting its schools. It introduced binding policies and step-by-step guidelines for education officials in cases of sexual violence, instructed education officials to report cases immediately, and to inspect and, where necessary, intervene in public or private schools when school authorities have failed to take necessary measures. But crucial as these actions are, Ecuador still faces serious challenges in how schools and education officials respond to sexual violence in educational institutions.

Human Rights Watch found that teachers, other staff hired by schools, and school bus drivers have raped, sexually abused, and sexually harassed students. Students have also committed sexual abuses against their fellow students, including online. Sexual violence sometimes occurred over prolonged periods. Survivors were not only deeply affected by sexual violence, but some also faced harassment, bullying, and intimidation after they reported the abuses.

Children, young people, and their families told Human Rights Watch they had to cope with isolation, with being blamed for abuses perpetrated against them, and with stigmatizing behaviors from their teachers, school officials and peers.

In some cases, in breach of their legal obligations, some teachers and school staff, including school counsellors, have protected teachers or school staff against whom credible allegations of sexual abuse have been made. Some have failed to report on such cases. Some private schools have failed to report cases, including cases affecting large groups of children. The government should ensure that all schools, public or private, protect children and adolescents, yet it appears to have failed to fully enforce its policies in private schools and to consistently hold them to account for cases of sexual violence.

The Ministry of Education's rollout of a comprehensive database in 2018 to track reporting, investigations and prosecutions of school-related staff who perpetrate school violence is a critical component of the government's efforts. Yet, nationally, there is a shortage of school counsellors, who have been instrumental in reporting cases and supporting students. Some school counsellors told Human Rights Watch that, in some schools or districts, they have little support to report cases: teachers and school officials sometimes undermine these staff and student welfare teams. In some provinces, district authorities discouraged them from reporting cases.

Some survivors interviewed by Human Rights Watch felt they did not get justice even when they went to trial. Many children, and their families, have faced serious hurdles when seeking justice for the crimes they suffered: most families whose cases Human Rights Watch documented felt that they had been forced to fight for justice. In the process, they sometimes exhausted their financial resources, with great impact on the mental health and well-being of the entire family. Despite a constitutional obligation to expedite the judicial process when children and adolescents are involved, judicial proceedings are still delayed and not always conducted in the best interests of children and adolescents. Out of the 38 cases documented by Human Rights Watch, 21 went to court. Fifteen survivors' cases concluded in a trial and conviction. Prosecutions are still very low: data from the Prosecutor's Office analysed by Human Rights Watch shows that between 2015 and 2019 only three percent of reported cases of sexual violence against children and adolescents have gone to trial.

Investigations and judicial proceedings are not survivor-centered. Many prosecutors and judges lack the skills and training needed to work on cases related to sexual and gender-based violence. As a result, some children experience re-traumatization. Restorative justice for young survivors of sexual violence remains a distant prospect.

In 2020, the Inter-American Court of Human Rights heard the case of Paola Guzmán Albarracín against Ecuador—the court’s first ever case on school-related sexual violence. In 2001, a public school vice principal in the city of Guayaquil raped Paola, a 14-year-old student, for over a year, with the knowledge and complicity of school officials. Yet the school did nothing to protect her. In December 2002, Paola took her own life. After her death, Paola’s mother, Petita Albarracín, filed complaints with the school and the local prosecutor’s office. The judicial proceedings suffered serious delays.

In June 2020, the Inter-American Court found Ecuador responsible for violating Paola’s rights to life, to study free from sexual violence, and to sexual and reproductive health and bodily autonomy, as well as her family’s right to a fair trial and respect for their moral and psychological integrity.

Ecuador’s response to this ruling is a key opportunity for it to fully uphold its international obligations to protect students from sexual violence, and to establish an important precedent for reparations measures. As part of its ruling, the Inter-American Court has ordered Ecuador’s government to hold a high-level public ceremony to publicly recognize its international responsibilities by December 2020. The Inter-American Court also ordered key measures to ensure Ecuador’s education system fully tackles and prevents widespread sexual violence. President Moreno affirmed his government’s commitment to comply with the Court’s ruling.

In addition to fully repairing Paola Guzmán Albarracín’s family, Ecuador should swiftly declare a national day to fight against sexual violence in its educational institutions. As part of a state-led public apology, the government should amplify the effect of the court’s decision by also publicly apologizing to all young survivors of sexual violence and their families. The government should openly consult children and adolescents affected to ensure such a reparative measure is adequate and commensurate with the pain and damage inflicted by state officials on many young people.

Tackling and eradicating endemic sexual violence in educational institutions requires a long-term enforceable agenda, with support from all policymakers, including the National Assembly, that continues despite changes in government. The Ecuadorean government should do this by supporting and increasing staff focused on student welfare and protection, ensuring all schools report cases of sexual violence when they occur, and guaranteeing all complaints are adequately investigated. It should also ensure judicial proceedings properly accommodate children and adolescent victims, and are supportive of families who represent children in those proceedings.

The government should place equal attention on preventing sexual violence by ensuring all children have equal access to age-appropriate, science-based comprehensive sexuality education so that they understand their rights, and are empowered to identify and challenge both the behaviors that can lead to sexual offenses and the attempts to cover up such offenses. It should ensure its commitments are matched by financial resources by increasing education budgets for system-wide eradication and prevention, allocating more resources for gender-based violence prosecution and specialized judicial units, and restoring cross-ministerial budgets for prevention of gender-based violence and teenage pregnancies to ensure all mutually dependent policies can be implemented.

Recommendations

To the President

- To comply with the six-month deadline from the Inter-American Court of Human Rights decision in the case of Paola Guzmán Albarracín, due by December 2020:
 - Offer a public apology to Paola Guzmán Albarracín's family;
 - Declare a national day to fight sexual violence against students in Ecuador's educational institutions.
- Offer a public apology to all child survivors of sexual violence and their families, following adequate consultations with survivors.
- Order the establishment of a national fund for reparations for survivors of sexual violence, including survivors of school-related gender-based violence.
- Establish a mechanism that coordinates and monitors activities of the Ministry of Education, Prosecutor's Office, Public Defender's Office, Ministry of Social and Economic Inclusion, Ministry of Health, and Secretariat of Human Rights related to school-related sexual violence to:
 - Publish the government's plan of action to address gaps in its education system, notably on data transparency and the implementation of existing policies as required by the Inter-American Court of Human Rights judgement;
 - Adopt a child and adolescent-centered plan focused on streamlining efforts to ensure young victims are protected and adequately accompanied from the moment they report sexual violence until judicial proceedings have ended. This plan should include adequate access to psychological therapy for child survivors and their parents;
 - Regularly publish data on complaints filed in schools, including disaggregated data by location and victims that includes ethnicity, gender, and disability, gathered by all relevant government and judicial institutions—and ensure it is available to the public, protecting private information;
 - Track progress made to meet reparations ordered in court rulings, including tracking compliance with measures to be implemented by government authorities.

To the Minister of Education

- Issue a statement on the Ministry of Education's commitment to zero tolerance against sexual violence in schools and regularly report on the ministry's actions to implement the commitment.
- Allocate adequate resources to prevent and tackle school-related sexual violence, including a nationwide rollout of mandatory trainings for teachers, district and provincial education officials, and student welfare teams on legal responsibilities, sexual violence prevention, child protection, and child rights.
- Regularly monitor all levels of the Ministry of Education to ensure the education sector is adequately reporting cases of sexual violence, taking appropriate measures and sanctioning schools, district offices, and regional coordinators that do not follow established protocols.
- Regularly publish data on cases of school-related sexual violence on the ministry's website.
- Communicate to teachers, school officials, and school psychologists their individual responsibility and legal obligations to immediately report any allegations of sexual violence, including sanctions and legal penalties for any acts of omission or obstruction of information, in line with the Penal Code. After investigations, observing due process, hold staff and ministry officials to account for failing to report.
- Increase scrutiny of private schools, including non-denominational, religious or military schools, and enforce existing protocols to guarantee that private schools are accountable for obstructing investigations, or judicial proceedings.
- Work with the Ministry of Labor to establish a protocol to ensure private schools, and employees, conform to the Code of Work and ensure those found to not comply with Ministry of Education interventions, orders, and fines can be held accountable as business entities.
- Ensure the ministry's reporting database "REDEVI" follows international standards of what constitutes "school-related" gender-based violence, and ensure it counts all perpetrators involved, including school bus drivers, as perpetrators tied to educational institutions.
- Ensure that district offices provide or refer any student affected by sexual violence with psychological support and special accommodations as required, such as changing schools, additional teaching support, or flexible arrangements to ensure

students are able to continue learning in a suitable, supportive and non-stigmatizing environment.

- Adopt a protocol on the prevention of and response to school-related online sexual violence, including training for teachers and school officials, and sensitization campaigns in primary and secondary schools. Ensure that such a protocol and trainings are sensitive to, and do not criminalize or prohibit, consensual online conduct between students, and that they follow international guidance by human rights expert bodies.
- Adopt age-appropriate comprehensive sexuality education and ensure it is a mandatory subject that is accessible to all students:
 - Curricula should be scientifically and medically accurate, inclusive of LGBT students and youth, and work to dismantle harmful stigma around adolescent sexual behavior;
 - Ensure the sexuality education curriculum reinforces efforts to combat school-related sexual violence by offering information, referrals, and safe pathways for children and young people to confidentially report abuses, and sexual and reproductive health services, including services for survivors of sexual violence;
 - Include content on online sexual violence, and responsible online behavior;
 - Ensure teachers are fully and adequately trained to teach it, and that materials are available in accessible formats for students with disabilities.

To the Prosecutor's Office

- Investigate and prosecute all cases of school-related sexual violence, respecting the constitutional and legislative requirement to guarantee an expedited treatment of cases involving child or adolescent victims.
- Provide and ensure young victims of sexual violence are informed of their right to access free, quality, comprehensive, and survivor-centered rehabilitative health services, including access to emergency contraception, testing for HIV and sexually transmitted infections, in line with international standards. Ensure family representatives or legal guardians are informed and able to access adequate support and relevant services.
- Increase resources to expand and strengthen the existing gender and gender-based violence specialist team at the Prosecutor's Office, and ensure this team is

sufficiently staffed and has resources to provide adequate, hands-on support and redress for victims or their representatives who face barriers, intimidation or procedural problems.

- Increase specialized gender-based violence prosecution units, to ensure geographical coverage and provide judicial support to victims:
 - Appoint more specialized prosecutors and teams;
 - Ensure adequate training on child-centered investigations.

To the Prosecutor's Office and Judiciary Council

- Ensure the rights of young victims and their relatives under Ecuadorian law are protected throughout judicial proceedings, including by prioritizing their cases, seeking to ensure young victims only need to testify once or as few occasions as necessary to ensure justice, conducting such interviews in a Gesell chamber, strictly guarding confidentiality, and providing children and their relatives access to appropriate and accessible psychosocial services, including therapy.
- Ensure proceedings are accessible for children with disabilities, including through procedural accommodations.
- Ensure rehabilitative services prescribed in rulings can be both individual and collective, and take all appropriate measures to promote the physical, mental, and psychological healing and social reintegration of survivors of sexual violence and their families, in an environment that fosters the dignity, well-being, and autonomy of the survivor.
- Provide guidance on meaningful, holistic reparations for victims of sexual violence, in consultation with survivors and women's and children's rights organizations.
- Set-up a joint monitoring mechanism to track compliance with reparations measures set in rulings.
- Ensure children and adolescents involved in judicial proceedings, and their representatives, are provided adequate and accessible information about their right to file a complaint if they experience that the prosecutors, judges or their teams have infringed their rights to be heard, to be treated with dignity, and to be provided adequate and expedited access to justice, on an equal basis:
 - Conduct adequate and independent investigations into allegations against prosecutors, including allegations of improper, sub-par or discriminatory conduct, corruption and mishandling or arbitrarily delaying an investigation;

- Expedite processes to recuse prosecutors and judges following credible allegations of misconduct.

To the Police

- Ensure judicial police have specialized gender and children units, or work closely with the National Directorate of Police Specialized in Children and Adolescents (DINAPEN) in cases involving children and adolescents.

To the National Assembly

- Adopt a law on reparations and remedies for child and adolescent survivors of sexual violence and their families, that is informed by survivors, and includes monetary and non-monetary remedies, symbolic reparations, and acts of public reparation.
- Adopt an amendment to the Constitution and Penal Code to remove the statute of limitations for sexual offenses against children and adolescents, in line with the results of the February 2018 referendum to remove the statute of limitations in cases of sexual violence against children and adolescents.
- Approve budgets for the prevention of sexual violence, including budgets for the prevention of gender-based violence and for tackling and preventing teenage pregnancies nationally.
- Guarantee that any amendments or reforms to laws, including the Organic Law on Intercultural Education and the draft Organic Code for the Protection of Children and Adolescents, are fully in line with international law.

Methodology

This report is based on field research conducted in February, June and July 2019, in the cities of Ambato, Cuenca, Guayaquil, Quito and other locations in the provinces of Imbabura, Cotopaxi and Carchi. Human Rights Watch chose these locations based on the location of survivors of school-related sexual violence, activists, journalists and local and national nongovernmental organizations (NGOs), many of whom referred Human Rights Watch to representatives of children affected by school-related gender-based violence in these regions. We also conducted research through remote telephone or video interviews between November 2019 and September 2020.

This report is based on 76 interviews by Human Rights Watch, and seven interviews collected on behalf of Human Rights Watch by the Coalition Against Sexual Abuse Against Children, a civil society platform, in Sucumbíos, Ecuador's Amazonian province bordering Colombia.

For this report, Human Rights Watch obtained information, including case files, on 38 cases of school-related sexual violence, perpetrated against one or more children and adolescents enrolled in public and private schools. Human Rights Watch interviewed seven survivors of sexual violence, including three adolescent girls age 16, two 18-year-old adolescents, and a 22-year-old woman. Additional case information was obtained from interviews with eleven parents, guardians, or appointed legal representatives, to gather information about court cases in which the victim was under the age of 15, or where the victim was deceased.

We also obtained evidence for 28 of the 38 cases through interviews with 8 lawyers representing victims, and 20 interviews with prosecutors, public school counsellors, current and former government officials from the Ministry of Education, Human Rights Protection Cantonal or Provincial Boards, the Prosecutor's Office and the Judiciary Council, who personally attended cases of school-related sexual violence or where involved in the government's response. Some of these cases happened in the provinces of Cotopaxi, Guayas, Esmeraldas, Loja, Manabí, Orellana and Santa Elena. We reviewed case files and public information, including media reports, related to some of these cases.

We also interviewed children’s rights and women’s rights experts and activists, sexual and reproductive rights experts, NGO and Foundation representatives, and academics and journalists.

Human Rights Watch makes every effort to abide by best practice standards for ethical research and documentation of sexual violence, including all efforts to avoid re-traumatization. We preceded and ended all interviews with a detailed explanation of informed consent to ensure that interviewees understood the nature and purpose of the interview and could choose whether to speak with researchers. In each case, we explained how we would use and disseminate the information and sought the interviewees’ permission to include their experiences and recommendations in this report. Human Rights Watch informed all interviewees that they could stop or pause the interview at any time and could decline to answer questions or discuss particular topics. We generally do not interview survivors of sexual violence under the age of 15, to avoid potentially harmful repercussions, and interview parents or guardians instead.

For protection reasons, most of the names of children, young adults and some parents used in the report are pseudonyms. However, some survivors asked us to use their name publicly and we did so when survivor’s names were already public.

Some government officials are referred to anonymously to protect their identity where information provided could result in retaliation. For protection reasons, we have withheld exact locations of some children or alleged perpetrators.

Human Rights Watch did not provide interviewees with financial compensation in exchange for any interview. Where appropriate, Human Rights Watch provided contact information for organizations offering legal, counseling, health, or social services.

We reviewed Ecuadorian national laws, government policies and reports, government submissions to United Nations bodies, UN independent expert and treaty body reports, NGO reports, academic articles, newspaper articles, and social media discussions, among others. The report’s analysis and recommendations were informed by global evidence-based guidance from the Global Working Group to End School-Related Gender-Based Violence.

Terminology

In this report, the term “child” refers to anyone under the age of 18, consistent with usage in international law. The term “adolescent” is used to describe children and young adults from ages 10 to 19, consistent with the World Health Organization’s definition.¹

Human Rights Watch uses the World Health Organization’s (WHO) definition of sexual violence as “[a]ny sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.”² WHO defines sexual exploitation as “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, threatening or profiting monetarily, socially or politically from the sexual exploitation of another.”³

Human Rights Watch uses the UNESCO and UN WOMEN definition of school-related gender-based violence (SRGBV) as “acts or threats of sexual, physical, or psychological violence occurring in and around schools, perpetrated as a result of gender norms and stereotypes by unequal power dynamics.”⁴

¹ World Health Organization (WHO), “Maternal, newborn, child and adolescent health: Adolescent development,” undated, http://www.who.int/maternal_child_adolescent/topics/adolescence/dev/en/ (accessed September 24, 2020).

² WHO, “Violence against women fact sheet,” November 2016, <https://www.who.int/en/news-room/fact-sheets/detail/violence-against-women> (accessed December 11, 2019).

³ WHO “Sexual Exploitation and Abuse Prevention and Response, Policy and procedures,” March 2017, http://www.who.int/about/ethics/sexual-exploitation_abuse-prevention_response_policy.pdf (accessed December 11, 2019).

⁴ UNESCO and UN Women, Global Guidance on Addressing School-Related Gender-Based Violence, 2016, <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2016/global-guidance-on-addressing-school-related-gender-based-violence-en.pdf?la=en&vs=4311> (accessed September 24, 2020), pp. 20-22.

I. Sexual and Gender-Based Violence Against Children and Adolescents in Ecuador's Schools

Children and adolescents in Ecuador are exposed to widespread child rights violations, including prevalent, endemic levels of gender-based violence, including sexual violence, at home, in the community, and in school, according to extensive national and UN independent expert reports.⁵

Endemic Sexual Violence Against Children and Adolescents

Sexual abuse and physical violence remain a common problem in many homes and communities across Ecuador. National data shows that four out of ten children and adolescents suffer extreme violence at home.⁶ The National Coalition of Women of Ecuador, based on government data, estimated in 2017 that six out of ten victims of rape were children and adolescents, and eight out of every ten cases of sexual violence happened at home perpetrated by a relative.⁷ Incest, which experts and journalists have called a “silent epidemic” in Ecuador, is dramatically underreported—hindered by stigma, taboos, and a lack of specific criminalization of this offence.⁸

⁵ Secretaría Nacional de Planificación y Desarrollo, *Atlas de las Desigualdades Socio-Económicas del Ecuador*, 2013, <http://documentos.senplades.gob.ec/Atlas%20de%20las%20Desigualdades.pdf> (accessed September 24, 2020), p. 102; Consejo Nacional para la Igualdad Intergeneracional, *Datos actuales de la violencia contra niñas, niños y adolescentes en el Ecuador y recomendaciones fortalecimiento sistema de protección*, April 18, 2018, https://issuu.com/cnna_ecuador/docs/violencia_contra_nna_ec2018_cnii (accessed September 24, 2020); United Nations Human Rights Council (UNHRC), “Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Visit to Ecuador,” UN Doc. A/HRC/44/48/Add.1, May 6, 2020, <https://undocs.org/en/A/HRC/44/48/Add.1> (accessed September 24, 2020), paras. 42-43; UNHRC, “Report of the Special Rapporteur on violence against women, its causes and consequences, Visit to Ecuador,” UN Doc. A/HRC/44/52/Add.2, May 22, 2020, <https://undocs.org/en/A/HRC/44/52/Add.2> (accessed September 24, 2020), paras. 58-73.

⁶ Observatorio Social del Ecuador et al., “Niñez y Adolescencia desde la intergeneracionalidad: Ecuador 2016, 2016,” https://www.unicef.org/ecuador/sites/unicef.org.ecuador/files/2019-08/Ninez_Adolescencia_Intergeneracionalidad_Ecuador_2016_WEB2_o.pdf (accessed January 10, 2020), pp. 93-98.

⁷ Coalición Nacional de Mujeres del Ecuador, “Contribución conjunta para el examen del Comité de Derechos del Niño,” July 2017, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EQU/INT_CRC_NGO_ECU_28670_S.pdf (accessed September 24, 2020), pp. 5-6.

⁸ Isabela Ponce, “El silencio más grande de todos,” *GK*, March 1, 2018, <https://gk.city/2018/03/01/incesto-en-ecuador/> (accessed January 10, 2019); Isabela Ponce, “Virginia Gómez de la Torre: “El Estado es encubridor y cómplice de los violadores sexuales,” *GK*, September 17, 2018, <https://gk.city/2018/09/17/embarazo-ninas-ecuador-violacion-derechos/> (accessed January 10, 2020).

Teenage pregnancy rates in Ecuador have also reached alarming rates.⁹ Between 2003 and 2018, 71 out of every 1000 girls and young women aged 12 to 19 gave birth.¹⁰ In 2017, nearly 6,500 girls dropped out of school prematurely because of pregnancy.¹¹ The criminalization of abortion in Ecuador means some girls and adolescents facing unwanted pregnancies cannot access safe and legal abortion. Many girls are denied legal access to a therapeutic abortion,¹² even though many, if not most, pregnancies are a result of rape, and forcing girls to continue with an unwanted pregnancy constitutes a risk to their holistic health.¹³ Human Rights Watch has found that women and some girls have faced prosecution for suspected illegal abortions.¹⁴

Online sexual violence—abuses that happen online on social media, in emails, chats or on online video or gaming sites, and that include cyberbullying, grooming and coercing or threatening children for sexual purposes¹⁵—is a growing threat for many young people in

⁹ Observatorio Social del Ecuador et al., *Situación de la niñez y adolescencia en Ecuador—Una mirada a través de los ODS*, 2019, <https://odna.org.ec/wp-content/uploads/2019/02/Situacio%CC%81n-de-la-nin%CC%83ez-y-adolescencia-en-Ecuador-2019.pdf> (accessed September 24, 2020), pp. 83-85, 94; See Plan Internacional and Universidad San Francisco de Quito, *Patterns of Violence Against Girls in Ecuador*, 2017, <https://plan.org.ec/wp-content/uploads/2017/03/patterns-of-violence.pdf> (accessed September 24, 2020).

