



Submission by Human Rights Watch to the Committee on Economic, Social and Cultural Rights on Ecuador

66th session, 2019

This submission relates to the review of Ecuador under the International Covenant on Economic, Social and Cultural Rights. It focuses on access to abortion, school-related sexual violence, and the protection of students, teachers, and schools during armed conflict.

Right to Health (article 12)

Access to Abortion

Ecuador is one of eight countries South America that criminalizes access to abortion for survivors of rape.¹ The criminal code imposes penalties including prison terms ranging from six months to two years for women and girls who have abortions.² The country has high rates of gender-based violence, with an estimated 1 in 4 women facing sexual violence in her lifetime, according to a 2012 survey.³ The country's high rate of rape of adolescent girls is of particular concern. Approximately 2,000 girls under age 14 give birth in Ecuador each year;⁴ all are considered pregnancies from rape because 14 is the age of consent set by the Penal Code.⁵

¹ Center for Reproductive Rights, "The World's Abortion Laws," <https://reproductiverights.org/worldabortionlaws>.

² República del Ecuador, Código Orgánico Integral Penal, "Aborto consentido," https://www.justicia.gob.ec/wp-content/uploads/2014/05/c%C3%B3digo_org%C3%A1nico_integral_penal_-_coip_ed._sdn-mjdhc.pdf, art. 149.

³ UN Women, "Ecuador," <https://lac.unwomen.org/en/donde-estamos/ecuador>.

⁴ Fundación Desafío, "Vidas Robadas: Entre La Omisión Y La Premeditación," 2016, <https://www.ninasnomadres.org/wp-content/uploads/2016/11/Vidas-Robadas-Ecuador.pdf>.

⁵ Código Orgánico Integral Penal, art. 171.

Human Rights Watch published a report in 2013 documenting the impact of the lack of access to abortion for rape survivors.⁶ We found that criminal penalties for abortion drive some women and girls to have illegal and unsafe abortions, undermining Ecuador's efforts to reduce preventable maternal death.

Human Rights Watch recommends that the Committee call on the government of Ecuador to:

- Decriminalize abortion, and at a minimum legalize it in cases of rape, incest, and severe fetal impairment.

Right to Education (art. 13)

School-Related Sexual and Gender Based Exploitation and Violence (articles 12 and 13)

Under the current government, Ecuador has recognized the severity of the level of sexual violence against children in its education institutions.⁷

From 2014 through mid-2018, Ecuador's Ministry of Education received 4,111 complaints of sexual violence against students; 1,837 of them were school-related.⁸ It also reopened 734 complaints that had been archived by the ministry or suspended by the state prosecutor's office.⁹

Since late 2017, the government has taken important steps to signal its commitment to tackling school-related gender-based violence, including through the rollout of public

⁶ Human Rights Watch, *Ecuador - Rape Victims as Criminals: Illegal Abortion after Rape in Ecuador*, August 23, 2013, <https://www.hrw.org/report/2013/08/23/rape-victims-criminals/illegal-abortion-after-rape-ecuador>.

⁷ 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/>; Ministerio de Educación, "Lanzamiento nuevo video UNICEF Más Unidos Más Protegidos," March 20, 2018, <https://www.youtube.com/watch?v=HulJBEEU4Fk>; La República, "Moreno traza hoja de ruta para erradicar violencia contra menores de edad," November 7, 2017, <https://www.larepublica.ec/blog/politica/2017/11/07/moreno-traza- hoja-de-ruta-para-erradicar-violencia-contra-menores-en-ecuador/>. See Human Rights Watch, *World Report 2019 – Ecuador, Events of 2018*, <https://www.hrw.org/world-report/2019/country-chapters/ecuador>; Tamara Taraciuk Broner (Human Rights Watch), "Ecuador Needs to Act to Halt Child Sexual Violence," *La Hora*, December 4, 2017, <https://www.hrw.org/news/2017/12/04/ecuador-needs-act-halt-child-sexual-violence>.

⁸ From 2015 – 2017, the State Prosecutor registered 2,673 complaints of sexual violence against children and adolescents; 1,256 of them were school-related. Nicolas Reyes (Consejo Nacional para la Igualdad), "Recomendaciones CNII a la Comisión Aampetra," https://www.igualdad.gob.ec/wp-content/uploads/downloads/2018/09/recomendaciones_cnii_comision_aampetra.pdf.