¹⁰ United Nations Population Fund, “World Population Dashboard Ecuador,” <https://www.unfpa.org/data/world-population/EC> (accessed October 20, 2020); Isabela Ponce, “Virginia Gómez de la Torre: ‘El Estado es encubridor y cómplice de los violadores sexuales,’” *GK*, September 17, 2018, <https://gk.city/2018/09/17/embarazo-ninas-ecuador-violacion-derechos/> (accessed January 10, 2020); Susana Roa, “El país con la tasa más alta de embarazo adolescente podría quedarse sin presupuesto para prevenirlo,” *GK*, December 9, 2019, <https://gk.city/2019/12/09/prevencion-embarazo-adolescente-ecuador-presupuesto/> (accessed January 10, 2020).

¹¹ “Embarazos son la cuarta causa de abandono escolar,” *El Telégrafo*, July 21, 2018, <https://www.eltelegrafo.com.ec/noticias/sociedad/6/embarazo-causa-abandono-escolar-ecuador> (accessed July 20, 2020); Jenny Benalcázar Mosquera, “Que sean niñas y no madres antes de tiempo,” *El País*, March 27, 2019, https://elpais.com/elpais/2019/03/14/planeta_futuro/1552583323_660140.html (accessed July 20, 2020).

¹² Virginia Gómez de la Torre B. et al., *Vidas robadas—Entre la omisión y la premeditación: Situación de la maternidad forzada en niñas del Ecuador*, Fundación Desafío, 2016, https://38174366-d717-4629-9c57-c2256dca2e79.filesusr.com/ugd/8313b8_5d3d813fe76542959cef9af2a17b3e43.pdf (accessed September 24, 2020), pp. 17, 29; Virginia Gómez de la Torre and Martha Lopez Ángel, *Vidas Robadas II: Una respuesta incompleta del estado al embarazo infantil, NO ES RESPUESTA*, Fundación Desafío, November 2018, https://38174366-d717-4629-9c57-c2256dca2e79.filesusr.com/ugd/8313b8_6ae0d40c1a514b56baf8c5f124e3fa38.pdf (accessed August 28, 2020), pp. 24, 30.

¹³ UN bodies have ruled that women are entitled to obtain legal abortion in cases of rape and sexual assault, and that denying them this access violates their rights. The UN has stated that in circumstances where abortion is legal when a woman’s life or health is in danger, as is the case under Ecuador’s current law, that exception should be interpreted in a manner that permits rape victims to access abortion. Committee on the Elimination of Discrimination against Women (CEDAW), “Communication No. 22/2009 (LC v. Peru),” UN Doc. CEDAW/C/50/D/22/2009, November 25, 2011, <https://undocs.org/en/CEDAW/C/50/D/22/2009> (accessed September 24, 2020), paras. 8.15, 8.17, 8.18.

¹⁴ See Human Rights Watch, Submission by Human Rights Watch to the UN Special Rapporteur on the Right to Privacy, October 19, 2020, <https://www.hrw.org/news/2020/10/19/submission-human-rights-watch-un-special-rapporteur-right-privacy>.

¹⁵ ECPAT, “Online child sexual exploitation,” undated, <https://www.ecpat.org/what-we-do/online-child-sexual-exploitation/> (accessed November 11, 2020); UNICEF, “Protecting children online,” undated, <https://www.unicef.org/protection/violence-against-children-online> (accessed November 11, 2020).

Ecuador.¹⁶ A 2017 study conducted by UNICEF and World Vision showed that one in five students are affected by school-related bullying, including harassment and abuse online.¹⁷ It also showed that the online sexual harassment that girls suffer is often tied to the sharing of rumours or secrets.¹⁸ Increased reporting of the issue, prior to the increase in internet usage as a result of the Covid-19 pandemic, showed that thousands of children could be affected by multiple forms of online abuse—including online bullying, grooming, and other practices—perpetrated by children and adults alike, often connected to schools and other learning spaces.¹⁹

Ecuador's 2019 national survey on violence against women found that in the year prior to the survey, 12 percent of girls age 15 and over and women surveyed had suffered violence in an education setting. Over 6 percent of this group reported suffering sexual violence. The overwhelming majority did not report the abuse.²⁰

Sexual Violence in Education Institutions

Sexual violence has been a long-standing, pervasive problem in Ecuador's education institutions, but the scale of abuses only became public knowledge in 2017, after a case involving the systematic abuse of 41 children at the Academia Aeronáutica Mayor Pedro Traversari (AAMPETRA) school came to light.²¹

¹⁶ Taller de Comunicación Mujer, *Diagnóstico Violencia de Género Digital en Ecuador*, April 2020, https://www.navegandolibres.org/images/navegando/Diagnostico_navegando_libres_f.pdf (accessed September 24, 2020).

¹⁷ UNICEF, World Vision Ecuador and Ministerio de Educación, “Una mirada en profundidad al acoso escolar en el Ecuador—Violencia entre pares en el sistema educativo,” May 2017, <https://www.unicef.org/ecuador/media/1201/file/Una%20mirada%20en%20profundidad%20al%20acoso%20escolar%20en%20el%20Ecuador.pdf> (accessed September 24, 2020), pp. 37, 45, 50.

¹⁸ *Ibid.*, pp. 50, 52.

¹⁹ Human Rights Watch interview with Anaís Córdova and Mónica Diego, Taller de Comunicación Mujer, Quito, July 4, 2019; Human Rights Watch interview with Yalilé Loaiza, journalist, Quito, July 8, 2019; Yalilé Loaiza, “El disfraz pederasta,” *GK*, July 1, 2019, <https://gk.city/2019/07/01/grooming-ecuador-pederastia/> (accessed December 18, 2019); Ana Cristina Basantes, “Lejos de un día feliz,” *GK*, May 31, 2020, <https://gk.city/2020/05/31/violencia-contra-ninos-cuarentena/> (accessed September 23, 2020).

²⁰ Instituto Nacional de Estadística y Censos, “Encuesta nacional sobre relaciones familiares y violencia de género contra las mujeres (ENVIGMU),” Boletín, November 2019, https://www.ecuadorencifras.gob.ec/documentos/web-inec/Estadisticas_Sociales/Violencia_de_genero_2019/Principales%20resultados%20ENVIGMU%202019.pdf%20 (accessed October 15, 2020), pp. 8-9.

²¹ Tatiana Cordero and Gloria Maira Vargas, *A mí también... acoso y abuso sexual en colegios del Ecuador: discursos opuestos y prácticas discriminatorias*, Taller de Comunicación Mujer, 2001, <http://biblioteca.igualdadgenero.gob.ec/cgi-bin/koha/opac-detail.pl?biblionumber=4340> (accessed September 24, 2020); Center for Reproductive Rights, “Supplementary information on Ecuador—Scheduled for review by the CEDAW Committee in its 42nd Session,” October 3,

Ecuador's first system-wide response to sexual violence in the education system dates back to 2011 when the government adopted a comprehensive education law and a national plan to eradicate sexual offenses in the education system.²² In 2013, it launched a non-binding protocol for reporting sexual violence in schools, and in 2014, a national public campaign against sexual violence.²³ Reports by Ecuador's state comptroller and evaluations conducted by the AAMPETRA Commission—set up in the wake of the AAMPETRA case—confirm that from 2014 to 2017, the Ministry of Education's actions were not sufficient to combat or prevent school-related sexual violence.²⁴ Both reviews held previous Ministers of Education responsible for the failure to systemically tackle and respond to cases of sexual violence, and for the rise in cases of school-related sexual violence.

During that same period, President Rafael Correa's government disbanded national institutions like the National Council for Children and Adolescents, in charge of setting and monitoring the implementation of child-focused public policy, and advancing a specialized

2008, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ECU/INT_CEDAW_NGO_ECU_42_8650_E.pdf (accessed September 24, 2020).

²² Ministerio de Educación, Ley Orgánica de Educación Intercultural, Registro Oficial No. 417 de 31 de marzo del 2011; Ley Orgánica Reformatoria a la Ley Orgánica de Educación Intercultural, Registro Oficial No. 572 de 25 de agosto de 2015. Ministerio de Educación, Acuerdo No. 340-11, *Plan Nacional Integral para erradicar los delitos sexuales en el sistema educativo*, Actualización 2011, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/EC/Anexo4.pdf> (accessed September 24, 2020).

²³ Asamblea Nacional de la República del Ecuador, Comisión Especializada Ocasional "AAMPETRA," *Borrador de informe sobre el control político realizado al Ministerio de Educación respecto a su actuación para combatir la violencia sexual contra niñas, niños y adolescentes en unidades educativas*, March 2018, <https://educacion.gob.ec/wp-content/uploads/downloads/2018/03/INFORME-CONTROL-POLITICO-EDUCACION-remitido-Sesion-20.pdf> (accessed September 24, 2020), p. 20; Ministerio de Educación, "Campaña Nadie nunca más," undated, <https://educacion.gob.ec/campana-nadie-nunca-mas/> (accessed January 10, 2020); Ministerio de Educación, "En marcha la campaña ¡Nadie Nunca Más! Educación sin Violencia Sexual," undated, <https://educacion.gob.ec/en-marcha-la-campana-nadie-nunca-mas-educacion-sin-violencia-sexual/> (accessed November 16, 2020).

²⁴ *Ibid.*, pp. 18-36; Contraloría General del Estado, "Examen Especial a los fondos asignados y utilizados por el Ministerio de Educación para la ejecución de los estudios, planes, proyectos, programas y campañas relacionadas con el "Plan Nacional Integral para erradicar los delitos sexuales en el sistema educativo," su administración y liquidación en el MINISTERIO DE EDUCACION y entidades relacionadas, por el período comprendido entre el 1 de enero de 2013 y el 30 de junio de 2018," DNA2-0002-2019, copy on file with Human Rights Watch (unofficial translation by Human Rights Watch), pp. 7, 13.

response to children and adolescents.²⁵ In 2017, the Committee on the Rights of the Child noted its deep concern that this would “undermine the effective protection of children’s rights.”²⁶

The government also suppressed Ecuador’s civil society, including children’s rights and women’s rights nongovernmental organizations.²⁷ Some international NGOs were prevented from conducting child protection and youth programs and trainings in schools, including on issues like the protection and prevention of teenage pregnancies through sexuality education.²⁸

The AAMPETRA Case

In 2016, José Luis Negrete, a primary school teacher in the Academia Aeronáutica Militar Pedro Traversari (AAMPETRA)—a large private school in the southern suburbs of Quito—was found to have sexually, psychologically and physically abused 41 children, ages 10 to 11, between 2010 and 2011.²⁹ He was sentenced to 16 years in prison, including for sexual assault against the group of children and one charge of rape.³⁰ The judicial proceedings were long and traumatic for the survivors and their families. Negrete fled to escape justice and remained a fugitive for nearly four years. It took over five years for him to be charged.³¹ Following a clear sentence imposing measures on the school and its owners, the school did not satisfactorily implement them, often displaying behaviors that humiliated the children and parents affected. School authorities also disregarded the families’ lawyer and state officials who sought to implement measures against the

²⁵ Código de la Niñez y Adolescencia, art. 190. Human Rights Watch interview with Margarita Velasco, Observatorio Social del Ecuador, Quito, June 21, 2019; Human Rights Watch WhatsApp interview with Nicolás Reyes, former Technical Secretary, Consejo Nacional para la Igualdad Intergeneracional, December 17, 2019.

²⁶ Committee on the Rights of the Child (CRC), “Concluding observations on the combined fifth and sixth period reports of Ecuador,” UN Doc. CRC/C/ECU/CO/5-6, October 26, 2017, <https://undocs.org/en/CRC/C/ECU/CO/5-6> (accessed September 24, 2020), para. 4.

²⁷ Human Rights Watch interview with Margarita Velasco, Observatorio Social del Ecuador, Quito, June 21, 2019; “Ecuador: Clampdown on Civil Society,” Human Rights Watch news release, August 12, 2013, <https://www.hrw.org/news/2013/08/12/ecuador-clampdown-civil-society>; “Ecuador: Drop Plan to Control Civil Society,” Human Rights Watch news release, December 17, 2010, <https://www.hrw.org/news/2010/12/17/ecuador-drop-plan-control-civil-society>.

²⁸ Human Rights Watch interview with Catalina Vaca and María Velasco, Plan International, Quito, February 13, 2019.

²⁹ A detailed account of the AAMPETRA case, validated by survivors and families, is included in Sentimos Diverso, “La Herida Oculta,” May 2017, <http://sentimosdiverso.org/ee/violenciasexual/> (accessed July 20, 2020).

³⁰ In 2018, his sentence was updated to 22 years. See Revista Plan V, “Amparo Molina Caso AAMPETRA - #Sobrevivientes Plan V,” videoclip, YouTube, June 6, 2019, <https://www.youtube.com/watch?v=knrj7LHbLU> (accessed July 20, 2020).

³¹ Human Rights Watch interview with Mercedes Molina, Quito, July 8, 2019. A second trial for rape was still pending at time of writing.

school.³² The school's owner challenged the orders in court, arguing the school itself was not part of the judicial proceedings, and claiming the proceedings had caused grave social damage to the school.³³

According to various experts connected to the case, the AAMPETRA case presents a perfect storm of failings within the school, the Ministry of Education, and the justice system.³⁴ Yet, as this report shows, more recent cases of sexual violence continue to show similar failures in the education and justice systems.

The AAMPETRA Commission

In their desperate attempt to seek justice, families of the AAMPETRA survivors resorted to publishing their grievances through the media. They demanded justice for what had happened to their children.³⁵ They wrote letters to senior politicians and members of the National Assembly, alerting them to the obstacles they were facing to secure justice and reparations. Their actions prompted national attention, including from senior politicians and the president of Ecuador's National Assembly.³⁶

In July 2017, the National Assembly established the AAMPETRA Commission—a special multi-party legislative commission, named after the case.³⁷ The commission's mandate was to establish the facts related to school-related sexual violence against children in

³² Human Rights Watch meeting with Amparo Molina, AAMPETRA families spokesperson, Quito, February 13, and June 21, 2019; Human Rights Watch interview with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February 12, 2019; Sentimos Diverso, *A saltos y brincos: el camino incierto para enfrentar la violencia sexual en las escuelas*, 2018, <http://www.sentimosdiverso.org/ee/ComisionAampetra/#caso-aampetrax> (accessed July 20, 2020).

³³ Susana Morán, "La placa de la indignación," June 24, 2017, *Fundación 1000 Hojas*, <http://www.milhojas.is/612465-pagina.html> (accessed November 16, 2020).

³⁴ Human Rights Watch interview with Eduardo Taipe, former technical advisor to the AAMPETRA Commission and advisor to chair Silvia Salgado, Quito, February 15, 2019; Human Rights Watch meeting with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February, 12 2019.

³⁵ Human Rights Watch interview with Amparo Molina, AAMPETRA families spokesperson, Quito, February 13, and June 21, 2019; Human Rights Watch interview with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February 12, 2019.

³⁶ Human Rights Watch interview with Eduardo Taipe, former technical advisor to the AAMPETRA Commission and advisor to chair Silvia Salgado, Quito, February 15, 2019; Human Rights Watch interview with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February 12, 2019; Sentimos Diverso, *A saltos y brincos: el camino incierto para enfrentar la violencia sexual en las escuelas*.

³⁷ Asamblea Nacional de la República del Ecuador, Comisión Especializada Ocasional "AAMPETRA," *Informe ejecutivo del trabajo realizado por la Comisión Especializada Ocasional AAMPETRA*, July 23, 2018, <https://www.asambleanacional.gob.ec/sites/default/files/private/asambleanacional/filesasambleanacionalnameuid-16299/INFORME%20EJECUTIVO%20AAMPETRA%20-%20FINAL%20TOTAL.pdf> (unofficial translation by Human Rights Watch) (accessed July 20, 2020), p. 3.

Ecuador based on cases and data it requested from ministries and judicial functions, and to outline measures to tackle the problem. It focused on information-gathering arguing:

State institutions, many of which lacked updated, systematized or validated information of cases they knew about, have not treated the issue of sexual violence against boys, girls and adolescents in education institutions with the seriousness required.³⁸

The AAMPETRA commission became one of the few places where families of survivors of sexual violence from all over the country were able to report abuses connected to school that had never received closure or justice. Eduardo Taipe, former technical advisor to Senator Silvia Salgado, who chaired the AAMPETRA commission, told Human Rights Watch that the extent of the reporting was overwhelming.³⁹ The commission focused on 8 out of 57 cases of sexual violence against children reported to the commission, including the AAMPETRA case.⁴⁰ It focused specifically on these cases because they exhibited serious failures and it deemed them “emblematic” because they generated “social commotion.” It reviewed actions taken, and in large part, omissions, by four ministries and relevant judicial institutions, including the Prosecutor’s Office, to respond to school-related sexual violence, predominantly during President Correa’s administration.⁴¹

The commission also opened up a conversation about sexual abuses in spaces that are quasi-educational or extra-curricular, which most often fall under the mandate of the Secretariat for Sport and the Ministry of Culture and Heritage. At the time of Human Rights Watch’s research on the issue, at least two investigations had been launched into historical and current cases of sexual violence in two gyms, a gymnastics academy, and a

³⁸ Ibid., p. 5.

³⁹ Human Rights Watch interview with Eduardo Taipe, former technical advisor to the AAMPETRA Commission and advisor to chair Silvia Salgado, Quito, February 15, 2019.

⁴⁰ Cases reviewed by the AAMPETRA Commission took place between 2013 and 2017. See Asamblea Nacional de la República del Ecuador, Comisión Especializada Ocasional AAMPETRA, *Informe sobre la investigación de casos conocidos por la Comisión respecto a hechos de violencia sexual contra niñas, niños y adolescentes en Unidades Educativas*, February 16, 2018, <https://www.asambleanacional.gob.ec/sites/default/files/private/asambleanacional/filesasambleanacionalnameuid-16299/INFORME%20DE%20INVESTIGACION%20DE%20LOS%20CASOS%2016-FEB-2018.pdf> (accessed November 16, 2020), pp. 27-28; Asamblea Nacional, *Informe ejecutivo del trabajo realizado por la comisión especializada ocasional AAMPETRA*, pp. 10-12.

⁴¹ Ibid.

ballet school.⁴² The Commission did not investigate numerous alleged incidents in religious schools.⁴³

The AAMPETRA Commission called on the government to publicly recognize the “serious situation of human rights violations” against children and adolescents in education institutions; and to approve a law on reparations to regulate processes of remedies and reparations for victims of sexual violence, among many other recommendations.⁴⁴ At time of writing, numerous recommendations made by the commission had yet to be implemented.

In October 2017, Ecuador’s then Public Defender called on President Lenín Moreno to declare a national emergency in the education system, pointing out that both the education system and the state had failed to protect children from sexual violence in schools.⁴⁵

In the wake of the AAMPETRA scandal, President Moreno and then Minister of Education Fander Falconí declared the government’s zero tolerance for sexual violence perpetrated in schools.⁴⁶ The government publicly recognized the severity of the level of sexual violence against children in its education institutions. It also recognized the Ministry of Education’s obligation to respond to the reality of widespread, endemic and pervasive violence faced

⁴² Human Rights Watch interview with Isabela Ponce, editor, GK, Quito, June 21, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, July 2, 2019; Human Rights Watch interview with Natasha Montero, visiting lecturer, Universidad Andina Simón Bolívar, Quito, June 24, 2019; Human Rights Watch interview with Freddy Trujillo, colectivo Seremos las Últimas, Quito, June 24, 2019; Seremos las últimas—Basta de violencia sexual!, <https://seremoslasultimas.com/>.

⁴³ Human Rights Watch interview with Eduardo Taipe, former technical advisor to the AAMPETRA Commission and advisor to chair Silvia Salgado, Quito, February 15, 2019.

⁴⁴ Asamblea Nacional, Comisión Especializada Ocasional “AAMPETRA,” *Informe ejecutivo del trabajo realizado por la Comisión Especializada Ocasional AAMPETRA*.

⁴⁵ Silvia Salgado Andrade, “Defensoría Pública Pide Declarar En Emergencia Al Sistema Educativo Y La Realización de Auditoría En La Selección de Maestros,” October 24, 2017, <http://www.silviasalgadoandrade.com/asambleista/?p=444> (accessed September 24, 2020); “El sistema educativo y el Estado nos han fallado,” *La Hora*, November 5, 2017, <https://www.lahora.com.ec/noticia/1102111925/el-sistema-educativo-y-el-estado-nos-han-fallado> (accessed September 24, 2020).

⁴⁶ See for example, Ministerio de Educación, “Funciones del Estado respaldan la Cruzada Cero Tolerancia en contra de la violencia sexual,” October 19, 2017, <https://educacion.gob.ec/funciones-del-estado-respaldan-la-cruzada-cero-tolerancia-en-contra-de-la-violencia-sexual/> (accessed July 21, 2020); Presidencia de la República del Ecuador, Noticiero El Gobierno Informa No. 21 23/10/2017, videoclip, YouTube, <https://www.youtube.com/watch?reload=9&v=E7PSWtoaXYw&list=UUn2XiuAROVrcqscSIzNi-6A&index=73> (accessed July 21, 2020); Ministerio de Educación, “Ministerio de Educación PRINCIPIOS RECTORES DE NUESTRA ACCION,” October 25, 2017, <https://educacion.gob.ec/ministerio-de-educacion-principios-rectores-de-nuestra-accion/> (accessed September 24, 2020); Secretaría General de Comunicación de la Presidencia, “Cero tolerancia ante situaciones de abuso a los derechos de menores de edad: Presidente Lenín Moreno,” undated, <https://www.comunicacion.gob.ec/cero-tolerancia-ante-situaciones-de-abuso-a-los-derechos-de-menores-de-edad-presidente-lenin-moreno/> (accessed July 21, 2020).

by children in Ecuador—ensuring the education system responds to, and acts to address, any abuse affecting children, regardless of whether it happens inside or outside the school’s doors.⁴⁷

Alongside the AAMPETRA Commission, Falconí also instructed ministry officials to release and retroactively investigate all cases filed by education ministry officials at the regional and district level, which uncovered many cases that had been filed administratively without further investigation or action to remove an alleged perpetrator from a school or district.⁴⁸ Other efforts included the rollout of public information campaigns, training programs on sexual abuse prevention, and the launch of a comprehensive reporting database.⁴⁹

In September 2018, the National Assembly adopted a resolution in which it publicly recognized families’ perseverance and fight for justice, and resolved to recognize this fight through a public act of recognition.⁵⁰ This symbolic act was outstanding at time of writing.

Paola Guzmán Albarracín v. Ecuador

Paola Guzmán Albarracín’s case is the first case on school-related sexual violence to ever reach the Inter-American Court of Human Rights.

From the age of 14, Paola was repeatedly raped and sexually abused by the deputy principal at her public secondary school. In 2002, Paola found out she was pregnant and told the deputy principal, who coerced her into getting an abortion with the support of the

⁴⁷ See, for example, Presidencia de la República del Ecuador, “Prevenir y Sancionar los abusos sexuales a menores en colegios son la mayor prioridad del Gobierno,” October 24, 2017, <https://www.presidencia.gob.ec/prevenir-y-sancionar-los-abusos-sexuales-a-menores-en-colegios-son-la-mayor-prioridad-del-gobierno/> (accessed September 24, 2020); Ministerio de Educación, “Lanzamiento nuevo video UNICEF Más Unidos Más Protegidos,” videoclip, YouTube, March 20, 2018, <https://www.youtube.com/watch?v=HuLjBEEU4Fk> (accessed September 24, 2020); “Moreno traza hoja de ruta para erradicar violencia contra menores de edad,” *La República*, November 7, 2017, <https://www.larepublica.ec/blog/politica/2017/11/07/moreno-traza- hoja-de-ruta-para-erradicar-violencia-contra-menores-en-ecuador/> (accessed September 24, 2020).

⁴⁸ Human Rights Watch interview with María Fernanda Porras, former Ministry of Education sub-secretary, Quito, July 2, 2019; Human Rights Watch interview with Henry Calle, former coordinator zonal 6, Cuenca, July 4, 2019; Human Rights Watch WhatsApp interview with Fander Falconí, former Minister of Education, July 27, 2020; Asamblea Nacional, Comisión Especializada Ocasional “AAMPETRA,” *Borrador de informe sobre el control político*.

⁴⁹ Ministerio de Educación, “El Ministerio de Educación y la ONU, Más Unidos, Más Protegidos por los derechos de los estudiantes,” August 22, 2017, <https://educacion.gob.ec/el-ministerio-de-educacion-y-la-onu-mas-unidos-mas-protegidos-por-los-derechos-de-los-estudiantes/> (accessed September 24, 2020).

⁵⁰ República del Ecuador, Asamblea Nacional, Resolución del Pleno de la Asamblea Nacional del 13 de septiembre del 2018, <https://www.asambleanacional.gob.ec/sites/default/files/2018-09-13-14092018161517512.pdf> (accessed November 28, 2020).

doctor in charge of the school's medical services. The school's doctor allegedly asked Paola to have sex with him. Following this, Paola took her own life in December 2002.⁵¹ Local prosecutors opened an investigation into Paola's case, but judges dismissed the case, accepting the claim that Paola first approached the deputy principal for help and consented to a "relationship."⁵² The deputy principal later went into hiding. Paola's relatives and counsel argued that the deputy principal, a government official, abused his position of authority to sexually harass his student, which resulted in her suicide, and blamed the inefficiency of the administrative and judicial system for the impunity arising in her case.⁵³

In 2006, the Center for Reproductive Rights and CEPAM Guayaquil, two nongovernmental organizations representing Petita Albarracín, filed a complaint before the Inter-American Commission of Human Rights (IACHR).⁵⁴ In February 2019, the IACHR referred the case to the Inter-American Court of Human Rights to establish the government's obligation to compensate her family and to establish Ecuador's responsibility to protect students, including through comprehensive sexuality education.⁵⁵ Albarracín's legal team also sought to establish the government's failure to respond to acts of sexual violence perpetrated by government officials.⁵⁶

⁵¹ Comisión Interamericana de Derechos Humanos, "Informe No. 76/08, Admisibilidad–Petición 1055-06, Paola del Rosario Guzmán Albarracín y Familiares, Ecuador," October 17, 2008, <http://www.cidh.oas.org/annualrep/2008sp/Ecuador1055-06.sp.htm> (accessed September 24, 2020); Comisión Interamericana de Derechos Humanos, "Informe No. 110/18, Caso 12.678–Informe de Fondo–Paola del Rosario Guzmán Albarracín y Familiares, Ecuador, Doc. 127," October 5, 2018, <http://www.oas.org/es/cidh/decisiones/corte/2019/12678FondoEs.pdf> (accessed September 24, 2020).

⁵² Center for Reproductive Rights, "Paola Guzmán Albarracín v. Ecuador (Comisión Interamericana de Derechos Humanos)," July 5, 2015, <https://reproductiverights.org/document/paola-guzman%20v%20albarracin-v-ecuador-comisi%C3%B3n-interamericana-de-derechos-humanos> (accessed September 24, 2020); Center for Reproductive Rights, "Government of Ecuador Absent at Inter-American Commission Hearing on Sexual Violence in Schools," October 20, 2015, <https://reproductiverights.org/press-room/government-of-ecuador-absent-at-inter-american-commission-hearing-on-sexual-violence-in-schools> (accessed September 24, 2020); Pilar Cuartas Rodríguez, "Paola Guzmán, el primer caso de violencia sexual en un colegio que llega a la Corte IDH," *El Espectador*, February 16, 2019, <https://www.elespectador.com/noticias/investigacion/paola-guzman-el-primer-caso-de-violencia-sexual-en-un-colegio-que-llega-a-la-corte-idh/> (accessed September 24, 2020).

⁵³ Comisión Interamericana de Derechos Humanos, "Informe No. 76/08, Admisibilidad–Petición 1055-06, Paola del Rosario Guzmán Albarracín y Familiares, Ecuador," October 17, 2008, (accessed September 24, 2020), para. 1.

⁵⁴ Comisión Interamericana de Derechos Humanos, "Informe No. 110/18, Caso 12.678–Informe de Fondo – Paola del Rosario Guzmán Albarracín y Familiares, Ecuador, Doc. 127."

⁵⁵ Corte Interamericana de Derechos Humanos, "Caso Guzmán Albarracín y otras vs. Ecuador, Sentencia de 24 de junio de 2020 (Fondo, Reparaciones y Costas)," June 2020, https://www.corteidh.or.cr/docs/casos/articulos/seriec_405_esp.pdf (accessed September 10, 2020), paras. 1 – 5.

⁵⁶ See Human Rights Watch, "Amicus Curiae in the case of Guzmán Albarracín y otros vs. Ecuador," July 15, 2020, <https://www.hrw.org/news/2020/07/15/amicus-curiae-case-guzman-albarracin-y-otros-vs-ecuador>.

In June 2020, the Inter-American Court found Ecuador responsible for violating Paola's rights to life, to study free from sexual violence, and to sexual and reproductive health and bodily autonomy, as well as her family's right to a fair trial and respect for their moral and psychological integrity.⁵⁷

Ecuador must adopt the following measures in order to comply with the Inter-American Court of Human Rights' ruling:

Within six months from June 2020, Ecuador must:

- Host a public act of recognition of its international responsibilities, and publicly apologize to Petita Albarracín and her family;
- Ensure girls and boys participate in the development of policies related to prevention of school-related sexual violence;
- Declare a national day of the fight against sexual violence in classrooms.

Within one year Ecuador must identify additional measures to amend and repair outstanding problems in the education system, including through:

- Compiling and publishing statistical information regarding school-related sexual violence against girls and boys;
- Detecting and reporting of cases of school-related sexual violence;
- Training education staff regarding the treatment of and prevention of situations of sexual violence;
- Providing information, assistance and attention to victims of school-related sexual violence and their families.

⁵⁷ Corte Interamericana de Derechos Humanos, "Caso Guzmán Albarracín y Otras vs. Ecuador, Sentencia de 24 de junio de 2020 (Fondo, Reparaciones y Costas)," paras. 66 – 84.

II. Ecuador's Laws and Policies on Sexual Violence in Schools

Ecuador has a strong constitutional, legal and policy framework to protect children and adolescents from sexual violence.

Laws Protecting Children's Right to Safety at School

Since 2008, Ecuador's constitution has guaranteed the right to live a life free from violence, and obligated the state to prevent, protect, and provide restitution and reparation to anyone who suffers violence. Children and adolescents are one of the groups deemed deserving of specialized attention if they become victims of violence.⁵⁸ The constitution also requires the state to adopt all measures necessary to prevent, eliminate and punish all forms of violence, particularly against women, children and adolescents.⁵⁹ It provides special and expedited procedures to process and indict sexual offenses committed against children, adolescents, and other young people who are deemed as "requiring more protection."⁶⁰ Processes related to children should be handled by specialized judicial personnel.⁶¹

Ecuador's Law on Intercultural Education, adopted in 2011, includes an obligation on the state to "eradicate all forms of violence in the education system, and to guarantee the physical, psychological and sexual integrity of members of educational institutions, particularly students."⁶² It also grants children the right to be protected, and to exercise their right to complain about any breach of their rights.⁶³

The same law prescribes obligations for members of the education community, such as teachers, including a duty to protect students' physical and psychological integrity, and to

⁵⁸ Asamblea Nacional, Constitución de la República del Ecuador, 2008, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf (accessed September 24, 2020), art. 35.

⁵⁹ Ibid, art. 66 (3)(b).

⁶⁰ Ibid, art. 81.

⁶¹ Ibid, art. 175.

⁶² Ley Orgánica de Educación Intercultural (LOEI), 2011, <https://educacion.gob.ec/wp-content/uploads/downloads/2017/05/Ley-Organica-Educacion-Intercultural-Codificado.pdf> (accessed September 24, 2020), art. 6 (h) II (unofficial translation by Human Rights Watch).

⁶³ Ibid., art. 7 (i).

report any complaint they receive to the judicial and administrative authorities.⁶⁴ The law also imposes a clear obligation on actors in the education sector to lodge a complaint if they have knowledge of an incident or a threat perpetrated against a student.⁶⁵ Unjustified failure to report any offenses should result in dismissal.⁶⁶

Ecuador's Penal Code includes crimes against children's sexual and reproductive integrity, including rape and statutory rape, sexual abuse, harassment and contact with children under 18 via digital or electronic means for sexual purposes.⁶⁷

Ecuador's Law on Gender-Based Violence Against Women, adopted in 2018, extends protections to girls and women, and defines sexual violence as "any action that implies the violation or restriction of the right to sexual integrity and to decide voluntarily on their sexual and reproductive life, through threats, coercion, use of force and intimidation." Sexual violence also includes the involvement of girls and adolescents in sexual activities with an adult or any person who has an advantage over them, and the use of girls' and adolescent's images in pornography.⁶⁸

In a February 2018 referendum, voters overwhelmingly supported a proposal to amend Ecuador's constitution to remove the statute of limitations for sexual offenses against children and adolescents.⁶⁹ At time of writing, the constitution had not been amended, but the statute of limitations ceased to apply in cases from that date forward.⁷⁰

⁶⁴ Ibid., art. 11 (literal (l)).

⁶⁵ Ibid., art. 14.

⁶⁶ Ibid., art. 132 (a.a), (b.b) and (c.c).

⁶⁷ Ministerio de Justicia, Derechos Humanos y Cultos, Código Orgánico Integral Penal, 2014, <http://www.funcionjudicial.gob.ec/index.php/es/normativa/codigo-organico-integral-penal.html> (accessed September 24, 2020), 2014, arts. 171, 167, 170, 166, and 173, respectively.

⁶⁸ Ley Orgánica Integral para la Prevención y Erradicación de la Violencia de Género contra las Mujeres, Registro Oficial Suplemento 175 de 5 febrero 2018, art. 10 (c) (unofficial translation by Human Rights Watch).

⁶⁹ See Consejo Nacional Electoral, "Referéndum y Consulta Popular 2018," 2018, <http://cne.gob.ec/es/institucion/procesos-electorales/referendum-y-consulta-popular-2018> (accessed September 24, 2020).

⁷⁰ Human Rights Watch interview with Mayra Soria, prosecutor, Quito, June 20, 2019.

Education Protocols and Ministerial Accords on School-Related Sexual Violence

Since 2014, the government had adopted at least nine key binding instruments on school-related sexual and gender-based violence.⁷¹ These documents outline obligations for all actors involved in education. In 2019, the Ministry of Education published a Ministerial Accord to instruct government officials to apply extraordinary measures to review previously archived cases of violence by education actors, or cases that were dealt with under weaker procedures.⁷² In 2020, it published an updated protocol focused on steps to be taken to respond to and prevent acts of violence. The revised protocol establishes legal obligations on school principals and staff, including student welfare teams, to act immediately to protect a child whose physical, sexual or mental health integrity is at risk. It prohibits any attempts to bring together or mediate between an alleged adult perpetrator and a student, including instances where children might be asked to describe or report an incident in front of an alleged perpetrator.⁷³

The protocol includes “guidelines” – which prescribe government official’s responsibilities and step-by-step actions to take when they are made aware of an incident of sexual violence. The protocol’s instructions are unambiguous: the guidelines clearly set out all processes to be taken to detect abuses, to act, and to refer cases to the police or prosecutors. School officials must trigger the protocol and follow the “guidelines” when they become aware of an incident of sexual violence. They then inform district education

⁷¹ Consejo de Protección de Derechos, Informe final de observancia de política pública No. 002/2018, Implementación de los “Protocolos de actuación frente a situaciones de violencia detectadas o cometidas en el sistema educativo”: Sistema Metropolitano de Educación, July 2018 (copy on file with Human Rights Watch), pp. 15-20; Ministerio de Educación, “Protocolos y Rutas de Actuación frente a hechos de violencia y/o violencia sexual detectados o cometidos en establecimientos del sistema educativo nacional,” Primera Edición, 2014, <https://educacion.gob.ec/wp-content/uploads/downloads/2016/04/PROTOS-DE-ACTUACION.pdf> (accessed November 16, 2020); Ministerio de Educación, “Instructivo de Actuación, para la atención a niños, niñas y adolescentes víctimas de violencia sexual cometidas o detectadas en los establecimientos del sistema educativo nacional y los procesos para la investigación y sanción, Acuerdo No. MINEDUC-MINEDUC-2017-0052-A,” June 22, 2017, https://educacion.gob.ec/wp-content/uploads/downloads/2018/01/Acuerdo-MINEDUC-2017-00052-A-Instructivo-de-Actuacion-a-ninas-Victimas-de-violencia_Codificado_30-01-2017-1.pdf (accessed November 16, 2020).

⁷² Ministerio de Educación, “Acuerdo Nro. MINEDUC-MINEDUC-2019-00020-A, Milton Luna Tamayo, Ministro de Educación,” April 10, 2019, <https://educacion.gob.ec/wp-content/uploads/downloads/2019/04/MINEDUC-MINEDUC-2019-00020-A.pdf> (accessed September 24, 2020).

⁷³ Ministerio de Educación, “Protocolos y rutas de actuación frente a SITUACIONES DE VIOLENCIA detectadas o cometidas en el sistema educativo,” Tercera Edición, 2020, <https://educacion.gob.ec/wp-content/uploads/downloads/2020/04/Protocolos-situaciones-de-violencia.pdf> (accessed September 24, 2020).

authorities of the incident who will begin an administrative process against the alleged perpetrator. School officials must treat all incidents of sexual violence as grave offenses.⁷⁴

⁷⁴ Ibid.

III. Serious Gaps in Schools and Education Authorities' Response to Sexual Violence

Sexual violence has profound and life-long effects on the mental and physical health of children and adolescents, on their development, their bodily autonomy, and their sense of power to shape their own lives.⁷⁵ It can also deeply impact children's right to education.⁷⁶

Sexual and gender-based violence has been a long-standing, endemic problem in Ecuador's education system, with high levels of sexual violence from pre-school to high school. Since 2017, Ecuador has taken important steps to signal its commitment to zero tolerance and has adopted measures to tackle the scourge of sexual violence in its educational institutions. Notwithstanding these important measures, the government has struggled to ensure that they are implemented by schools and education districts. Cases that happened over a decade after the AAMPETRA case have shared similar characteristics, such as those at the public Colegio Réplica Aguirre Abad and the private Colegio Interamericano, both schools in the city of Guayaquil, where teachers sexually abused large groups of young children.⁷⁷

The government has yet to adopt a strong long-term agenda with commensurate funding to match its commitment and key obligation to prevent sexual violence in schools.

⁷⁵ UNHRC, Joint report of the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General on Violence against Children, A/HRC/16/56, March 7, 2011, <https://undocs.org/A/HRC/16/56> (accessed September 24, 2020), para. 27. See also CEPAM Guayaquil, Consultorio Virtual-Violencia Sexual, Facebook live video, June 19, 2020, <https://www.facebook.com/cepamguayaquil/videos/vb.441007406008887/263183828115830/?type=2&theater> (accessed July 21, 2020).

⁷⁶ Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019; Human Rights Watch interview with clinical team, CEPAM Guayaquil, Guayaquil, June 26, 2019; Human Rights Watch interview with Jennifer Real, Quito, July 3, 2019; Human Rights Watch interview with school counsellor, Cuenca, July 5, 2019; Human Rights Watch interview with male survivor, Quito, July 8, 2019; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 15, 2020; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

⁷⁷ Human Rights Watch meeting with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February 12, 2019; Human Rights Watch interview with Amparo Molina, AAMPETRA families spokesperson, Quito, June 21, 2019; Human Rights Watch telephone interview with Martha Roldós, Fundación Mil Hojas, July 1, 2019; Human Rights Watch interview with Sybel Martínez, Grupo Rescate Escolar, Quito, July 8, 2019.

Government Data Shows Very High Levels of School-Related Sexual Violence

Prior to 2014, the Ministry of Education did not officially document or report cases of school-related sexual violence.⁷⁸ In 2019, Ecuador's state's comptroller found the Ministry of Education retroactively responsible for the gap in such reporting.⁷⁹

In recent years, Ecuador has made important progress in tracking and reporting cases of sexual violence against children, inside and outside of schools. In August 2018, the Ministry of Education launched a comprehensive central register that tracks all cases of sexual violence detected or reported in schools.⁸⁰ The Prosecutor's Office started tracking cases of sexual violence against children from 2014, tied with the launch of the current Penal Code. Since 2018, the office regularly reconciles data from its own records with Ministry of Education data to ensure both institutions can track consistency in reporting, ensure that cases reported by education officials are also reported to prosecutor's offices, and analyze data on victims and perpetrators.⁸¹

Human Rights Watch requested and analyzed information from both data sets: data from the Ministry of Education's central "Register of Violence in Educational Institutions" and from the Prosecutor's Office "Integrated System of Prosecutorial Proceedings."⁸² Both show that gender-based violence, including sexual violence, detected in schools is prevalent and occurs across all provinces, with higher numbers of cases in Quito and

⁷⁸ Human Rights Watch interview with María Fernanda Porras, former Ministry of Education sub-secretary, Quito, July 2, 2019; Human Rights Watch interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, Quito, July 2, 2019; Human Rights Watch WhatsApp interview with Fander Falconí, former Minister of Education, July 27, 2020.

⁷⁹ Contraloría General del Estado, "Examen Especial a los fondos asignados y utilizados por el Ministerio de Educación para la ejecución de los estudios, planes, proyectos, programas y campañas relacionadas con el "Plan Nacional Integral para erradicar los delitos sexuales en el sistema educativo," su administración y liquidación en el MINISTERIO DE EDUCACION y entidades relacionadas, por el período comprendido entre el 1 de enero de 2013 y el 30 de junio de 2018," DNA2-0002-2019 (copy on file with Human Rights Watch), pp. 9-10.

⁸⁰ Human Rights Watch interview with María Fernanda Porras, former Ministry of Education sub-secretary, Quito, July 2, 2019; Human Rights Watch interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, Quito, July 2, 2019.

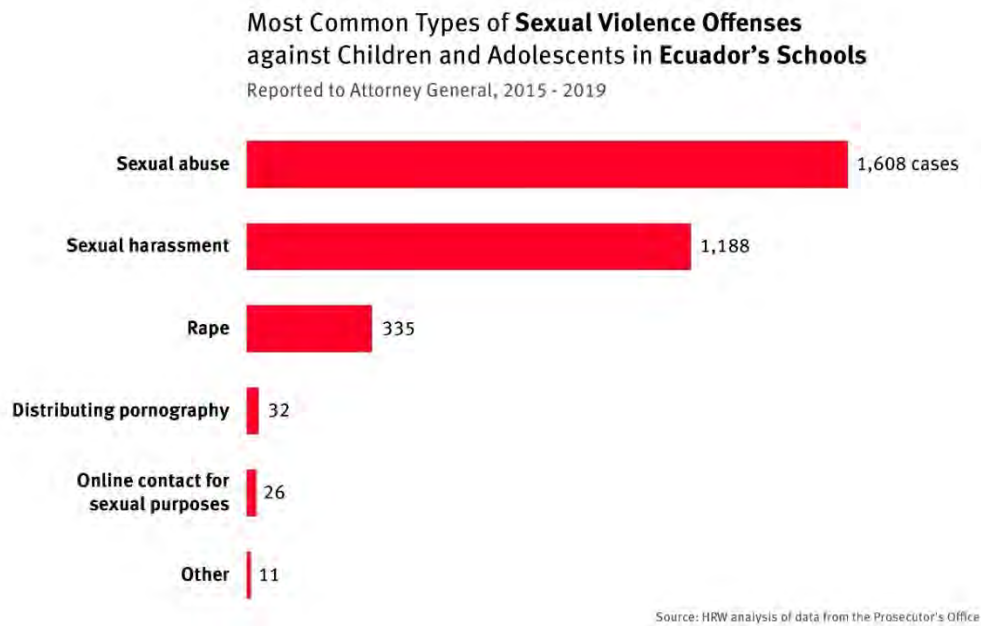
⁸¹ Human Rights Watch video interview with Juana Fernández, gender expert, Prosecutor's Office, August 28, 2020; Human Rights Watch video interview with Antonio Merino, statistical expert, Prosecutor's Office, September 17, 2020.

⁸² In September 2019, Human Rights Watch requested data from the Ministry of Education, and in August and September 2020, we requested and received data from the Prosecutor's Office. At time of writing, Human Rights Watch had not yet received an official answer with the specific information and all data requested from the Ministry of Education. The data set included in this report was obtained from a report compiled by the Ministry of Education based on data gathered through the Ministry's central reporting register called the "Registro de Violencia en Instituciones Educativas" (REDEVI), operational since 2018. This data does not specify when cases began to be recorded in 2014. The cut-off point for this data was May 2020. The second data set provided by the Prosecutor's Office relies on data gathered through its central reporting register called the "Sistema Integrado de Actuación Fiscal" (SIAF), cross-referencing data from the Ministry of Education from January 2015 to December 2019. The cut-off point for this data was September 4, 2020. Copies on file with Human Rights Watch.