⁹ Ministerio de Educación, *Educar Ecuador*, "Ministerio de Educación actualiza las cifras de casos de violencia sexual y socializa acciones interinstitucionales," July 19, 2018, <https://www.educarecuador.gob.ec/index.php/noticias/1360-ministerio-de-educacion-actualiza-las-cifras-de-casos-de-violencia-sexual-y-socializa-acciones-interinstitucionales>.

information campaigns, training programs on prevention of sexual abuse, and establishing a database to document all cases of sexual violence detected in primary and secondary education institutions.¹⁰

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.¹¹ To date, the government had not presented legislation to amend its Penal Code in accordance with the 2018 referendum result.

In March 2018, the National Assembly established the AAMPETRA Commission—a special multi-party legislative commission—named after a private school where 43 children were sexually abused by one teacher, in a case that generated strong attention to this issue in Ecuador.¹² The commission focused on establishing the facts related to school-related sexual violence against children, conducted in-depth analysis of 8 out of 57 cases of sexual violence against children reported to the commission, and evaluated the actions taken by the Ministry of Education in the past and relevant state institutions to respond to school-related sexual violence.¹³ The commission focused on information-gathering since “the issue of sexual violence against boys, girls and adolescents in education institutions had not been dealt with the relevance needed by state institutions, many of which lacked updated, systematized or validated information of cases they had known.”¹⁴

The commission called on the government to publicly recognize the “serious situation of human rights violations” against children and adolescents in education institutions; to offer a public apology to child survivors of sexual violence and their families; and to approve a law on integral reparations to regulate processes of remedies and reparations for victims of sexual violence.¹⁵

¹⁰ Ministerio de Educación, “El Ministerio de Educación y la ONU, Más Unidos, Más Protegidos por los derechos de los estudiantes,” <https://www.educarecuador.gob.ec/index.php/noticias/862-el-ministerio-de-educacion-y-la-onu-mas-unidos-mas-protegidos-por-los-derechos-de-los-estudiantes>.

¹¹ See Consejo Nacional Electoral, “Referéndum y Consulta Popular 2018,” <http://cne.gob.ec/es/institucion/procesos-electorales/referendum-y-consulta-popular-2018>; and “Preguntas y Anexos,” <https://spark.adobe.com/page/IVEJiFXHmIKsj/>.

¹² Asamblea Nacional, Comisión Especializada Ocasional “AAMPETRA,” Informe ejecutivo del trabajo realizado por la Comisión Especializada Ocasional AAMPETRA, Quito, 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), p. 3.

¹³ Asamblea Nacional, 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/es/blogs/comision-especializada-ocasional-aampetra/54064-informe-aprobado>.

¹⁴ Asamblea Nacional, Comisión Especializada Ocasional “AAMPETRA,” Informe ejecutivo del trabajo realizado por la Comisión Especializada Ocasional AAMPETRA (unofficial translation by Human Rights Watch), p. 5.

¹⁵ *Ibid.*, p. 204.

Human Rights Watch recommends that the Committee call on the government of Ecuador to:

- Ensure the Ministry of Education adequately reports and responds to cases of sexual violence, fully investigates allegations of abuse, refers cases to the Prosecutor's Office, and sanctions schools that do not follow established protocols.
- Implement the referendum results by amending the Penal Code to remove the statute of limitations for sexual offenses against children and adolescents.
- In accordance with the AAMPETRA Commission's recommendations, offer a public apology to child survivors of sexual violence and their families, and adopt a law on reparations and remedies for survivors of sexual violence.

Protection of Education During Armed Conflict (article 13)

Ecuador was among the first countries to endorse the Safe Schools Declaration, joining in May 2015.¹⁶

Ecuador's Armed Forces' Manual of International Humanitarian Law of 2016 states that "educational ... institutions shall be considered as neutral and as such respected and protected by belligerents. The same respect and protection shall be due to the personnel of the institutions mentioned above."¹⁷

Human Rights Watch recommends that the Committee:

- Congratulate Ecuador on endorsing the Safe Schools Declaration.
- Encourage Ecuador to continue to develop and share examples of its implementation of the declaration's commitments—including concrete measures to deter the military use of schools—with this Committee and with other countries that have endorsed the Safe Schools Declaration.

¹⁶ The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict; the importance of the continuation of education during armed conflict; and the implementation of the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*. See Global Coalition to Protect Education from Attack, Safe Schools Declaration, http://www.protectingeducation.org/sites/default/files/documents/safe_schools_declaration-final.pdf.

¹⁷ Armed Forces of Ecuador, Manual of International Humanitarian Law, DBM-DOC-CC.Ff.AA.-05, 2016, May 2016. Chapter VIII, sec. D.