Guayaquil, Ecuador's largest and most populated cities, and in the provinces of Guayas, Pichincha, Manabí and Azuay.

From 2014 to May 2020, Ecuador's Ministry of Education registered 3,607 cases of sexual violence against students, which happened in or around schools.⁸³ Some of these complaints affected multiple students: 4,221 children and adolescents suffered sexual violence by perpetrators inside education institutions. In the overwhelming majority of cases perpetrators were male: 3,480 compared to 95 female perpetrators.⁸⁴

From January 2015 to December 2019, the Prosecutor's Office registered 3,229 complaints against teachers, students, administrative and other school staff, and school bus drivers.⁸⁵ Data also shows that girls generally suffer the overwhelming majority, about 90 percent, of sexual offences, particularly girls aged 8 to 18.



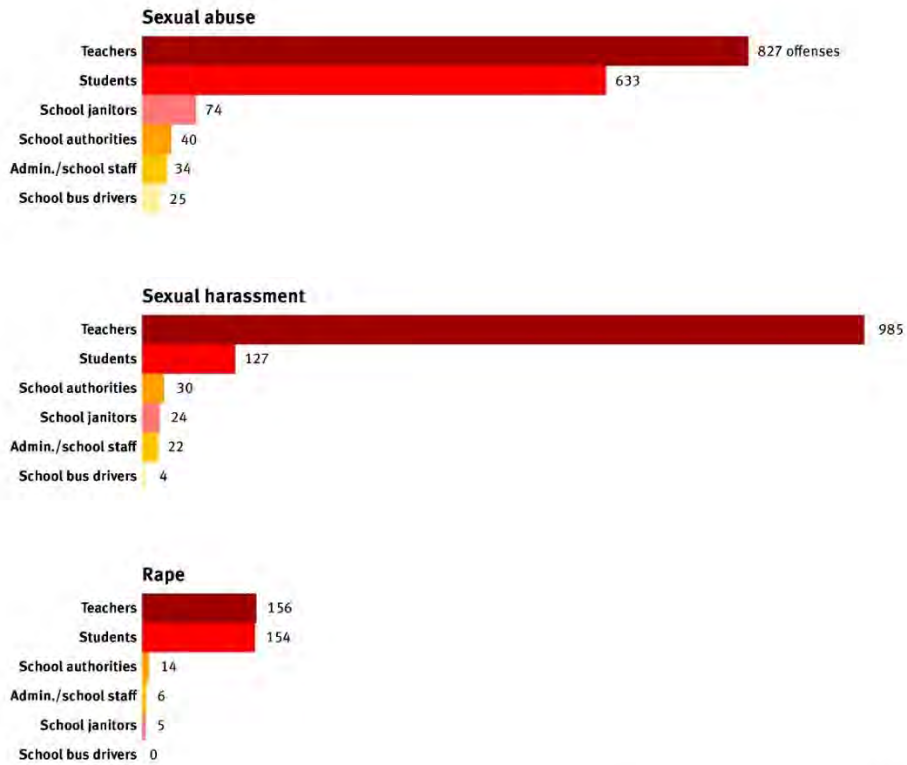
⁸³ Number out of a total number of 10,544 complaints registered by the Ministry of Education. Though school-related, the Ministry of Education counts cases involving school bus drivers as events happening outside of education institutions. Human Rights Watch included school bus drivers in this data analysis.

⁸⁴ This breakdown excludes 27 cases perpetrated by school bus drivers, reported separately by the Ministry of Education.

⁸⁵ This number is out of a total of 13,117 complaints detected by the Ministry of Education, affecting 8,726 children and adolescents.

Most Reported Types of Sexual Violence Offenses in Schools, by Perpetrator

Reported to Attorney General, 2015 - 2019



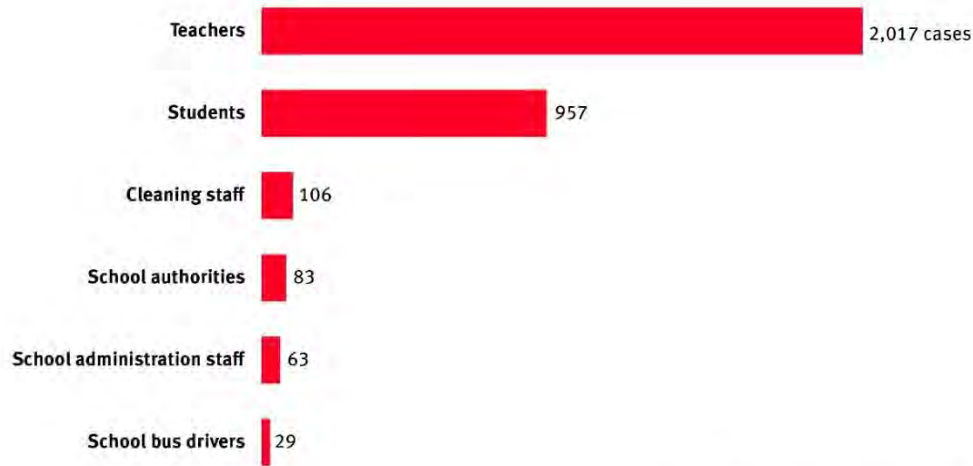
Source: HRW analysis of data from the Prosecutor's Office

Teachers were named perpetrators in 62 percent of these complaints. Students were accused in 29 percent of the cases and the remainder were various other school staff. Adults were responsible for the vast majority of school-related sexual violence. In fact, in 60 percent of the cases, the perpetrator was over the age of 30, and in nearly a quarter of the complaints, the perpetrator was over the age of 50.⁸⁶

⁸⁶ The largest discrepancy in the data relates to the total number of students who are the subject of a complaint reported by the Ministry of Education, and complaints reported to the Attorney General where the alleged perpetrator is a student.

Perpetrators of Sexual Violence in Schools

Reported to Prosecutor's Office, 2015 - 2019



Source: HRW analysis of data from the Prosecutor's Office

Findings on School-Related Sexual Violence

Those who commit the crime hide – we have to put a face to the issue...

That day [when she found out a teacher had raped her 3-year-old daughter] changed my life – they have changed my daughter's life.

–María Auxiliadora Valero, mother of young survivor, July 2020

Human Rights Watch documented 38 cases of school-related sexual violence against children and adolescents who were 3 to 17 years old when the abuses happened between 2010 and 2019. The majority of cases documented by Human Rights Watch concerned girls in primary and secondary school, although younger girls and boys, one as young as three, were also raped or sexually abused in pre-school and in the early grades of primary school.⁸⁷

Human Rights Watch found that teachers, staff hired by schools, and adult men connected to schools, like school bus drivers, have raped, sexually exploited, abused or harassed students. We documented 21 cases in which teachers raped and sexually abused

⁸⁷ This categorization is based on gender descriptions, used by survivors, their family representatives, legal representatives and officials in charge of cases documented by Human Rights Watch.

students. Human Rights Watch also documented 8 cases in which students raped, sexually abused or harassed fellow students, including online.

Children and adolescents whose cases are included in this report were subjected to many forms of sexual violence. Sexual violence sometimes occurred over prolonged periods. Survivors were not only deeply affected by sexual violence, but some also faced harassment, bullying, and intimidation after they reported the abuses. Seventeen cases included sexual abuse in which perpetrators touched children's genitals or other parts of their bodies, sexually harassed students, and forced students, including two students with intellectual disabilities, to perform sexual acts on school premises and suggested sexual relationships. Adults also forced children to perform sexual acts in bathrooms, concealed areas in schools, or areas just outside the school perimeter. One case included the non-consensual sharing of intimate photographs. Three cases of rape or sexual abuse of students documented by Human Rights Watch also included allegations of child pornography involving teachers or other school staff and students.⁸⁸

School-related gender-based violence includes acts or threats against children and adolescents that happen in and around schools – not just inside the school's gates.⁸⁹ Abuses against students can also happen on the way to school, or through online platforms. For example, two girls enrolled in public schools were groomed online and by the school gates, and raped and exploited for child pornography by the same perpetrator. This perpetrator, who was convicted in 2019 and 2020, had previously taught in private schools and allegedly raped and groomed more than 16 secondary school-going girls. Another girl was outside the school gates when three men and a boy took her to an empty lot in the school's vicinity and gang raped her. Twenty-one cases documented by Human Rights Watch occurred in, or were connected to, public schools, in cities like Guayaquil, Quito and Cuenca, but also affected children in more remote areas. We also documented 15 cases that occurred in, or were connected to, private schools, including religious schools in these cities, as well as Ibarra.

⁸⁸ All categorizations are based on definitions used by survivors, their family representatives and/or lawyers; and where available, correspond to the charges prescribed by the prosecutor or where applicable, the final sentence.

⁸⁹ UN Girls' Education Initiative and Global Working Group to End School-Related Gender-Based Violence, *A Whole School Approach to Prevent School-Related Gender-Based Violence*, 2018, http://www.ungei.org/resources/index_6522.html (accessed September 24, 2020), pp. 8-12.

Inadequate Response by Schools and Education Authorities

The government has made significant efforts to tackle high levels of sexual violence in schools, and many teachers, education officials and student welfare teams, which include school counsellors and psychologists, are committed to act. The Union of National Educators and the Network of Teachers for an Educational Revolution—two teachers' collectives—have also condemned sexual violence.⁹⁰

Still, Human Rights Watch found that the response of some schools and education authorities to cases of sexual violence falls short of the government's commitment and its international human rights obligations. Sixteen out of 38 cases documented by Human Rights Watch were perpetrated between 2017 and 2019, when the current government's more robust approach and response to school-related sexual violence began to be enforced.

Cases documented by Human Rights Watch show that reporting—which is mandatory, and should happen within 24 hours of officials detecting or being told about an alleged abuse, according to the Ministry of Education's guidelines—is still tied to the willingness of school staff to apply and follow all government protocols.⁹¹ In some cases, a failure to follow the protocols has resulted in re-victimization, stigma, or harassment against an alleged victim and their parents.

Henry Calle, former zone 6 coordinator in Cuenca, depicted the situation as “a curtain of impunity,” with a focus on protecting the alleged perpetrator without thinking of the consequences for the victim.⁹² Despite progress made in tackling impunity, in some cases, teachers still protect each other, avoiding the level of scrutiny needed to promptly report cases.⁹³

⁹⁰ See “Comunicado Red de Maestros sobre el caso de los niños abusados,” October 10, 2017, *Información Ecuador*, <https://informacionecuador.com/comunicado-red-de-maestros-sobre-el-caso-de-los-ninos-abusados/> (accessed September 24, 2020) and Red Maestros Por La Revolución Educativa, “Red de Maestros se reúnen con el Presidente Lenín Moreno para abordar la Cero Tolerancia a la vulneración de derechos de nuestros niños, niñas y adolescentes,” Facebook video, November 10, 2017, <https://hi-in.facebook.com/RedMaestrxsEC/videos/1506857632697086/> (accessed September 10, 2020).

⁹¹ Human Rights Watch interview with school counsellor, Cuenca, July 5, 2019; Human Rights Watch WhatsApp interview with Martha Roldós, Fundación Mil Hojas, September 9, 2019; Human Rights Watch WhatsApp interview with Fabián Salguero, father of 7-year-old male survivor, November 21, 2019.

⁹² Human Rights Watch interview with Henry Calle, former Coordinator Zone 6, Cuenca, July 4, 2019.

⁹³ Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019; Human Rights Watch interview with clinical team, CEPAM Guayaquil, Guayaquil, June 26, 2019; Human Rights Watch interview with María Fernanda Porras,

Survivors of sexual violence and their relatives and representatives often encounter hostility, harassment, and intimidation from school authorities and teachers who should instead play a key role in supporting children who come forward with allegations of sexual violence.⁹⁴ In seven cases, teachers, school officials, parent school associations or students have rallied against alleged victims and their parents, and in some cases, harassed and intimidated them to drop charges against a teacher or the school.⁹⁵

Parents of young victims of sexual violence told Human Rights Watch that teachers and administrators have sometimes mobilized in defense of the alleged perpetrator, and, in some cases, against the student or students. Such acts served to discredit the victim and family members, and to intimidate other parents, or officials, who are supportive.⁹⁶ Dolores M., her daughter Raquel, and their family were forced to relocate from Sucumbíos province after members of their community and education officials at the school blamed her daughter for being raped by a school janitor.⁹⁷

Failure to Act on Warning Signs of Abuse

Many victims of sexual violence feel unable, or lack support, to speak out and seek help. Perpetrators often instill fear in children, gain their trust, or force already vulnerable children to depend on them.⁹⁸ In those instances, cases can only be uncovered if the adults surrounding a child are able to recognize signs of abuse. However, many school officials fail to read or act on warning signs. The mother of a 16-year-old survivor in Cuenca

former Ministry of Education sub-secretary, Quito, July 2, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019; Human Rights Watch interview with Henry Calle, former Coordinator Zone 6, Cuenca, July 4, 2019.

⁹⁴ Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019.

⁹⁵ Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019; Human Rights Watch interview with Steven Reyes, lawyer, Guayaquil, June 26, 2019; Human Rights Watch interview with Victoria S., Quito, July 1, 2019; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch interview with Hipólito Pérez, Carchi province, July 7, 2019.

⁹⁶ Human Rights Watch interview with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February 12, 2019; Human Rights Watch interview with parents of female survivor, Quito, July 1, 2019. Four government officials who have reported teachers or incidents involving school staff reported being threatened by peers in schools, or officials at the district level. Human Rights Watch interview with María Fernanda Porras, former Ministry of Education sub-secretary, Quito, July 2, 2019; Human Rights Watch interview with school counsellor, Cuenca, July 5, 2019; Human Rights Watch interview with education official, Cuenca, July 5, 2019.

⁹⁷ Research commissioned by Human Rights Watch in Sucumbíos province; Interview with Dolores M., July 19, 2019.

⁹⁸ Human Rights Watch interview with Evelyn Yucailla, Ambato, June 23, 2019; Human Rights Watch interview with clinical team, CEPAM Guayaquil, Guayaquil, June 26, 2019; Human Rights Watch interview with Paola Andrade, co-Founder, Ecuador Dice No Más, Guayaquil, June 26, 2019.

told Human Rights Watch: “When I went to the school [to report abuse against my daughter], they didn’t know how to act. How can it be that during an entire year the school counsellor didn’t realize that a girl [in her school] had been raped?”⁹⁹

Children are still sometimes not believed when they come forward to report sexual violence. School officials and teachers sometimes focus on discrediting children’s allegations of sexual violence, particularly when the victim is very young.¹⁰⁰ Paola Andrade, who co-founded Ecuador Dice No Más, a foundation that aims to end the silence around child abuse, told Human Rights Watch that there is a general lack of understanding, on the part of family members and teaching staff alike, of the signs of child abuse.¹⁰¹

At Colegio Interamericano of Guayaquil, a private school, María Auxiliadora Valero’s daughter Fernanda, who was 5 at the time of writing, was one of the at least 18 children between 3 and 5 years old who were sexually abused by their music teacher in 2017. “My daughter had some issues at school that my husband and I detected [as odd]... When she was 3 years old, she would ask ‘why do I have to go to school, why to [that school]?’ We would inform her class tutor... A few months later, she had a crisis at school, she didn’t want to go into the school... We then heard that [other] moms had filed complaints.” The perpetrator would often take them to the music room, even though it was an uncommon practice for pre-school students, and sexually abuse them there.¹⁰² Valero told Human Rights Watch that during the teacher’s trial two assistant female teachers, who were tried for sexual abuse at time of writing, provided an alibi by saying that they were always there with him and that the children were never on their own: “The [female] teachers used to say they were always with the teacher, that the children were never alone with him... When they charged him, their discourse started changing. This is the way we found out they were

⁹⁹ Human Rights Watch interview with mother of female survivor, Cuenca, July 5, 2019.

¹⁰⁰ Human Rights Watch interview with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February 12, 2019; Human Rights Watch interview with Mayra Soria, prosecutor, Quito, June 20, 2019; Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019; Human Rights Watch interview with Steven Reyes, lawyer, Guayaquil, June 26, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch interview with Stalin Oviedo, lawyer, Quito, July 9, 2019; Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

¹⁰¹ Human Rights Watch interview with Paola Andrade, co-Founder, Ecuador Dice No Más, Guayaquil, June 26, 2019.

¹⁰² Fiscalía General del Estado, “Caso CEBI: nueva instrucción fiscal en contra de exprofesor,” Boletín de Prensa FGE No. 644-DC-2019, November 19, 2019, <https://www.fiscalia.gob.ec/caso-cebi-nueva-instruccion-fiscal-en-contra-de-exprofesor/>; (accessed July 15, 2020); Fiscalía General del Estado, “Caso CEBI: 2 asistentes parvularias fueron vinculadas por abuso sexual,” Boletín de Prensa FGE No. 195-DC-2020, February 21, 2020, <https://www.fiscalia.gob.ec/caso-cebi-2-asistentes-parvularias-fueron-vinculadas-por-abuso-sexual/>; (accessed July 15, 2020).

there – they participated in the rape against the children.”¹⁰³ School staff allegedly did not stop these teachers from taking some children, including Fernanda, who was three years old at the time, outside school premises without any parental or official authorization.¹⁰⁴ “They [the children] think we’re going to challenge them, that we wouldn’t love them.... That they had to keep a secret,” Valero said.

In Cuenca, Maggie and Daisy were both 15 when they were raped and exploited for child pornography by the same perpetrator. The girls had tried to draw attention to abuse, without saying they themselves were the victims—a common warning sign among victims of sexual violence.¹⁰⁵ They told Human Rights Watch, “We spoke to our [class] tutor and told him that a friend of ours was going through these things... so, [we were retelling him] what was happening to us. He shared an experience with us, and told us not to fear—he told us to trust in God—and allowed us to sit together [in class]... Some teachers could see we were not following in class, our grades were going down.”¹⁰⁶

In Sucumbíos province, school authorities and teachers at a special school failed to spot that a man who regularly cleaned shoes outside the school repeatedly took Marta, a 16-year-old girl with intellectual disabilities, to a shack in the back of her school. The man raped Marta at least three times in 2018. Soledad G., the girl’s mother, found out this was happening when she went to the school because Marta had not arrived at home at her usual hour.¹⁰⁷

Similarly, in Orellana, a teacher would often take a 12-year-old boy with intellectual disabilities out of the school during the time he was supposed to return home to take his medicine. He took him to a hill just above the school where he sexually abused him

¹⁰³ Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 8, 2020.

¹⁰⁴ Ibid.

¹⁰⁵ National Society for the Prevention of Cruelty to Children (NSPCC), Recognising and responding to abuse, August 21, 2020, <https://learning.nspcc.org.uk/child-abuse-and-neglect/recognising-and-responding-to-abuse> (accessed September 24, 2020); Sarah Elizabeth Morrison, Caroline Bruce and Sarah Wilson, *Children’s Disclosure of Sexual Abuse: A Systematic Review of Qualitative Research Exploring Barriers and Facilitators*, Journal of Child Sexual Abuse, February 28, 2018, <https://doi.org/10.1080/10538712.2018.1425943> (accessed September 24, 2020), pp. 176-194, in WHO, *Responding to children and adolescents who have been sexually abused—WHO Clinical Guidelines*, February 2017, <https://www.who.int/publications/i/item/9789241550147-responding-to-children-and-adolescents-who-have-been-sexually-abused> (accessed September 24, 2020).

¹⁰⁶ Human Rights Watch interview with Maggie, Cuenca, July 5, 2019.

¹⁰⁷ Research commissioned by Human Rights Watch in Sucumbíos province; Interviews with Soledad G., and Dr. Ruth Ramos, lawyer, Lago Agrio, July 18, 2019.

numerous times. The teacher offered him sweets and good grades in exchange. The boy's stepmother found out because his younger brother once saw what happened. However, she did not file a complaint then; and only filed it when medical staff assessing the boy in Quito told her she had to because the teacher had perpetrated a sexual offense. The school did not collaborate with the Prosecutor's Office, according to prosecutor Vicente Chamba Paucar.¹⁰⁸

Shortage of Student Welfare Teams

Student welfare teams, which often include school psychologists and counsellors, play a crucial role in child protection and safeguarding.¹⁰⁹ Nationally, there are far too few of them. Some teams and school counsellors have also been pressured not to report cases; undermining their key role.

There is a significant shortage of student welfare teams for public schools: current estimates show that there are 3,263 school counsellors and psychologists nationally, with one counsellor for every 1,200 students enrolled in public schools, according to Ministry of Education officials.¹¹⁰ This number is predicted to decrease, following announcements in 2019 of reductions in non-teaching personnel that will take effect in 2021, which has prompted concerns that further cuts will impact already under-served public school districts, particularly in rural areas.¹¹¹ Education officials supervising the province of Azuay, for example, reported spending their own resources on traveling long distances to visit schools in remote areas.¹¹² In contrast, private schools must have at least one school counsellor, if it has less than 300 students, or a full student welfare team.¹¹³

¹⁰⁸ Human Rights Watch video interview with Vicente Chamba Paucar, provincial prosecutor, August 28, 2020.

¹⁰⁹ Human Rights Watch uses the term "student welfare teams" to describe "Departamento de Consejería Estudiantil."

¹¹⁰ Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, January 16, 2020; Human Rights Watch video interview with Sebastián Salazar Nicholls, Director Nacional de Educación Para la Democracia y Buen Vivir, and Lorena Peñaherrera Vaca, analyst, Ministry of Education, September 17, 2020.

¹¹¹ Interviewees also pointed out predicted cuts to education officials, in line with changes to the government's decentralized model. This means fewer education officials will be available to administratively handle the volume of complaints. Human Rights Watch WhatsApp interview with Nicolás Reyes, former Technical Secretary, Consejo de Igualdad Intergeneracional, December 17, 2019; Human Rights Watch WhatsApp interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, January 16, 2020.

¹¹² Human Rights Watch interview with Henry Calle, former Coordinador Zonal 6, Cuenca, July 3, 2019; Human Rights Watch interview with zonal education official (name withheld at interviewee's request), Cuenca, July 4, 2019.

¹¹³ Ministerio de Educación, "Qué son los DECE?", undated, <https://educacion.gob.ec/que-son-los-dece/> (accessed October 19, 2020).

In at least seven instances, family members, lawyers, prosecutors, and NGO experts told Human Rights Watch that school counsellors were pressured not to act on allegations of sexual abuse, downplayed a child's testimony, and failed to report it.¹¹⁴

Three former education officials tasked with re-opening allegations filed administratively by education officials in 2017 noted two challenges: in some instances, school counsellors had failed to report an alleged perpetrator; in many more instances, they had reported incidents but either they were pressured by teachers and senior school officials to not intervene or their reports were not acted on.¹¹⁵

A school counsellor in the city of Cuenca told Human Rights Watch that school counsellors are often pressured and sometimes intimidated by parents of children accused of abuses, and by teachers. In 2018, she noted, school counsellors were empowered and encouraged to report all cases. But she noticed that in 2019, following changes in leadership of education officials serving the Azuay zone, the emphasis on reporting decreased: "They [education officials] have told us to not report because there's no more follow-up."¹¹⁶ This sentiment was shared by a provincial education official in Cuenca who added: "At the district [level]... cases stay there. There's a 'feeling' of concealment [by district officials]. It's like knowing what is happening, but all we can do is prepare the reports, and those at the top don't take action."¹¹⁷

At the national level, two former senior ministry officials told Human Rights Watch that officials are also under pressure to reduce their reporting of cases related to sexual violence, due in part to increasing pressure by teachers' associations to stop stigmatizing teachers.¹¹⁸ Since schools have generally relied on student welfare teams to report cases of

¹¹⁴ Human Rights Watch interview with Natasha Montero, visiting lecturer, Universidad Andina Simón Bolívar, June 24, 2019; Human Rights Watch interview with Steven Reyes, lawyer, Guayaquil, June 26, 2019; Human Rights Watch interview with Carla Vázquez, Quito, July 1, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

¹¹⁵ Human Rights Watch interview with María Fernanda Porras, former Ministry of Education sub-secretary, Quito, July 2, 2019; Henry Calle, former coordinator Zonal 6, Cuenca, July 4, 2019.

¹¹⁶ Human Rights Watch interview with school counsellor (name withheld at interviewee's request), Cuenca, July 5, 2019.

¹¹⁷ Ibid. Human Rights Watch interview with zonal education official (name withheld at interviewee's request), Cuenca, July 5, 2019.

¹¹⁸ Human Rights Watch WhatsApp interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, Quito, July 2, 2020; Human Rights Watch WhatsApp interview with government official (name withheld at interviewee's request), July 21, 2020.

sexual violence, school counsellors have also faced great pressure and intimidation at the school level, according to Laura Salvador Puig, national director of the Ministry of Education's directorate in charge of student welfare from October 2019 to June 2020, and a former public school counsellor in Quito. Salvador Puig recalls an episode from 2018 when she dealt with an allegation of sexual abuse against a male teacher. A female teacher told her at the time: "You are exaggerating so much, it's the girls who are offering themselves."¹¹⁹

According to Salvador Puig, school counsellors increasingly report burnout, caused by the level of pressure they face at the schools they work in, increasing demand for psychological support, and lack of job security. Planned budget and staff cuts mean "fewer cases will be handled, fewer workshops or courses on prevention, and less support."¹²⁰ Sebastián Salazar, current ministry director, said that a forthcoming reform of the education law is expected to provide that members of student welfare teams are to be treated as core school staff, with a clearer role in the education system and visibility in national budgets.¹²¹

Lack of Adherence to Ministry Protocols

Human Rights Watch found numerous instances where protocols were not followed. In 2020, the Ministry of Education standardized the official response to school-related sexual violence by providing clear guidance on the reporting protocol applicable to all school staff.¹²² Now, theoretically, the obligation to report falls on all school staff, including teachers.¹²³

Facilitating Meetings Between Alleged Perpetrators and Victims

The Ministry of Education strictly prohibits staff from "facilitating" or arranging a meeting between an alleged victim of abuse and the alleged perpetrator—a practice known as

¹¹⁹ Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, January 16, 2020.

¹²⁰ Ibid.

¹²¹ Human Rights Watch video interview with Sebastián Salazar Nicholls, Director Nacional de Educación Para la Democracia y Buen Vivir, and Lorena Peñaherrera Vaca, analyst, Ministry of Education, September 17, 2020.

¹²² Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, Ministry of Education, January 16, 2020. See Ministerio de Educación, *Protocolos y rutas de actuación frente a SITUACIONES DE VIOLENCIA detectadas o cometidas en el sistema educativo*, Tercera Edición, 2020, p. 83.

¹²³ Ibid., pp. 23, 62-70, 106-107.

‘careo.’¹²⁴ But the practice remains common across many schools according to former government officials, lawyers, and prosecutor Pinillo Castillo.¹²⁵ In four cases, Human Rights Watch documented instances where staff, ranging from school directors to counsellors, arranged such meetings.¹²⁶ In 2019, Carla Vázquez, 16, an 11th grade secondary school student from Quito, was called to a meeting after she complained about a younger student who had sent her unsolicited intimate photos. At that meeting, Carla’s behaviour was questioned by school authorities who had obtained photos of her shared consensually with another male student not involved in the abuse she had reported. According to Carla, the school counsellor said: “I don’t know what she’s complaining about... if she dresses like that, and she behaves this way.”¹²⁷ Carla told Human Rights Watch “I would have liked that the school didn’t tell me it was my fault.”¹²⁸

Interfering with Reporting or Not Registering Cases

Human Rights Watch documented some cases where school or district education officials have failed to report cases or sought to suppress reporting of cases by parents or students, often to protect teachers.¹²⁹

For example, when the school counsellor at the Eloy Alfaro military-run school in Quito was informed that Alfonso, 8 years old, had allegedly been raped by another student and subjected to other sexual abuses, she told Alfonso’s family that while she would conduct an investigation she could only provide therapy but would not report the incidents to anyone else.¹³⁰

¹²⁴ Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, Ministry of Education, January 16, 2020.

¹²⁵ Human Rights Watch interview with Henry Calle, former coordinador Zonal 6, Cuenca, July 4, 2019; Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, January 16, 2020; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

¹²⁶ Human Rights Watch interview with Carla Vázquez, Quito, July 1, 2019; Human Rights Watch interview with Victoria S., Quito, July 1, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

¹²⁷ Human Rights Watch interview with Carla Vázquez, Quito, July 1, 2019; Human Rights Watch interview with Cristina Torres, lawyer, June 20, 2019 and July 1, 2019.

¹²⁸ Human Rights Watch interview with Carla Vázquez, Quito, July 1, 2019.

¹²⁹ Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

¹³⁰ Testimony quoted from documents presenting complaints to the Provincial Prosecutor of Pichincha, and the Junta Cantonal de Protección de Derechos. Copies on file with Human Rights Watch. Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019.

A district education official from Quito told Human Rights Watch that the district office she reports to has interfered in various cases she and other officials have reported. In one case in 2019, officials in a district office in Quito intentionally changed the date of a female student's complaint to nullify her complaint on the basis that the teacher accused of sexual abuse did not teach her that day.¹³¹ This teacher had previously been accused of sexually abusing and harassing other female students at his school, without repercussions. In another case in this district, teachers tried to dissuade a mother from reporting a case of sexual harassment of her daughter by a teacher, arguing the alleged perpetrator was going to retire soon. They allegedly offered to move the student on to the next grade to solve the matter.¹³²

In Guayaquil, prosecutor Yoli Pinillo Castillo, coordinator of the specialized gender unit of Guayas province, led investigations related to sexual abuse perpetrated by a public school janitor against a group of primary school girls, ages eight and nine, in 2018. The janitor, who would regularly request that groups of girls help him clean during their school breaks, locked one girl in the bathroom, where he sexually abused her. He did the same to a group of girls in the school's canteen. On their way back to their classroom, they reported this to the teacher who did not pay much attention to them and told them she was busy. She did not report this to the principal either, contravening the ministry's guidelines. According to Pinillo Castillo, "the concern from the prosecutor's office was why she did not present a complaint at that precise moment [in line with her constitutional and penal obligations]... had the mothers not filed a complaint, the prosecutor's office would not have found out."¹³³ The janitor was found guilty of sexually abusing three students in 2020.¹³⁴

In Cuenca, two education officials who re-opened complaints of sexual violence administratively filed prior to October 2017, found that in some districts of Azuay province, school officials tried to settle cases and stopped school counsellors from getting involved.¹³⁵ Many cases were allegedly covered up by district and regional

¹³¹ Human Rights Watch WhatsApp interview with education official (name withheld at interviewee's request), July 21, 2020.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Fiscalía General del Estado, "Conserje de centro educativo, sentenciado por abuso sexual contra 3 estudiantes," Boletín de Prensa FGE No. 248-DC-2020, March 13, 2020, <https://www.fiscalia.gob.ec/conserje-de-centro-educativo-sentenciado-por-abuso-sexual-contra-3-estudiantes/> (accessed November 11, 2020).

¹³⁵ Human Rights Watch interview with zonal education official (name withheld at interviewee's request), Cuenca, July 5, 2019; Human Rights Watch interview with school counsellor (name withheld at interviewee's request), Cuenca, July 5, 2019.

officials.¹³⁶ Henry Calle, former education coordinator serving the province of Azuay from May 2017 to November 2018, told Human Rights Watch he once found that a ministry lawyer had kept all the complaints in a locked filing cabinet—resulting in no follow-up. Human Rights Watch was also told that another ministry lawyer would also write up false reports claiming teachers’ innocence.¹³⁷

Hiring of Non-Teachers

All public school teachers should go through a thorough and exhaustive hiring process.¹³⁸ But in some private schools teachers only require a teaching certificate to be hired.¹³⁹ The AAMPETRA case established a precedent mandating all private schools to regularize the hiring process for teachers and other school staff at private schools, and apply psychometric tests prior to confirming employment. Still, a string of cases since 2017 has shown the government’s lack of rigorous application of hiring standards, including the absence of background and reference checks for all teachers.¹⁴⁰

In Quito, a car mechanic was hired as a physical education teacher by a public primary school despite lacking credentials to teach. In February 2020, a court found him guilty of raping two boys, aged 5 and 6.¹⁴¹ When Fabián Salguero, the father of the 5-year-old boy, questioned ministry officials about the man’s appointment as a teacher, he was told that they had to fill in a gap.¹⁴² Despite the ministry’s clear guidance to immediately remove

¹³⁶ Human Rights Watch interview with Henry Calle, former coordinador Zonal 6, Cuenca, July 4, 2019.

¹³⁷ Ibid.

¹³⁸ See Mayuri Castro, “Así está dividido el Magisterio Nacional,” *GK*, September 11, 2020, <https://gk.city/2020/09/11/magisterio-nacional-ecuador/> (accessed August 13, 2020).

¹³⁹ Human Rights Watch interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, July 2, 2019.

¹⁴⁰ Notably, incidents of widespread, systemic sexual abuse of students in the Colegio Réplica Aguirre Abad of Guayaquil, a large public school, where four men who have been found guilty of sexually abusing and torturing 99 children were found to have no teaching credentials. Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020; Human Rights Watch telephone interview with Martha Roldós, Fundación Mil Hojas, July 1, 2019; “Abusos Sexuales en plantel de Guayaquil salieron a la luz por padres de familia,” *El Universo*, October 15, 2017, <https://www.eluniverso.com/noticias/2017/10/15/nota/6430879/abusos-sexuales-plantel-salieron-luz-padres>; “Preocupa a Fiscalía que hayan más casos de abuso sexual a menores en plantel,” *El Universo*, October 11, 2017, <https://www.eluniverso.com/noticias/2017/10/11/nota/6426067/examenes-cuatro-alumnos-escuela-fiscal-confirman-que-hubo-abuso> (all accessed December 12, 2019).

¹⁴¹ Fiscalía General del Estado, “Segunda sentencia contra profesor por abuso sexual,” Boletín de Prensa FGE No 782-DC-2019, December 20, 2019, <https://www.fiscalia.gob.ec/segunda-sentencia-contra-profesor-por-abuso-sexual/>; Fiscalía General del Estado, “Sentenciado por 2 casos de abuso sexual contra niños,” Boletín de Prensa FGE No. 129-DC-2020, February 5, 2020, <https://www.fiscalia.gob.ec/sentenciado-por-2-casos-de-abuso-sexual-contra-ninos/> (all accessed July 10, 2020).

¹⁴² Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

staff¹⁴³ while investigations are ongoing, the school took over eight days to remove the man from school premises after receiving the complaint.¹⁴⁴

In 2016, the Committee on the Rights of the Child called on Ecuador to “introduce compulsory screening processes and background checks of all professionals working with and for children in public and private schools.”¹⁴⁵ This remains outstanding. For example, it is unclear whether all teachers found guilty of sexual violence were officially removed from teaching after the Ministry of Education’s investigations into archived cases; some appear to have been reinstated.¹⁴⁶ An analysis put together by the Ministry of Education in 2020, consulted by Human Rights Watch, shows that in two district offices under the ministry’s Zone 8 sub-secretary office in Guayaquil, perpetrators of sexual violence that had been administratively dismissed by district boards were reinstated by the Education sub-secretary.¹⁴⁷ Teachers who are administratively dismissed from public schools following investigations of sexual violence can still be hired by private schools.¹⁴⁸

Lack of Screening of Auxiliary School Staff and Bus Drivers

Human Rights Watch documented five cases of sexual abuse allegedly perpetrated by auxiliary staff: a school porter in a private religious school, two janitors in public schools, and two school bus drivers.¹⁴⁹ Government protocols are binding with respect to all public workers, including school staff.¹⁵⁰ Auxiliary staff hired privately are excluded, but they are

¹⁴³ Ministerio de Educación, “Acuerdo Nro. MINEDUC-MINEDUC-2017-00088-A,” October 26, 2017, <https://educacion.gob.ec/wp-content/uploads/downloads/2017/11/MINEDUC-2017-00088-A.pdf> (accessed October 10, 2020).

¹⁴⁴ Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

¹⁴⁵ CRC, Concluding observations on the combined fifth and sixth periodic reports of Ecuador, CRC/C/ECU/CO/5-6, October 26, 2017, <https://undocs.org/en/CRC/C/ECU/CO/5-6> (accessed September 24, 2020), para. 27(b).

¹⁴⁶ Human Rights Watch telephone interview with Martha Roldós, Fundación Mil Hojas, July 1, 2019.

¹⁴⁷ Ministerio de Educación, “Actuación de las Direcciones Distritales en la protección integral de niños, niñas y adolescentes frente a casos de violencia en Subsecretaría de Educación de Guayaquil,” 2020 (copy on file with Human Rights Watch).

¹⁴⁸ Ibid.; Human Rights Watch WhatsApp interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, July 11, 2020.

¹⁴⁹ Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Research commissioned by Human Rights Watch in Sucumbíos province; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

¹⁵⁰ See for example, Decreto No. 710 Corresponente a la Ley Orgánica del Servicio Público, Publicado en el Registro Oficial, Suplemento No. 418 de 1 de abril del 2011.

bound by the Code of Work, a binding employment law which regulates and stipulates employers and employees' obligations and responsibilities.¹⁵¹

In Ibarra, the school doorman at a Catholic school was accused of raping a 6-year-old girl, a pre-school student, in 2018. The doorman pleaded guilty when he was apprehended, and the prosecution collected convincing forensic evidence. Despite this, judges found him not guilty after accepting his lawyer's claim that evidence linking him to the abuses was ambiguous. The school's administration had hired a well-known criminal lawyer to defend the doorman and the defense team alleged that the girl's mother could have been abusing her.¹⁵² Human Rights Watch was told that the doorman continues to work at the school.¹⁵³

In Lago Agrio, a janitor at a large public school raped Raquel, a 9-year-old girl, in the school's bathrooms, for three years. The janitor was only investigated when Dolores M., the girl's mother, found out in late 2017, and supported by the student welfare team, filed a complaint against him at the local prosecutor's office.¹⁵⁴ Through this process, she found out other students had previously complained about being abused by him. He was found guilty of rape in October 2019.¹⁵⁵

Private Schools Evading Government Oversight

Private schools do not appear to follow government protocols in a uniform way. Human Rights Watch documented 15 cases where abuses took place in private schools, including in one military-run and two religious schools. In most cases, private schools focused on covering up a particular incident, attacked the parents' or student's reputation, and generally turned their backs on parents and their children. Some schools focused on

¹⁵¹ Ministerio del Trabajo, Código del Trabajo, 2012, <http://www.trabajo.gob.ec/wp-content/uploads/downloads/2012/11/C%C3%B3digo-de-Trabajo-PDF.pdf> (accessed November 18, 2020).

¹⁵² Human Rights Watch interview with Stalin Oviedo, lawyer, Quito, July 9, 2019.

¹⁵³ Ibid.; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019.

¹⁵⁴ Research commissioned by Human Rights Watch in Sucumbíos province; Interview with Dolores M., July 19, 2019.

¹⁵⁵ Fiscalía General del Estado, "Conserje de institución educativa, sentenciado por violación," Boletín de Prensa FGE No. 502-DC-2019, October 17, 2019,

<https://www.fiscalia.gob.ec/conserje-de-institucion-educativa-sentenciado-por-violacion/> (accessed July 10, 2020).

preventing damage to the school's image or reputation; in some cases, schools resorted to defensive or threatening acts against the victim.¹⁵⁶

Ecuador's first well-known judicial case of online child grooming took place in 2015 and involved a teacher at La Condamine, a Franco-Ecuadorian private school.¹⁵⁷ Over the course of two years, a teacher at the school groomed and regularly sent messages of a sexual nature to his 11-year-old female student using different social media platforms, text messages, and emails.¹⁵⁸ According to Stalin Oviedo, the student's lawyer, the school focused on dealing with the reputational damage rather than adopting protection measures and responding to the specific needs of the affected student.¹⁵⁹ The school's reaction was similar when the school's physical education teacher was accused of raping a 5-year-old student in 2014—a case known as “El Principito,” also studied by the AAMPETRA commission.¹⁶⁰ School staff, including Anne Malherbe, former President Correa's wife and a teacher at the school, rallied in favor of the teacher.¹⁶¹

In July 2017, Victoria S., then 16, was sexually assaulted by another student in her grade. Victoria hid this from her parents, and they only found out months later when she was bullied and harassed at her school. When Victoria's parents filed a complaint at her private school in Quito, school management allegedly applied its own protocol and filed a complaint with the Ministry of Education's district office. “But that's all they did,” said Victoria's father, who did not want to be named. “The school dedicated itself to protecting the [aggressor]... They tried to make us sign a declaration [to settle the case]... the focus [was] on safeguarding the school's prestige—they do whatever's possible and the impossible so that a [case] doesn't see the light.”¹⁶² Ministry of Education officials told the

¹⁵⁶ Human Rights Watch interview with Mayra Soria, prosecutor, Quito, June 20, 2019; Human Rights Watch interview with clinical team, CEPAM Guayaquil, Guayaquil, June 26, 2019; Human Rights Watch interview with Victoria S., 18, Quito, July 1, 2019; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch interview with Sybel Martínez, Grupo Rescate Escolar, Quito, July 8, 2019; Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 8, 2020; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

¹⁵⁷ Human Rights Watch interview with Stalin Oviedo, lawyer, Quito, July 9, 2019.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Sara Ortiz, “Profesor condenado en el caso Principito evadió control y se fugó,” *El Comercio*, January 11, 2018, <https://www.elcomercio.com/actualidad/profesor-condenado-casoprincipito-justicia-fuga.html> (accessed July 27, 2020).

¹⁶¹ Human Rights Watch interview with Sybel Martínez, Grupo Rescate Escolar, Quito, February 13, 2019; Fundación Mil Hojas, “La Condamine y Anne Malherbe, silencio y estigma en dos casos de abuso sexual,” July 18, 2017, <https://milhojas.is/612470-la-condamine-y-anne-malherbe-silencio-y-estigma-en-dos-casos-de-abuso-sexual.html> (accessed July 27, 2020).

¹⁶² Human Rights Watch interview with parents of female survivor, Quito, July 1, 2019.

family they could not do more because it was a private school. At time of writing, the school had not been fined or investigated by district education authorities in northern Quito.¹⁶³

In four cases documented by Human Rights Watch, private school representatives tried to settle a case by offering money to parents of survivors, attempting to cut short a judicial process that could bring the school into disrepute.¹⁶⁴ In Evelyn Yucailla's case, lawyers representing her private school offered her parents US\$10,000 to settle their case against the teacher accused of raping Evelyn when she was 14. The prosecutor encouraged them to accept it.¹⁶⁵

A 2015 ministerial protocol dictates that any education institution is liable to inspection on the ground of violations of the right to education, interruptions, violent acts that impact student's integrity, and internal crises due to negligence.¹⁶⁶ When this happens, the Ministry of Education can order an "intervention" to inspect the school, investigate allegations, oblige the school to implement measures ordered by officials, and even order a temporary or permanent school closure. Yet, private schools are not subject to interventions on a regular basis even when numerous cases of sexual violence are reported, though some progress has been made in recent years. However, because many private schools are registered as business entities, and fall under the Ministry of Labor, there is a loophole in how to enforce this obligation.¹⁶⁷

In Quito, Ministry of Education officials intervened the Eloy Alfaro school, a military-run school in Quito, following complaints of sexual violence perpetrated against numerous students filed at one of Quito's three metropolitan boards for the protection of children's and adolescent's rights, tasked with investigating threats or violations of children's rights and ordering measures to restore them.¹⁶⁸ The board set up a commission to investigate all

¹⁶³ Human Rights Watch interview with Natasha Montero, visiting lecturer, Universidad Andina Simón Bolívar, Quito, June 24, 2019.

¹⁶⁴ Human Rights Watch interview with Mayra Soria, prosecutor, Quito, June 20, 2019; Human Rights Watch interview with Evelyn Yucailla, Ambato, June 23, 2019; Human Rights Watch interview with Cristina Torres, Quito, June 20 and July 1, 2019; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019.

¹⁶⁵ Human Rights Watch interview with Evelyn Yucailla, Ambato, June 23, 2019.

¹⁶⁶ Ministerio de Educación, "Acuerdo Nro. MINEDUC-ME-2015-00100-A," May 5, 2015, <https://educacion.gob.ec/wp-content/uploads/downloads/2015/06/ACUERDO-Nro.-MINEDUC-ME-2015-00100-A.pdf> (accessed September 24, 2020).

¹⁶⁷ Human Rights Watch interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, Quito, July 2, 2019.

¹⁶⁸ Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019.

forms of violence in the school, which ordered the head of the school's suspension because of his alleged negligence. This prompted backlash from the school's parents and students' association.¹⁶⁹ Sybel Martínez, a member of Quito's Council for the Protection of Rights, told Human Rights Watch that this was one of few instances in which government institutions have taken decisive action to enforce an intervention.¹⁷⁰ In contrast, less than 10 years ago, the AAMPETRA school was never inspected or forced to close temporarily while investigations took place.¹⁷¹

In Guayaquil, the Ministry of Education's provincial zone office ordered an inspection and subsequent closure of the Colegio Interamericano, a private school formerly known as CEBI, where at least one teacher and two assistant teachers have been prosecuted for sexual abuse.¹⁷² According to ministry reports, the school had repeatedly failed to pay fines and take remedial measures imposed by the ministry for concealing information and evidence during the investigation and for verbally abusing a ministry inspector. It ordered the school's closure.¹⁷³ The school's lawyers challenged the ministry's decision to close the school in court which resulted in the court annulling the ministry's orders.¹⁷⁴

Parents, prosecutors, and government officials have sought to bring extra pressure to force private schools to cooperate with the courts. This has most often involved media exposure to raise the profile of a case.

¹⁶⁹ Yadira Trujillo M., "Plantel Militar, intervenido tras denuncias," *El Comercio*, June 6, 2019, <https://www.elcomercio.com/actualidad/plantel-militar-intervenido-denuncias-violencia.html>; Consejo de Protección de Derechos del Distrito Metropolitano de Quito, "Comunicado Oficial—Respaldo a Acciones y Disposiciones de la Junta Metropolitana de Protección de Derechos—Zona La Delicia, y Comisión Interventora del COMIL," July 5, 2019, <https://proteccionderechosquito.gob.ec/2019/07/05/58815/>; Tweet by Consejo de Protección de Derechos de Quito, "Pronunciamiento Público—La Comisión Interventora del Colegio Militar Eloy Alfaro No. 01 (COMIL)," June 13, 2019, <https://twitter.com/DerechosQuito/status/1139286376971689985/photo/1> (all accessed July 28, 2020).

¹⁷⁰ Human Rights Watch interview with Sybel Martinez, Grupo Rescate Escolar, Quito, July 8, 2019.

¹⁷¹ Ibid.; Sentimos Diverso, *A Saltos y Brincos: el camino incierto para enfrentar la violencia sexual en las escuelas*.

¹⁷² Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 21, 2020; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020; Human Rights WhatsApp interview with Erika Lainez, former sub-secretary Zone 8, July 30, 2020; Fiscalía General del Estado, "Caso Cebi: 2 asistentes parvularias fueron vinculadas por abuso sexual," Boletín de Prensa FGE No. 195-DC-2020, February 21, 2020, <https://www.fiscalia.gob.ec/caso-cebi-2-asistentes-parvularias-fueron-vinculadas-por-abuso-sexual/> (accessed July 28, 2020).

¹⁷³ Ministerio de Educación, "Resolución Proceso Sancionatorio No. JDRC-09Do5-0010-2018," 2018 (copy on file with Human Rights Watch).

¹⁷⁴ "Un juez deja sin efecto la resolución que ordenaba cierre del colegio CEBI," *El Telégrafo*, January 19, 2019, <https://www.eltelegrafo.com.ec/noticias/judicial/12/sinefecto-resolucion-cierre-colegiocebi-guayaquil> (accessed October 13, 2020).

Limited Focus on Prevention of Sexual Violence

The government has made considerable efforts to respond to sexual violence occurring in its schools, as well as to strengthen its internal mechanisms to detect cases. But current investment levels and policies aimed at preventing sexual violence within the education system remain insufficient.¹⁷⁵

Lack of Investment to Match Zero Tolerance Commitment

Ecuador has not invested consistently in tackling school-related sexual and gender-based violence.¹⁷⁶ A 2018 report by the state's comptroller found that President Correa's government had not "executed a budget" to implement its 2011 national plan to eradicate sexual offenses in Ecuador's education system.¹⁷⁷ Since 2018, the government has marginally increased line budgets to "strengthen the integral approach to situations of violence detected or committed in the national education system" from a modest US\$2 million in 2019, to \$2.1 million in 2020.¹⁷⁸

Other investments in a system-wide approach have been limited. In 2020, amid wider austerity-related cuts, the government cut its budget for its national plan to prevent gender-based violence by 84 percent, from \$5.4 million to nearly \$877,000, and cut the entire modest budget to implement its policy on the prevention of teenage pregnancies, halting the implementation of key initiatives.¹⁷⁹ This disinvestment prompted concern from

¹⁷⁵ Human Rights Watch interview with Grace Vázquez, Technical director, Consejo Nacional para la Igualdad Intergeneracional, Quito, February 19, 2019.

¹⁷⁶ Human Rights Watch interview with María Fernanda Porras, former Ministry of Education sub-secretary, Quito, July 2, 2019.

¹⁷⁷ Contraloría General del Estado, "Examen Especial a los fondos asignados y utilizados por el Ministerio de Educación para la ejecución de los estudios, planes, proyectos, programas y campañas relacionadas con el "Plan Nacional Integral para erradicar los delitos sexuales en el sistema educativo," su administración y liquidación en el MINISTERIO DE EDUCACION y entidades relacionadas, por el período comprendido entre el 1 de enero de 2013 y el 30 de junio de 2018," DNA2-0002-2019, copy on file with Human Rights Watch (unofficial translation by Human Rights Watch). pp. 7, 13.

¹⁷⁸ Ministerio de Economía y Finanzas, Proforma del Presupuesto General del Estado—Programa Anual de Inversiones Entidad—CUP Gastos (US Dolares), Ejercicio: 2019, copy on file with Human Rights Watch; Proforma del Presupuesto General del Estado—Consolidado por Plan Anual de Inversiones Entidad CUP—Egresos (US Dolares), Ejercicio: 2020, copy on file with Human Rights Watch.

¹⁷⁹ Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación para la Democracia y el Buen Vivir, January 16, 2020; Human Rights Watch WhatsApp interview with Nicolás Reyes, former Technical Secretary, Consejo Nacional para la Igualdad Intergeneracional, December 17, 2019; Susana Roa Chejín, "El país con la tasa más alta de embarazo adolescente podría quedarse sin presupuesto para prevenirlo," *GK*, December 9, 2019, <https://gk.city/2019/12/09/prevencion-embarazo-adolescente-ecuador-presupuesto/> (accessed July 15, 2020).

UN experts and civil society.¹⁸⁰ Due to these cuts, the Ministry of Education had to spread thin its scarce resources to tackle sexual violence, and the prevention of teenage pregnancies.¹⁸¹

Lack of Comprehensive Sexuality Education in Ecuador's National Curriculum

Ecuador has not yet adopted comprehensive sexuality education (CSE) as part of its national curriculum, in line with international standards.¹⁸²

Historically, Ecuador's focus on sexuality education has been piecemeal, and tied to the government's effort to curb teenage pregnancies.¹⁸³ Between 2014 and 2017, during President Correa's administration, the government undermined efforts to provide CSE, including by stripping Ecuador's 2012 comprehensive national strategy for family planning and prevention of adolescent pregnancy,¹⁸⁴ and adopting instead content focused on promoting abstinence from sex and safeguarding "traditional" families.¹⁸⁵ Conservative groups have sought to jeopardize the government's efforts to expand content related to sexuality education, and have rallied against content related to sexual orientation and gender identity.¹⁸⁶

¹⁸⁰ UNHRC, "Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, para. 46; Valeria Heredia, "Médicos y mujeres rechazan reducción de presupuesto en prevención de embarazo adolescente y violencia de género," *El Comercio*, December 3, 2019, <https://www.elcomercio.com/actualidad/reduccion-presupuesto-prevencion-violencia-genero.html> (accessed October 13, 2020).

¹⁸¹ Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación para la Democracia y el Buen Vivir, January 16, 2020.

¹⁸² UNESCO, UNICEF, et al., *International technical guidance on sexuality education: an evidence-informed approach*, 2018, <https://unesdoc.unesco.org/ark:/48223/pf0000260770> (accessed September 24, 2020).

¹⁸³ Ana María Carvajal, "Las cifras de embarazos en el país crecieron en niñas de 10 a 14 años," *El Comercio*, March 2, 2015, <https://www.elcomercio.com/tendencias/cifras-embarazosadolescentes-ecuador-enipla-planfamiliaecuador.html> (accessed August 31, 2020).

¹⁸⁴ Ministerio de Salud, Plan Toda una Vida, "Estrategia Nacional Interseccional de Planificación Familiar y Prevención del Embarazo de Adolescentes (ENIPLA)," 2012 - 2015 (copy on file with Human Rights Watch).

¹⁸⁵ "Las Cuatro Cosas que Debe Saber Sobre el "Ministerio de La Moral," *Plan V*, March 3, 2015, <https://www.planv.com.ec/investigacion/investigacion/cuatro-cosas-que-debe-saber-sobre-el-ministerio-la-moral> (accessed January 10, 2020); Human Rights Watch interview with Paulina Ponce, Planned Parenthood Global, Quito, June 20, 2019; Human Rights Watch interview with Margarita Velasco, Observatorio Social del Ecuador, Quito, June 21, 2019.

¹⁸⁶ Human Rights Watch interview with Paulina Ponce, Planned Parenthood Global, Quito, June 20, 2019; Human Rights Watch interview with María Fernanda Porras, former Ministry of Education sub-secretary, Quito, July 2, 2019; Human Rights Watch interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, Quito, July 2, 2019. See Diego López Marina, "Profamilias logran que Gobierno de Ecuador modifique texto escolar con ideología de género," *ACI Prensa*, July 3, 2020, <https://www.aciprensa.com/noticias/profamilias-logran-que-gobierno-de-ecuador-modifique-texto-escolar-con-ideologia-de-genero-77603> (accessed September 12, 2020).

The government has taken some steps to tackle previous regressive policies, including a 2018 strategy and new guidance to prevent teenage pregnancies¹⁸⁷—an important and welcome milestone to return to an approach centered on girls’ and women’s sexual and reproductive rights, according to experts.¹⁸⁸ It also published guidance to tackle violence and discrimination against lesbian, gay, bisexual and transgender (LGBT) and gender-nonconforming students.¹⁸⁹ In 2019, the Ministry of Education incorporated more CSE-related material into the existing curriculum.¹⁹⁰

Yet, at present, existing content is not framed through a human rights lens. Many teachers are conservative in their views about sexuality: teachers often reinforce gender stereotypes and stigmatize adolescent sexual behavior, especially girls’ sexuality, and often omit any discussion of sexual orientation and gender identity.¹⁹¹

Young people have many gaps in their understanding of what constitutes sexual abuse, particularly online, and there is a “silence around what constitutes adequate behaviour [among young people],” according to Vera.¹⁹² Human Rights Watch’s analysis of Ministry of Education data shows that 30 percent of cases detected in schools are perpetrated by children.¹⁹³ The Prosecutor’s Office has registered complaints and conducted investigations involving children for rape, sexual abuse, and distribution of pornographic material to other students.¹⁹⁴ Human Rights Watch also found that between January 2015

¹⁸⁷ Ministerio de Salud Pública, Ministerio de Educación, et al., *Política Intersectorial de Prevención del Embarazo en Niñas y Adolescentes, Ecuador 2018-2025*, July 2018, https://ecuador.unfpa.org/sites/default/files/pub-pdf/Politica_Interseccional%20%282%29.pdf (accessed July 15, 2020).

¹⁸⁸ Human Rights Watch interview with Paulina Ponce, reproductive rights expert, Quito, June 20, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019.

¹⁸⁹ Consejo Nacional para la Igualdad de Género, *Guía de Orientaciones técnicas para prevenir y combatir la discriminación por diversidad sexual e identidad de género en el sistema educativo nacional*, 2018, https://www.igualdadgenero.gob.ec/wp-content/uploads/2019/02/GU%C3%8DADIVERSIDADES_FINAL.pdf (accessed October 10, 2020).

¹⁹⁰ Human Rights Watch interview with Diego Paz Enríquez, former Ministry of Education sub-secretary, Quito, July 2019.

¹⁹¹ Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019; Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, January 16, 2020; Human Rights Watch WhatsApp interview with Daniela Celleri, sexuality education peer educator and teacher, Escuela Hilar Arte, July 14, 2020.

¹⁹² Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019.

¹⁹³ Human Rights Watch analysis of Ministry of Education data from 2014 to September 2020.

¹⁹⁴ Human Rights Watch analysis based on data from the Prosecutor’s Office “Sistema Integrado de Actuaciones Fiscales” (SIAF), from January 2015 to September 2020. See, Section “Government Data Shows Very High Levels of School-Related Sexual Violence” for further information.

and December 2019, the Prosecutor's Office registered 342 cases where girls and boys had been contacted for sexual purposes using online or electronic media.¹⁹⁵

Human Rights Watch found that students share sexually explicit pictures with students in an unsolicited manner.¹⁹⁶ Students also share albums of sexually explicit pictures of girls and young women, often called "packs of trading cards."¹⁹⁷ Although these pictures are sometimes initially obtained consensually between students, many end up being shared via Facebook or WhatsApp groups hosted by students and adult men.¹⁹⁸ In other cases, students reportedly take sexually explicit photos of parts of girls' bodies without their knowledge.¹⁹⁹

Experts at the Taller de Comunicación Mujer, an organization of feminist journalists, told Human Rights Watch that teachers lack the knowledge and tools to understand students' evolving use of online spaces to learn about and express their evolving sexuality, the difference between consensual online interactions between students and violent or abusive ones, and how to tackle and respond to emerging forms of online abuse and exploitation in adequate ways.²⁰⁰ School staff lack training and skills on how to handle these cases pedagogically, using child protection protocols.²⁰¹

Human Rights Watch has found that the lack of CSE leaves children and adolescents without the information they need to make informed decisions about their sexuality and reproduction that can in turn make them vulnerable to sexual exploitation and abuse, unplanned and unwanted pregnancy, and unsafe abortion.²⁰²

¹⁹⁵ Ibid.

¹⁹⁶ Human Rights Watch interview with Carla Vázquez, Quito, July 1, 2019; Human Rights Watch interview with Cristina Torres, lawyer, June 20, 2019 and July 1, 2019.

¹⁹⁷ Such pictures are shared in open and closed Facebook groups, both of which are publicly visible and identifiable through a simple search. Human Rights Watch conducted one search and found four such sites.

¹⁹⁸ Human Rights Watch interview with Anais Córdova and Mónica Diego, Taller de Comunicación Mujer, Quito, July 3, 2019.

¹⁹⁹ Human Rights Watch interview with Carla Vázquez, Quito, July 1, 2019; Taller de Comunicación Mujer, *Diagnóstico Violencia de Género Digital en Ecuador*, April 2020, https://www.navegandolibres.org/images/navegando/Diagnostico_navegando_libres_f.pdf (accessed September 24, 2020), pp. 46.

²⁰⁰ Human Rights Watch interview with Anais Córdova and Mónica Diego, Taller de Comunicación Mujer, Quito, July 3, 2019.

²⁰¹ Human Rights Watch Skype interview with Laura del Carmen Salvador Puig, Directora Nacional de Educación Para la Democracia y Buen Vivir, January 16, 2020.

²⁰² See Human Rights Watch, "Amicus Curiae in the case of Guzmán Albarracín y otros vs. Ecuador," July 15, 2020, <https://www.hrw.org/news/2020/07/15/amicus-curiae-case-guzman-albarracin-y-otros-vs-ecuador>.

While CSE will not eradicate sexual violence, teaching it as a compulsory subject helps to equip children and adolescents with information about safe and healthy relationships, consent, privacy, and bodily integrity. Through CSE, children and adolescents also have equal access to information they need to challenge behaviors that can lead to sexual offenses or the cover up of such offenses, empowering them to report and help connect young survivors or students at risk of facing violence to support and services.²⁰³ A systematic approach to CSE also enables adequately trained teachers to approach sensitive or difficult conversations in non-stigmatizing ways, including positive approaches to support LGBT students.²⁰⁴

²⁰³ CEDAW, “General recommendation no. 36 (2017) on the rights of girls and women to education,” November 27, 2017, UN Doc. CEDAW/C/GC/36, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGC%2f36&Lang=en (accessed September 24, 2020), para. 68.

²⁰⁴ UNESCO, UN Population Fund, et al., *International technical guidance on sexuality education: an evidence-informed approach*, pp. 34, 121.

IV. Barriers within the Justice System

Survivors of sexual violence, their relatives, and those who support them told Human Rights Watch that justice was elusive and failed to support the survivors' recovery process. Information gathered by Human Rights Watch shows that judicial proceedings have often not been conducted with the best interests of child survivors and their families in mind. The pressure felt by survivors and their families resembles, or amplifies, what many felt when they first came forward with complaints in schools. Survivors and families say they often feel they have to fight against the judicial system in order to seek justice.

In 2019, Dubravka Šimonović, the UN Special Rapporteur on Violence Against Women, highlighted that Ecuador's "low rate of conviction, coupled with physical and psychological barriers to reporting the incidents themselves, creates a culture of impunity with regard to sexual violence and harassment."²⁰⁵ Between 2015 and 2019, data from the Prosecutor's Office, analysed by Human Rights Watch, shows that only three percent of reported cases of sexual violence against children and adolescents have gone to trial.²⁰⁶

In 2019, Ecuador's judicial institutions, including the Prosecutor's Office, the Judiciary Council, and the public defender's office, signed a national accord to guarantee access to justice for victims of violence.²⁰⁷ Through the accord, these institutions recognized and agreed to tackle serious deficiencies in the judicial system: lack of specialization in the delivery of justice, discrimination, re-victimization, and the exclusion of reparations in sentencing, among others.²⁰⁸

²⁰⁵ UNHRC, "Report of the Special Rapporteur on violence against women, its causes and consequences, –Visit to Ecuador," UN Doc. A/HRC/44/52/Add.2, May 22, 2020, <https://undocs.org/en/A/HRC/44/52/Add.2> (accessed October 14, 2020), para. 69.

²⁰⁶ Human Rights Watch analysis based on data from the Prosecutor's Office "Sistema Integrado de Actuaciones Fiscales" (SIAF), from January 2015 to September 2020.

²⁰⁷ Defensoría Pública del Estado, "Acuerdo 2030. Acuerdo Nacional para el acceso a justicia por una vida libre de violencias," adopted July 26, 2019, <https://www.defensoria.gob.ec/wp-content/uploads/2019/07/2019.07.26-Acuerdo-Nacional-2030-Acceso-a-Justicia-1.pdf> (accessed September 24, 2020).

²⁰⁸ Ibid.

Obstacles During Judicial Proceedings

Ecuador's constitution protects children's right to be treated as a priority group in judicial proceedings.²⁰⁹ This means the best interests of the child should be the guiding principle throughout any proceedings, and trials should be expedited.²¹⁰ Twenty-one cases documented by Human Rights Watch went to court; most cases took between one and three years to reach the sentencing stage, some cases took between four and nine years. At time of writing, three cases were pending in Ecuador's constitutional court and court of cassation, and three cases were withdrawn by the survivor or their families.²¹¹ Five cases were exclusively handled or investigated in parallel through cantonal or municipal boards for the protection of human rights, tasked with providing reparations for human rights violations.

Failure to Guarantee Children's Best Interests During Judicial Proceedings

In some cases documented by Human Rights Watch, proceedings undermined children and adolescent's dignity, their right to be heard, and exposed them to re-traumatization.

Ecuadorian law provides that children alleging abuse should only need to provide testimony once, in a manner appropriate to their age and evolving capacity.²¹² A 2014 protocol provides that this should be provided in a Gesell chamber—a room where children are interviewed by a specialized child psychologist, while legal counsel and prosecutors observe from another room through a one-way mirror.²¹³ This modality seeks to reduce re-traumatization, limiting children's exposure to the judicial proceedings. In Ecuador, there are 29 Gesell chambers, 22 located in provincial capitals, according to official data from the Prosecutor's Office.²¹⁴ Five provinces have more than one Gesell chamber. Children in rural areas remote from provincial capitals that have a Gesell chamber must travel a long

²⁰⁹ Constitución de la República del Ecuador, 2008, art. 35.

²¹⁰ Ibid., arts. 81, 175.

²¹¹ Human Rights Watch interview with Evelyn Yucailla, Ambato, June 23, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, July 2, 2019; Human Rights Watch interview with Stalin Oviedo, lawyer, Quito, July 9, 2019.

²¹² Ministerio de Justicia, Derechos Humanos y Cultos, Código Orgánico Integral Penal, <http://www.funcionjudicial.gob.ec/index.php/es/normativa/codigo-organico-integral-penal.html> (accessed September 24, 2020), art. 504.

²¹³ Consejo de la Judicatura, "Protocolo para el Uso de la Cámara de Gesell," Resolución 117-2014, 2014, <http://www.funcionjudicial.gob.ec/www/pdf/resoluciones/2014cj/117-2014.pdf> (accessed September 24, 2020).

²¹⁴ Data provided to Human Rights Watch by the Prosecutor's Office on October 17, 2020.

way to get to one.²¹⁵ According to the Prosecutor's Office, nine Gesell chambers were not working, including in four provincial capitals that only have one chamber.²¹⁶ In 2020, budget cuts to the Prosecutor's Office reduced the budgets available to repair some of these chambers.²¹⁷

Prosecutors interviewed by Human Rights Watch said these procedures are generally followed, however lawyers said that in some cases children had to provide testimony numerous times.²¹⁸

While children's complaints should be handled in confidential, protective ways, this principle is not respected in some local prosecutors' offices.²¹⁹ For example, in Ambato, Evelyn Yucailla, 15 years old at the time, had to file a complaint with her parents in a public section of the local prosecutor's office in Ambato where other visitors and staff could hear her. Without escorting her to a private space, staff queried her on the most intimate details regarding the sexual exploitation and abuse she suffered. "In the prosecutor's office, they were saying there was no offence because I had invited him [her teacher] to my house," Evelyn told Human Rights Watch.²²⁰

In Sucumbíos province, the provincial prosecutor's office of Lago Agrio has a Gesell chamber that covers seven cantons.²²¹ State resources for police and prosecutors are very limited, including psychosocial support services for victims.²²² Ruth Ramos, a lawyer who represents survivors of gender-based violence in the province, pointed to very high levels of re-traumatization because forensic experts are often busy or away, which means victims have to visit the prosecutor's office multiple times.²²³ Even when a victim can travel to the city, appointments for forensic examinations may not be available on the same day.²²⁴ This

²¹⁵ Human Rights Watch interview with Efigenia Witt, lawyer, Quito, June 24, 2019.

²¹⁶ Data provided to Human Rights Watch by the Prosecutor's Office on October 17, 2020.

²¹⁷ Ana Belén Rosero, "Fiscalía tiene menos dinero para el 2020; hay reclamos," *El Comercio*, February 3, 2020, <https://www.elcomercio.com/actualidad/reduccion-presupuesto-fiscalia-2020-proforma.html> (accessed July 12, 2020).

²¹⁸ Human Rights Watch interview with Steven Reyes, lawyer, Guayaquil, June 26, 2019.

²¹⁹ Human Rights Watch interview with Cristina Torres, lawyer, Quito, June 20, 2019; Research commissioned by Human Rights Watch in Sucumbíos province; Interview with Ruth Ramos, lawyer for Puerta Violeta, July 18, 2019.

²²⁰ Human Rights Watch interview with Evelyn Yucailla, Ambato, June 23, 2019.

²²¹ Data provided to Human Rights Watch by the Prosecutor's Office on October 17, 2020.

²²² Research commissioned by Human Rights Watch in Sucumbíos province; Interview with Ruth Ramos, lawyer for Puerta Violeta, July 18, 2019.

²²³ Ibid.

²²⁴ Ibid.

was one of the biggest barriers for Dolores M., who had to travel, with her daughter Raquel, over two hours to get to Lago Agrio to fulfill all the forensic evidence requirements, and later, to attend the trial. On one occasion, the forensic psychologist did not show up—their travel had been futile.²²⁵

Most children lacked psychological support during their judicial proceedings: many faced obstacles when accessing therapy through the Ministry of Public Health given the severely limited availability of therapists,²²⁶ the limited amount of time therapists can spend with every patient, and lack of accommodation to ensure children could access therapy after school hours.²²⁷ Due to the cost involved, few parents were able to hire private therapists to ensure their children received adequate mental health support.²²⁸

Victim Blaming During Investigations and Trials

Ecuador's institutions, including its justice mechanisms, sometimes indirectly or directly blame victims of sexual violence, and occasionally their parents, for crimes perpetrated against them.²²⁹ Some parents and lawyers pointed out mistreatment of parents and open displays of sexism and misogyny during trials.²³⁰

According to Jessica Jaramillo, a lawyer based in Quito, defense lawyers in particular routinely question, and often aim to humiliate, the child's relatives, particularly the mother.²³¹ In Quito, Mercedes Molina, whose daughter is among the 41 survivors of the

²²⁵ Ibid.; Human Rights Watch interview with Dolores M., July 19, 2019.

²²⁶ See UNHRC, "Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Visit to Ecuador," UN Doc. A/HRC/44/48/Add.1, May 6, 2020, <https://undocs.org/en/A/HRC/44/48/Add.1>, para. 37.

²²⁷ Human Rights Watch interview with mothers of two female survivors, Cuenca, July 5, 2019; Human Rights Watch interview with Mercedes Molina, Quito, July 8, 2019; Human Rights Watch interview with government official (name withheld at interviewee's request), Tungurahua provincial government, Ambato, July 6, 2019; Research commissioned by Human Rights Watch in Sucumbíos province; Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

²²⁸ Human Rights Watch interview with parents of female survivor, Quito, July 1, 2019; Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 8, 2020.

²²⁹ Human Rights Watch interview with Isabel González and Gabrielle Esteban, Sentimos Diverso, Quito, February 12, 2019; Human Rights Watch interview with Steven Reyes, lawyer, Guayaquil, June 26, 2019; Human Rights Watch interview with criminal lawyer (name withheld at interviewee's request), Guayaquil, June 27, 2019.

²³⁰ Human Rights Watch interview with clinical team, CEPAM Guayaquil, Guayaquil, June 26, 2019; Human Rights Watch interview with Steven Reyes, lawyer, Guayaquil, June 26, 2019; Human Rights Watch interview with Cristina Torres, lawyer, Quito, July 1, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019; Human Rights Watch interview with members of Movimiento Sororidad, Cuenca, July 4, 2019; Human Rights Watch interview with Mercedes Molina, Quito, July 8, 2019; Human Rights Watch interview with Stalin Oviedo, lawyer, Quito, July 9, 2019.

²³¹ Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019.

AAMPETRA case, told Human Rights Watch that the process was an ordeal: “They ask you many things. ‘Why did you not know?’ [There’s a lot of] blaming... as her mother, [they asked] why I did not react. The prosecutor’s office would ask me why I did not realize sooner. The hearings were awful... Many times, the [defense] lawyer would make negative references about my daughter.”²³²

In Ibarra, judges in charge of a case of rape against a school doorman suggested that Inés, a 5-year-old girl, could have hurt her vulva and vagina’s walls—forensic tests showed they had suffered damage—through masturbation.²³³ Some adolescent girls were also asked about, or questioned on, their prior sexual activities, or heard suggestions that they were in part to blame because they “exposed” themselves to the crime.²³⁴

Problems with Prosecutors and Public Defenders

Experts and lawyers told Human Rights Watch that successful cases, in which perpetrators receive a sentence commensurate with the crimes they perpetrated, are highly dependent on the prosecutor’s prior experience with gender-based violence cases, as well as the local prosecutor’s office where cases are filed.²³⁵

Human Rights Watch documented numerous examples where prosecutors or experts in their offices doubted children’s testimony or questioned the complaint without good reason.²³⁶ Ministry officials also pointed to instances where prosecutors do not accept complaints filed by school officials or student welfare teams, and situations where prosecutors attempted to remove facts from complaints to reduce charges against teachers.²³⁷

²³² Human Rights Watch interview with Mercedes Molina, Quito, July 8, 2019.

²³³ Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019; Human Rights Watch Interview with Cristina Torres, lawyer, Quito, July 1, 2019; Human Rights Watch interview with Ana Vera and Pilar Rassa, Fundación Surkuna, Quito, July 2, 2019; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019.

²³⁴ Human Rights Watch interview with Evelyn Yucailla, Ambato, June 23, 2019; Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019; Human Rights Watch interview with Efigenia Witt, lawyer, Quito, June 25, 2019; Human Rights Watch interview with mothers of two female survivors, Cuenca, July 5, 2019.

²³⁵ Human Rights Watch interview with mother of female survivor, Cuenca, July 5, 2019.

²³⁶ Human Rights Watch interview with representatives of Movimiento Sororidad, Cuenca, July 4, 2019; Human Rights Watch Skype interview with Laura Salvador Puig, Directora Nacional de Educación por la Democracia y Buen Vivir, January 29, 2020.

²³⁷ Ibid.; Human Rights Watch video interview with Sebastián Salazar Nicholls, Director Nacional de Educación para la Democracia y el Buen Vivir, and Lorena Peñaherrera Vaca, analyst, Ministry of Education, September 17, 2020.

Most prosecutors are not specialized or trained in sexual violence offenses or cases involving children and adolescents: there are only 70 prosecutors working in specialized gender-based violence units and, of those, few have specialized knowledge of cases involving children.²³⁸ Representatives from the Coalition Against Sexual Abuse of Children considered this a serious problem and a setback in many cases—along with what they perceived as the slow sensitization of prosecutors and their teams to gender-based violence,²³⁹ and adequate, gender-sensitive and victim-centered approaches.²⁴⁰ According to Juana Fernández, gender expert at the Prosecutor’s Office, the institution has recently prioritized training many more prosecutors and teams on gender-based violence, gender-sensitive investigation techniques, and on Ecuador’s protocol on specialized hearings in investigations on sexual violence against children and adolescents.²⁴¹ All prosecutors are expected to provide adequate support to victims of gender-based violence, Fernández said.²⁴²

Similarly, public defenders, who in Ecuador, in addition to providing legal representation for defendants are also mandated to provide free legal services to alleged victims of gender-based violence,²⁴³ are often overstretched and under-resourced. In some cases documented by Human Rights Watch, they provided inadequate services, according to relatives who were initially assigned a public defender after filing a complaint.²⁴⁴ Most parents felt they had to hire private lawyers to ensure their children had a fair chance of receiving justice.²⁴⁵ Two lawyers reported going to hearings where public defenders did not

²³⁸ Data provided to Human Rights Watch by the Prosecutor’s Office on October 17, 2020. An additional 70 prosecutor assistants (“Asistente de Fiscalía”), and 74 prosecutor secretaries (“Secretario de Fiscalía”) work in these units nationally.

²³⁹ See, for example, UNICEF and UNODC, “Training Programme on the Treatment of Child Victims and Child Witnesses of Crime for Prosecutors and Judges,” 2015, https://www.unodc.org/documents/justice-and-prison-reform/Training_Programme_on_the_Treatment_of_Child_Victims_and_Child_Witnesses_of_Crime_-_Prosecutors_and_Judges.pdf (accessed October 13, 2020).

²⁴⁰ Human Rights Watch interview with Cristina Torres, lawyer, Quito, June 21, 2019; Human Rights Watch interview with Amparo Molina, AAMPETRA families spokesperson, June 21, 2019; Human Rights Watch interview with Efigenia Witt, lawyer, Quito, June 24, 2019; Coalición Contra el Abuso Sexual a la Niñez Ecuador, Parallel report to the Committee on Economic, Social and Economic Rights, 2019, https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/EQU/INT_CESCR_CSS_ECU_37113_S.pdf (accessed September 24, 2020).

²⁴¹ Data provided to Human Rights Watch by the Prosecutor’s Office on October 17, 2020.

²⁴² Human Rights Watch video interview with Juana Fernández, gender expert, Fiscalía General del Estado, August 28, 2020.

²⁴³ Fiscalía General del Estado, “Violencia de Género,” undated, <https://www.fiscalia.gob.ec/fiscalia-especializada-en-violencia-de-genero/> (accessed November 11, 2020); Defensoría Pública del Ecuador, “Penal,” undated, https://www.defensoria.gob.ec/?page_id=10730 (accessed November 11, 2020).

²⁴⁴ Human Rights Watch interview with Amparo Molina, AAMPETRA families spokesperson, June 21, 2019; Human Rights Watch interview with parents of female survivor, Quito, July 1, 2019.

²⁴⁵ Human Rights Watch interview with Hipólito Pérez, Carchi province, July 7, 2019.

have case files, or did not know the details of cases involving child victims.²⁴⁶ In Cuenca, judicial and psychology experts told Human Rights Watch that most cases succeed when they are led by a private lawyer, and are not dependent on a public defender.²⁴⁷

In Quito, Victoria's parents, who went through a two-year legal process, had issues with the first prosecutor appointed to the case and felt the public defender did nothing for their case.²⁴⁸ The prosecutor archived Victoria's case, without due investigation: he "determined there was no sexual abuse, but that it was a 'sexual experience'... and also said: 'had it been my daughter, I would have challenged her.' It was a constant fight... [The prosecutor] didn't want to investigate." Her parents appealed, requested a new prosecutor, and took it upon themselves to find all the proof, drafting documents to file at the local prosecutor's office. When a new prosecutor was appointed, she conducted an investigation and presented charges within three months of taking up the case, a sea change from the previous prosecutor. "Prosecutors should be suitable, ethical and specialized ... but they're not, they're improvised. What do they care about a girl who's been raped? ... Without that specialization, we have no way forward," Victoria's father said.²⁴⁹

Burden of Conducting Advocacy to Demand a Fair Trial

In cities like Quito, Guayaquil or Cuenca, all judicial entities are readily available—but lawyers, parents, and school officials who have dealt with different parts of the judicial process felt they had to constantly follow up to ensure cases proceeded as smoothly as possible. Many parents told Human Rights Watch they had to go to higher authorities to demand a fair trial. Some made follow-up trips to Quito to request a change of prosecutor due to perceived corruption, lack of transparency, or serious procedural mistakes resulting in delays.²⁵⁰

For example, in the city of Cuenca, the mothers of Daisy and Maggie told Human Rights Watch that they encountered many barriers during the investigations into the abuse of

²⁴⁶ Human Rights Watch interview with Efigenia Witt, lawyer, Quito, June 24, 2019; Human Rights Watch interview with Cristina Torres, lawyer, July 1, 2019.

²⁴⁷ Human Rights Watch interview with representatives of Movimiento Sororidad, Cuenca, July 4, 2019.

²⁴⁸ Human Rights Watch interview with parents of female survivor, Quito, July 1, 2019.

²⁴⁹ Ibid.

²⁵⁰ Human Rights Watch interview with mothers of two female child survivors, Cuenca, July 5, 2019; Human Rights Watch interview with Hipólito Pérez, Carchi province, July 7, 2019; Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019; Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 8, 2020.

their daughters and at the beginning of the trial. They travelled to Quito to request greater oversight from the Prosecutor's Office to ensure their daughters' cases could advance in Cuenca.²⁵¹ Officials from the Prosecutor's Office and the Judicial Council, who spoke anonymously, said that this was a frequent problem in Cuenca.²⁵²

In Ibarra, both Hipólito Pérez, the father of a 17-year-old girl raped and killed by her teacher from the customs academy she attended, and Vanessa Ruiz, whose 5-year-old daughter was raped by a school doorman, sent multiple letters to the President and the Attorney General and had to constantly travel to Quito to advocate with national authorities to demand accountability for alleged corruption and serious obstacles they faced in their cases because of inefficient or problematic prosecutors.²⁵³ Both families lost their cases during the appeals stage, and questioned the fairness of the system. Pérez told Human Rights Watch: "It's so unfair... They mopped the floor with us because we are poor—we only wanted justice to happen."²⁵⁴

In Guayaquil, María Auxiliadora Valero, and other families connected to the CEBI case, appealed to the incumbent attorney general, Diana Salazar, for greater oversight of their case, after facing serious problems with the prosecutors initially appointed to the case. "We had to go the most senior person to ensure things worked... there's a lot of mistreatment at the prosecutor's [office], a lot of bad attitude," Valero said.²⁵⁵ As of 2019, the Prosecutor's Office's gender expert, Juana Fernández, with a small team of three, became a focal point for families and survivors who demand support or oversight to ensure a fair trial, including adequate judicial proceedings.²⁵⁶

Threats to Survivors, Family Representatives and Lawyers

Four parents who filed a complaint, and followed through with a case, were threatened by the perpetrator's families or friends, and by unidentified people trying to intimidate

²⁵¹ Human Rights Watch interview with mothers of two female child survivors, Cuenca, July 5, 2019.

²⁵² Human Rights Watch interview with representatives of Movimiento Sororidad, Cuenca, July 4, 2019.

²⁵³ Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch interview with Hipólito Pérez, Carchi province, July 7, 2019.

²⁵⁴ Human Rights Watch interview with Hipólito Pérez, Carchi province, July 7, 2019.

²⁵⁵ Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 8, 2020.

²⁵⁶ Human Rights Watch video interview with Juana Fernández, gender expert, Fiscalía General del Estado, August 28, 2020.

them.²⁵⁷ Jessica Jaramillo, a lawyer who represented Alfonso, an 8-year-old boy who was part of a group of students subjected to sexually abusive practices at the Eloy Alfaro military-run school in Quito, was with the child's mother and witnessed how "parents [of other students] shouted at the victim's mother who came forward with complaints," as they walked into their hearing.²⁵⁸ Two lawyers, who represented victims in Quito and Guayaquil, were threatened by school staff and individuals connected to teachers accused of school-related sexual violence.²⁵⁹

In one extreme case, following threats and harassment from school officials and other individuals, Fabián Salguero relocated to Spain, along with his family, to protect their son, aged 7, and stop the intimidation suffered by his family during the trial against the man who raped his son.²⁶⁰

Lack of Reparations for Survivors of Sexual Violence

Children and young adult survivors who spoke with Human Rights Watch reported living with profound psychological consequences, which many had to endure without professional psychological support.

Survivors of sexual violence should receive adequate, meaningful reparations as a key part of a holistic restorative process.²⁶¹ The Committee on the Elimination of Discrimination against Women has stated that the aim of remedies is to ensure the victim enjoys "the best possible quality of life."²⁶² Ecuador's civil society has led important groundwork to ensure victims of gender-based violence receive adequate reparations. Women's rights

²⁵⁷ Human Rights Watch interview with Evelyn Yucailla, Ambato, June 23, 2019; Human Rights Watch interview with criminal lawyer (name withheld at interviewee's request), Guayaquil, June 27, 2019; Human Rights Watch interview with Cristina Torres, lawyer, Quito, July 1, 2019; Human Rights Watch interview with Hipólito Pérez, Carchí province, July 7, 2019; Human Rights Watch interview with Carmen Ortiz, director, SENDAS, Cuenca, July 4, 2019.

²⁵⁸ Human Rights Watch interview with Jessica Jaramillo, lawyer, Quito, June 25, 2019.

²⁵⁹ Human Rights Watch interview with Steven Reyes, lawyer, Guayaquil, June 26, 2019; Human Rights Watch interview with Stalin Oviedo, lawyer, Quito, July 7, 2020.

²⁶⁰ Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

²⁶¹ CEDAW, "General recommendation No. 33 on women's access to justice," UN Doc. CEDAW/C/GC/33, August 3, 2015, <https://undocs.org/en/CEDAW/C/GC/33> (accessed September 24, 2020).

²⁶² CEDAW, "Communication No. 22/2009 (T.P.F v Perú)," UN Doc. CEDAW/C/50/D/22/2009, November 25, 2011, <https://juris.ohchr.org/Search/Details/1704> (accessed September 24, 2020), para 9.1. See also University of Oxford and Oxford Pro Bono Publico, *A Report on Reparations and Remedies for Victims of Sexual and Gender Based Violence*, January 2016, https://www.law.ox.ac.uk/sites/files/oxlaw/a_report_on_reparations_and_remedies_for_victims_of_sexual_and_gender_based_violence.pdf (accessed July 8, 2020).

organizations successfully advocated for Ecuador's 2018 law to prevent and eradicate violence against women which sets out reparations for victims of gender-based violence, including socioeconomic and capital compensation, rehabilitation, and access to employment, and priority access to credit.²⁶³

Challenges and failures in the justice system, outlined previously, mean survivors and their families go through extensive and often exhausting processes. So far, discussions around reparations have not focused on how to repair the impact on a survivor's integrity and their sexual and reproductive rights, or the lifelong impact of trauma, stigma, and stress faced by survivors from the moment their cases are first officially filed until a sentence is reached.²⁶⁴

In 2017, the Committee on the Rights of the Child called on Ecuador to “adopt clear standards for the provision of remedies and redress for girl victims of sexual violence and abuse, including psychosocial redress and counselling, reparations, compensations and guarantees of non-repetition.”²⁶⁵ In May 2020, the Special Rapporteur on violence against women called on Ecuador to ensure “the provision of reparations and remedies for survivors of sexual violence in schools and universities, including through a public apology and other appropriate measures of reparation to child survivors of sexual violence and their families.”²⁶⁶ At time of writing, the government had not developed these standards—these were still dependent on prosecutors, who are guided by the Penal Code.²⁶⁷ Similarly, according to prosecutor Pinillo Castillo, the government has not developed a mechanism to enforce compliance with reparations measures.²⁶⁸

²⁶³ Fundación Desafío and Mujeres con Voz, “Medidas de Reparación: Ley Orgánica Integral de prevención y erradicación de la violencia contra la mujer,” undated, https://38174366-d717-4629-9c57-c2256dca2e79.filesusr.com/ugd/8313b8_3045dac47d1b4de7bf9f33d73afo43f1.pdf (accessed September 24, 2020).

²⁶⁴ Human Rights Watch interview with Mayra Soria, prosecutor, Quito, June 18, 2019; Human Rights Watch interview with Efigenia Witt, lawyer, Quito, June 24, 2019; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

²⁶⁵ CRC, Concluding observations on the combined fifth and sixth periodic reports of Ecuador, CRC/C/ECU/CO/5-6, October 26, 2017, para. 27(d).

²⁶⁶ UNHRC, “Report of the Special Rapporteur on violence against women, its causes and consequences, Visit to Ecuador.” UN Doc. A/HRC/44/52/Add.2, May 22, 2020, <https://undocs.org/en/A/HRC/44/52/Add.2> (accessed July 21, 2020).

²⁶⁷ Código Orgánico Integral Penal, arts. 77-78; Human Rights Watch interview with Mayra Soria, prosecutor, Quito, June 20, 2019; Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

²⁶⁸ Human Rights Watch WhatsApp interview with Yoli Pinillo Castillo, prosecutor, July 24, 2020.

In June 2020, the Inter-American Court of Human Rights ordered Ecuador to host a public event to acknowledge its international human rights responsibilities, including the state's negligence in Paola Guzman Albarracín's case, and offer her family a public apology. It also ordered Ecuador to declare a public day to fight against sexual violence in the classroom.²⁶⁹ President Moreno affirmed his government's commitment to comply with the Court's ruling.²⁷⁰

Survivors Want Meaningful Reparations

Survivors and their families want justice above all. Some told Human Rights Watch that reparations for the damage caused to them or to their children will never be met through financial compensation and cannot be thought of as an individual one-off gesture by the courts, or the state. The meaning of reparations is deeply personal: for example, some survivors and parents told Human Rights Watch that they did not want money or an institution's apology.²⁷¹ Some wanted teachers or officials who colluded with the perpetrator to be dismissed from their jobs; for schools where many children suffered sexual violence to close or be subjected to heavy penalties, and to be forced to outline a plan of action to tackle sexual violence.²⁷² Some wanted additional protection measures from intimidation or retaliation.²⁷³

Jennifer Real, 19, one of the 41 AAMPETRA survivors, told Human Rights Watch that true reparations are actions that seek to fundamentally stop more sexual violence from happening:

You cannot provide reparation for everything that was done... They have to find strategies to [ensure] this will not happen [again]. But apologies aside, if there's no change... there won't be broader change...I never thought about how they could [provide me] with reparation...I don't want them to give me something... they need to instill consciousness [about these crimes].²⁷⁴

²⁶⁹ Corte Interamericana de Derechos Humanos, Caso Guzmán Albarracín y Otras vs. Ecuador, Sentencia de 24 de junio de 2020 (Fondo, Reparaciones y Costas), paras. 229-234.

²⁷⁰ Tweet by Lenin Moreno, August 15, 2020, <https://twitter.com/Lenin/status/1294683189915652099?s=20> (accessed October 14, 2020).

²⁷¹ Human Rights Watch interview with Victoria S., Quito, July 1, 2019; Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

²⁷² Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch interview with male survivor, Quito, July 8, 2019.

²⁷³ Human Rights Watch interview with mothers of two female survivors, Cuenca, July 5, 2019.

²⁷⁴ Human Rights Watch interview with Jennifer Real, 18, Quito, July 3, 2019.

Vanessa Ruiz, whose daughter was allegedly raped by a school janitor, told Human Rights Watch:

I regret reporting—it would have been easier to move my daughter to another school. But how am I going to leave a monster there? What we want is for him to serve his sentence. We borrowed money and incurred debt... Imagine how hard this is for me. When [my daughter] is older... the sky and earth sink beneath me.²⁷⁵

One mother who brought a case against the man who raped her daughter felt the sentencing of the perpetrator was reparative. She explained: “This year has been hard... but I achieved what I wanted: justice for my daughter. It has been a very big fight... I don’t regret any of this.”²⁷⁶

The AAMPETRA sentence was the first school-related case to include specific non-monetary reparations for all survivors. Although the perpetrator was ordered to pay US\$10,000 to every child affected—something those involved in the case knew he would never do—prosecutor Mayra Soria, one of the very few prosecutors working in the Prosecutor’s Office gender unit, requested financial and holistic reparative measures for all the children and their families: a public apology ceremony at the school, and an obligation to hang a remembrance plaque outside the classroom in memory of children who suffer sexual abuse in schools. The court agreed. It also ordered the state to provide psychosocial support to victims, and to provide university placements and university scholarships for all victims. At time of writing, the government had not yet implemented all of these reparative measures, including the provision of full university scholarships to all students involved in the case.²⁷⁷

Human Rights Watch analysis of more recent cases shows a continued focus on providing monetary compensation, in the ranges of \$2,000-\$23,800 for school-

²⁷⁵ Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019.

²⁷⁶ Human Rights Watch interview with mother of female survivor, Cuenca, July 5, 2019.

²⁷⁷ Human Rights Watch interview with Amparo Molina, AAMPETRA families spokesperson, Quito, June 21, 2019; Human Rights Watch interview with parents of male survivor, Quito, July 8, 2019; Human Rights Watch interview with Mercedes Molina, Quito, July 8, 2019.

related rape sentences.²⁷⁸ Sentences sometimes include provision of psychological therapy for the child, and in one case, her mother.²⁷⁹ Examining sentences in sexual abuse cases handed down in 2019, they typically include a lower monetary compensation, ranging from \$400 to \$3,000.²⁸⁰

Reparations Often Exclude Survivor's Family or Legal Guardian

The impact of sexual abuse against children and adolescents has enormous repercussions on families. Parents will go to great lengths, including incurring financial debt, to seek justice for their children. Six parents indicated they had to stop working in order to focus on the cases.²⁸¹ Some parents felt they had to follow up on a near daily basis with schools, judicial institutions, and prosecutors to ensure cases continued and to obtain information which should be readily available to complainants.²⁸²

Yet, cases documented by Human Rights Watch seldom included reparations for parents or other family members—most parents, and some survivors, said prosecutors did not consult them on what they expected as reparation. Their

²⁷⁸ See, for example, Fiscalía General del Estado, “Instructor es sentenciado a 29 años de cárcel por la violación de una alumna,” Boletín de Prensa FGE n. 583-DC-2020, July 3, 2020, <https://www.fiscalia.gob.ec/instructor-es-sentenciado-a-29-anos-de-carcel-por-la-violacion-de-una-alumna/>; “Sentenciado por el abuso sexual a una menor con discapacidad,” Boletín de Prensa FGE n.192-DC-2020, February 21, 2020, <https://www.fiscalia.gob.ec/sentenciado-por-el-abuso-sexual-a-una-menor-con-discapacidad/>; “2 profesores llamados a juicio por presunta violación a menor en unidad educativa de Guayaquil,” Boletín de Prensa FGE No. 511-DC-2019, October 18, 2019, <https://www.fiscalia.gob.ec/2-profesores-llamados-a-juicio-por-presunta-violacion-a-menor-en-unidad-educativa-de-guayaquil/>; “Conserje de institución educativa, sentenciado por violación,” Boletín de Prensa FGE No. 502-DC-2019, October 17, 2019, <https://www.fiscalia.gob.ec/conserje-de-institucion-educativa-sentenciado-por-violacion/>; “Sentencia condenatoria por violación en el ámbito educativo,” Boletín de Prensa FGE No. 459-DC-2019, September 30, 2019, <https://www.fiscalia.gob.ec/sentencia-condenatoria-por-violacion-en-el-ambito-educativo/>; “Docente condenado a 9 años por abuso de menor,” Boletín de Prensa FGE No. 446-DC-2019, September 26, 2019, <https://www.fiscalia.gob.ec/docente-condenado-a-9-anos-por-abuso-de-menor/> (all accessed July 9, 2020).

²⁷⁹ See, for example, Fiscalía General del Estado, “Sentenciado por el abuso sexual a una menor con discapacidad,” Boletín de Prensa FGE n.192-DC-2020, February 21, 2020, <https://www.fiscalia.gob.ec/sentenciado-por-el-abuso-sexual-a-una-menor-con-discapacidad/> (accessed July 9, 2020).

²⁸⁰ See, for example, Fiscalía General del Estado, “Sentenciado por abuso sexual de una menor,” Boletín de Prensa FGE No. 720-DC-2019, December 5, 2019, <https://www.fiscalia.gob.ec/sentenciado-por-abuso-sexual-de-una-menor-2/>; “Adulto mayor sentenciado por abuso sexual contra una niña,” Boletín de Prensa FGE No. 744-DC-2019, December 13, 2019, <https://www.fiscalia.gob.ec/adulto-mayor-sentenciado-por-abuso-sexual-contra-una-nina/>; “5 años de cárcel por abuso sexual a menor de edad,” Boletín de Prensa FGE No. 458-DC-2019, September 30, 2019, <https://www.fiscalia.gob.ec/5-anos-de-carcel-por-abuso-sexual-a-menor-de-edad/> (all accessed July 9, 2020).

²⁸¹ Human Rights Watch interview with mothers of two female child survivors, Cuenca, July 5, 2019; Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch interview with Hipólito Pérez, Carchi province, July 7, 2019; Human Rights Watch interview with Mercedes Molina, Quito, July 8, 2019; Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

²⁸² Human Rights Watch telephone interview with Vanesa Ruiz, July 6, 2019; Human Rights Watch WhatsApp interview with María Auxiliadora Valero, July 8, 2020.

involvement in a trial impacted their families, their mental health, and their ability to move forward even when a case ended.²⁸³

The World Health Organization has noted the positive impact of helping the family of a child who has suffered abuse or violence.²⁸⁴ United Nations experts on violence against children have recommended that “counselling should be provided to the child and the family, as other members may also be victims; those who have not suffered violence in person may well suffer fear, guilt or anxiety.”²⁸⁵

²⁸³ Human Rights Watch telephone interview with Vanessa Ruiz, July 6, 2019; Human Rights Watch WhatsApp interview with Fabián Salguero, November 21, 2019.

²⁸⁴ WHO, *Preventing Child Maltreatment: A Guide to Taking Action and Generating Evidence*, 2006, https://www.who.int/violence_injury_prevention/publications/violence/child_maltreatment/en/ (accessed November 17, 2020), p. 56.

²⁸⁵ UNHRC, “Joint report of the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General on Violence against Children,” A/HRC/16/56, March 7, 2011, <https://undocs.org/A/HRC/16/56> (accessed September 24, 2020), para. 26(a)-(b).

V. Ecuador's Human Rights Obligations

The Right to Learn Safely

The right to learn in a safe environment is a key component of the right to education.²⁸⁶ States obligations regarding quality education include protection from violence, a focus on the inherent dignity of the child, and the child's right to development.²⁸⁷ The Committee on the Rights of the Child has called on states to make investments in strategies and take measures to eliminate all forms of discrimination; promote positive gender relations and social norms; address sexual and gender-based violence, including within schools; promote positive role models; and to ensure children are able to express their opinions on these matters.²⁸⁸

The Protocol of San Salvador, which outlines the economic, social and cultural rights obligations of states parties to the Inter-American Convention of Human Rights, protects children's right to all protection measures required due to their status as children, from families, society, and the state.²⁸⁹

In June 2020, in the case of Paola Guzmán Albarracín v. Ecuador, the Inter-American Court of Human Rights stated that children have a right to an educational environment that is

²⁸⁶ Committee on Economic, Social and Cultural Rights (CESCR), "General Comment No. 13 (Twenty-first session, 1999)–The right to education (article 13 of the Covenant)", UN Doc. E/C.12/1999/10 (1999), December 8, 1999, <https://undocs.org/E/C.12/1999/10> (accessed November 17, 2020), para. 31; CRC, "General Comment No. 13 (2011)–The right of the child to freedom from all forms of violence," UN Doc. CRC/G/GC/13 (2011), April 18, 2011, https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf (accessed November 17, 2020), paras. 7, 13, 16, 62; United Nations Commission on Human Rights, "The right to education–Report submitted by the Special Rapporteur on the right to education, Mr. Vernor Muñoz Villalobos," UN Doc. E/CN.4/2005/50, December 17, 2004, <https://undocs.org/en/E/CN.4/2005/50> (accessed November 16, 2020), paras. 119, 120.

²⁸⁷ CRC, "General Comment No. 1 (2001)–Article 29(1): The Aims of Education," UN Doc. CRC/GC/2001/1 (2001), April 17, 2001, <https://undocs.org/en/CRC/GC/2001/1> (accessed November 17, 2020), para. 8; UNESCO and United Nations Girls' Initiative, School-related gender-based violence is preventing the achievement of quality education for all, *Policy Paper 17: School-related gender-based violence is preventing the achievement of quality education for all*, March 2015, <http://www.ungei.org/srgbv/files/232107E.pdf> (accessed November 17, 2020).

²⁸⁸ CRC, "General Comment No. 13 (2011)–The right of the child to freedom from all forms of violence," UN Doc. CRC/G/GC/13, paras. 39, 69; CRC, "General Comment No. 12–The right of the child to be heard," UN Doc. CRC/C/GC/12, July 20, 2009, <https://undocs.org/CRC/C/GC/12> (accessed November 17, 2020), paras. 105, 109.

²⁸⁹ Protocolo Adicional a la Convención Americana sobre Derechos Humanos en Materia de Derechos Económicos, Sociales y Culturales, Protocolo de San Salvador, adopted November 17, 1988, entered into force on November 16, 1999, ratified by Ecuador on October 2, 1993, art. 16.

safe and free from sexual violence, and that states must take proactive steps to protect children, including by creating complaint processes.²⁹⁰

The Inter-American Court has ruled that governments must ensure private actors or entities that provide services deemed of public interest²⁹¹ observe respect for human rights.²⁹² All actors, public or private, should protect and act in the best interests of children.²⁹³

The Abidjan Principles

The Abidjan Principles on the human rights obligations of states to provide public education and to regulate private involvement in education were adopted in February 2019 in Côte d'Ivoire by a group of experts on the right to education. They draw on states' existing legal obligations regarding the delivery of education including authoritative interpretations provided by human rights bodies. They outline states' duties to regularly monitor compliance of public and private institutions with the right to education, including protections for learners from violence, abuse, and sexual harassment, and the duty to ensure access to effective remedies for human rights abuses committed by private actors.²⁹⁴

Protection from Sexual and Gender-Based Violence

Governments have obligations to protect children from sexual exploitation and abuse,²⁹⁵ paying attention to the impact of gender-based violence and intersectional discrimination against girls and children with disabilities.²⁹⁶ States should take all appropriate legislative,

²⁹⁰ Corte Interamericana de Derechos Humanos, *Caso Guzmán Albarracín y otras vs. Ecuador*, Sentencia de 24 de junio de 2020 (Fondo, Reparaciones y Costas), https://www.corteidh.or.cr/docs/casos/articulos/seriec_405_esp.pdf (accessed September 10, 2020).

²⁹¹ See Constitución de la República del Ecuador, arts. 345 and 347(6).

²⁹² Corte Interamericana de Derechos Humanos, *Caso Albán Cornejo y otros vs. Ecuador*, Sentencia de 22 de noviembre de 2007, https://www.corteidh.or.cr/docs/casos/articulos/seriec_171_esp.pdf (accessed November 16, 2020), para. 119; Corte Interamericana de Derechos Humanos, *Caso Ximenes Lopes vs. Brasil*, Sentencia de 4 de julio de 2006, https://www.corteidh.or.cr/docs/casos/articulos/Seriec_149_esp.pdf (accessed October 13, 2020), paras. 96-98.

²⁹³ Corte Interamericana de Derechos Humanos, *Opinión Consultiva OC-17/2002 de 28 de agosto de 2002*, Solicitada por la Comisión Interamericana de Derechos Humanos, https://www.corteidh.or.cr/docs/opiniones/seriea_17_esp.pdf (accessed October 13, 2020), para. 58(1).

²⁹⁴ See Overarching Principle 8 and 9, "The Abidjan Principles—Guiding Principles on the human rights obligations of States to provide public education and to regulate private involvement in education," 2019, <https://www.right-to-education.org/resource/abidjan-principles> (accessed October 13, 2020), pp. 7, 21.

²⁹⁵ UN Convention on the Rights of the Child (CRC), UN. Doc. E/CN.4/RES/1990/74, March 1990, art. 34.

²⁹⁶ CRC, art. 34; Committee on the Rights of Persons with Disabilities (CRPD), "General comment No. 4 (2016) on the right to inclusive education," UN Doc. CRPD/C/GC/4, November 25, 2016, <https://undocs.org/CRPD/C/GC/4> (accessed October 13, 2020), paras. 46, 51.

administrative, social, and educational measures to prevent and protect children, including children with disabilities, from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment, or exploitation, including sexual exploitation, harassment, and other forms of abuse.²⁹⁷ The Convention on the Rights of Persons with Disabilities requires states to provide persons with disabilities with information and education to avoid, recognize and report instances of exploitation, violence, and abuse. States must also identify, investigate and prosecute abuses against children with disabilities.²⁹⁸

The Committee on the Elimination of Discrimination against Women has called on states to adopt and enforce law, policies, and procedures to prohibit and tackle school-related violence against girls and women. They should explicitly prohibit verbal and emotional abuse, stalking, sexual harassment and sexual violence, physical violence, and exploitation.²⁹⁹

In cases of online sexual violence, the Committee on the Rights of the Child has recommended that states “implement safety and protective measures in accordance with the children’s evolving capacities,” and also prevent harm by taking legislative and regulatory measures.³⁰⁰ In cases involving children and adolescents, states should adopt “preventive, safeguarding and restorative justice approaches whenever possible.”³⁰¹

Right to Comprehensive Sexuality Education

The Committee on Economic, Social and Cultural Rights notes the interdependence of the realization of the right to sexual and reproductive health with the right to education and the right to non-discrimination and equality between men and women, which, when combined, entail a “right to education on sexuality and reproduction.”³⁰²

²⁹⁷ CRC, art. 19 (1); CRPD, General comment No. 4 (2016) on the right to inclusive education, para. 51.

²⁹⁸ Convention on the Rights of Persons with Disabilities, UN Doc. A/Res/61/106, arts. 16(2) and 16(5).

²⁹⁹ CEDAW, “General recommendation No. 36 (2017) on the rights of girls and women to education,” UN Doc. CEDAW/C/GC/36, November 27, 2017, <https://undocs.org/en/CEDAW/C/GC/36> (accessed April 6, 2018), para. 69(a).

³⁰⁰ CRC, “Draft General Comment No. 25 (2020)– Children’s rights in relation to the digital environment,” UN Doc. CRC/C/GC/25, August 13, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f25&Lang=en (accessed November 17, 2020), para. 82.

³⁰¹ Ibid, para. 85.

³⁰² CESCR “General Comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)”, UN Doc. E/C.12/GC/22 (2016), <https://undocs.org/en/E/C.12/GC/22>

The Inter-American Court of Human Rights has also recognized that the right to adequate sexuality education is an integral part of the right to education.³⁰³ In 2018, Ecuador's Constitutional Court ruled that children have the right to make decisions about their lives and their sexual and reproductive rights, and to receive guidance and tools to make informed and responsible decisions freely. The State must intervene when children lack access to this information.³⁰⁴

The Committee on the Rights of the Child has recommended that states adopt:

Age-appropriate, comprehensive and inclusive sexual and reproductive health education, based on scientific evidence and human rights standards and developed with adolescents, should be part of the mandatory school curriculum and reach out-of-school adolescents. Attention should be given to gender equality, sexual diversity, sexual and reproductive health rights, responsible parenthood and sexual behaviour and violence prevention, as well as to preventing early pregnancy and sexually transmitted infections.³⁰⁵

Persons with disabilities must be provided access to comprehensive sexuality education and information in accessible formats.³⁰⁶

(accessed November 17, 2020), para. 9. The Committee on the Rights of the Child also notes that adolescents' ability "to access relevant information can have a significant impact on equality." See CRC, "General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence," UN Doc. CRC/C/GC/20 (2016), December 6, 2016, <https://undocs.org/en/CRC/C/GC/20> (accessed November 17, 2020), para. 47.

³⁰³ Corte Interamericana de Derechos Humanos, *Caso Guzmán Albarracín y otras vs. Ecuador*, Sentencia de 24 de junio de 2020 (Fondo, Reparaciones y Costas), paras. 139-140.

³⁰⁴ Corte Constitucional del Ecuador, Sentencia No. 003-18-PJO-CC, June 27, 2018, <http://portal.corteconstitucional.gob.ec:8494/FichaRelatoria.aspx?numdocumento=003-18-PJO-CC> (accessed September 22, 2020).

³⁰⁵ CRC, "General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence," para. 61.

³⁰⁶ CRPD, "General comment No. 4 (2016) on the right to inclusive education," para. 54.

Children and Adolescents' Right to Be Heard

Children have the right to be heard in any judicial and administrative proceedings that affect them, in accordance with their evolving capacities.³⁰⁷ Proceedings should be “accessible and child-appropriate.”³⁰⁸ Children who are victims of an abuse have the right to be informed about access to health, psychological and social services, which support mechanisms are in place for children submitting complaints and participating in judicial proceedings, protective measures available, and the possibilities to receive reparation.³⁰⁹ Governments should adopt support measures and disability and age-appropriate measures to ensure children with disabilities can exercise their right to be heard and express their views freely on matters affecting them.³¹⁰

The Right to Accessible and Effective Remedies

States must ensure individuals have “accessible and effective remedies” to vindicate their rights, and such remedies should be sensitive to the “special vulnerability” of children.³¹¹ The Committee on the Elimination of Discrimination against Women states that remedies should include “monetary compensation, restitution, rehabilitation and reinstatement; measures of satisfaction, such as public apologies, public memorials and guarantees of non-repetition; changes in relevant laws and practices; and bringing to justice the perpetrators of violations of human rights of women [and girls].”³¹² Compensation could include money, goods, or services, and rehabilitation could include medical and psychological care and other social services.³¹³

³⁰⁷ CRC, “General Comment No. 12 (2009) –The right of the child to be heard,” UN Doc. CRC/C/GC/12, July 20, 2009, <https://undocs.org/CRC/C/GC/12> (accessed October 13, 2020), paras. 32, 79.

³⁰⁸ Ibid., para. 34.

³⁰⁹ Ibid., para. 64.

³¹⁰ Convention on the Rights of Persons with Disabilities, art. 7 (3); CRPD, “General comment No. 6 (2018) on equality and non-discrimination,” UN Doc. CRPD/C/GC/6, April 26, 2018, <https://undocs.org/CRPD/C/GC/6> (accessed October 13, 2020), para. 38.

³¹¹ Human Rights Committee, “General Comment No. 31 [80]– The Nature of the General Legal Obligation Imposed on States Parties to the Covenant,” CCPR/C/21/Rev.1/Add.13, May 26, 2004, <https://undocs.org/en/CCPR/C/21/Rev.1/Add.13> (accessed October 13, 2020), paras. 15-17.

³¹² CEDAW, “General recommendation No. 28 of the core obligations of state parties under article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women,” UN Doc. CEDAW/C/GC/28, December 16, 2010, <https://undocs.org/en/CEDAW/C/GC/28> (accessed September 24, 2020), para 32.

³¹³ CEDAW, “General recommendation on women’s access to justice,” UN Doc. CEDAW/C/GC/33, July 23, 2015, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf (accessed November 17, 2020), para. 19(b).

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“It’s a Constant Fight”

School-Related Sexual Violence and Young Survivors’ Struggle for Justice in Ecuador

Sexual and gender-based violence has been a long-standing, endemic problem in Ecuador’s education system, with high levels of sexual violence from pre-school to high school. According to Ministry of Education data, between 2014 and May 2020, over 4,200 children and adolescents suffered sexual violence by teachers, school staff, janitors, school bus drivers, and fellow students.

“*It’s a Constant Fight*” documents cases of sexual violence in Ecuador’s educational institutions between 2010 and 2019. Based on 83 interviews, an analysis of 38 cases, and official data on school-related sexual violence, the report documents serious gaps in how schools and education authorities respond to sexual violence in schools, including the shortage of school counsellors to support students and report cases of sexual violence and the lack of adherence to government protocols by both public and private schools. The report also documents the serious obstacles faced by victims and their families when seeking justice for the crimes they suffered. Most told Human Rights Watch that they had to fight for justice.

Human Rights Watch calls on the Ecuadorian government to publicly apologize to all survivors of school-related sexual violence and their families and ensure that all cases are effectively investigated. The government should adequately resource and equip schools to prevent and address school-related sexual violence, including through the roll out of comprehensive sexuality education. It should also ensure all judicial proceedings properly accommodate children and adolescent victims, and provide adequate reparations for survivors of sexual violence.

(above) Evelyn Yucailla, 23, a survivor of school-related sexual violence and activist, holds a local newspaper from the city of Ambato, Ecuador. The frontpage headline reads: “Young teacher is guilty.”

(front cover) Jennifer Real, 19, a survivor of sexual violence perpetrated by a teacher at the Academia Aeronáutica Mayor Pedro Traversari, a private school in southern Quito, holds an old photo of her posing in the school’s uniform.

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