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البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

الزيارة إلى إكوادور

تقرير المقررة الخاصة المعنية بمسألة العنف ضد المرأة وأسبابه وعواقبه **

موجز

أجرت المقررة الخاصة المعنية بالعنف ضد المرأة وأسبابه وعواقبه زيارة إلى إكوادور في الفترة من 29 تشرين الثاني/نوفمبر إلى 9 كانون الأول/ديسمبر 2019. وتبحث المقررة الخاصة، في تقريرها، الثغرات والتحديات التي تواجهها الدولة حالياً في الوفاء بالتزاماتها المتعلقة بالقضاء على العنف ضد المرأة وعلى أسبابه وعواقبه، وتوصي باتخاذ تدابير لمنع العنف ضد المرأة ومكافحته في البلد.

* يعمم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيُعَمَّم باللغة التي قُدِّمَ بها وباللغة الإسبانية فقط.

** أتفق على نشر هذا التقرير بعد تاريخ النشر الاعتيادي لظروف خارجة عن إرادة الجهة التي قدمته.



الرجاء إعادة الاستعمال

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Annex

Report of the Special Rapporteur on violence against women, its causes and consequences, on her visit to Ecuador

I. Introduction

1. The Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, conducted an official visit to Ecuador from 29 November to 9 December 2019, at the invitation of the Government. The main focus of the visit was to assess the overall situation of violence against women in the country and to evaluate the efforts being made to eliminate violence against women, including through relevant laws, policies and services, and the obstacles faced in this regard.
2. The Special Rapporteur expresses her appreciation for the excellent cooperation extended to her by the Government before, throughout and after the visit. During the visit, the Special Rapporteur met with the Vice-President of the country, along with various high-ranking representatives of the Government, including the Minister for Foreign Affairs, the Minister for Economic and Social Inclusion, the Minister of the Interior, the Vice-Minister of Labour, the Vice-Minister for Economic and Social Inclusion, the Secretary for Human Rights, the President of the National Assembly and representatives of its parliamentary committees on democratic reform, labour, health, and children and adolescents. She also met with the President of the National Electoral Council, the Vice-President of the Constitutional Court and its members, the Vice-President of the Judicial Council and its members, and the Counsel General of the State. She had an inter-institutional meeting with representatives of the Ministry of Public Health, the Ministry of Education, the Ministry of Economy and Finance, the Ministry of Telecommunications and the Information Society, the Ministry of Production, Foreign Trade, Investments and Fisheries, the Secretariat of Higher Education, Science, Innovation and Technology, the Secretariat of Planning, the National Statistics and Census Institute and the Ecuadorian Social Security Institute. Furthermore, she met with representatives of statutory human rights agencies, including the Ombudsperson and the National Council on Gender Equality, along with representatives from international organizations and civil society. In addition, she met with the Governor of Azuay and relevant stakeholders in Cuenca, Huaquillas, Machala and Tulcán.
3. The Special Rapporteur visited Chillogallo women's detention facility in Quito, along with shelters for women fleeing violence in various locations throughout the country, including the María Amor Foundation in Cuenca.
4. She is grateful to the United Nations Resident Coordinator Office and the country team, in particular the Office of the United Nations High Commissioner for Human Rights, the United Nations Entity for Gender Equality and the Empowerment of Women, the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees, and other relevant stakeholders for their invaluable support in facilitating her visit.
5. She wishes to express her heartfelt thanks to all the women and girls who placed their trust and hope in her by sharing their personal and often traumatic experiences of violence and gender-based discrimination, allowing her to gain an insight into some of the systemic problems they face when it comes to gender-based violence against women and their right to a life free from violence.

II. General context

6. Since the new President took up office in May 2017 and the adoption of the subsequent amendments to the Constitution in 2018, Ecuador has experienced a number of political, institutional and economic changes. With these shifts, the country has made

considerable progress towards bringing domestic legislation into line with international human rights standards and has taken numerous steps to advance women's rights in the country, including through the enactment of the Comprehensive Organic Law to Prevent and Eradicate Violence against Women (2018). It has also taken measures to progressively narrow the gender gaps in education and social security. Through Executive Decree No. 371, it confirmed its commitment to implementing Goal 5 of the 2030 Agenda for Sustainable Development, particularly target 5.2, which is to eliminate all forms of violence against all women and girls. Similarly, in its national development plan (2017–2021), the Plan for Good Living, it cites numerous specific objectives towards achieving gender equality and eradicating gender-based violence against women.

7. The Special Rapporteur commends Ecuador on its achievement in terms of the political participation of women; 39 per cent of Members of Parliament are women. She also commends it on the reforms to the Organic Law on Elections and Political Organizations that were made during her visit and adopted in February 2020, aimed at ensuring parity within the political sphere. Indeed, Ecuador has begun the process of adopting a progressive legal framework on human rights to respond to the significant challenges that the country faces in order to eliminate violence against women and girls and attain gender equality, in line with its international commitments.

8. The high level of violence experienced by women in the country is alarming, with about 65 per cent of women in the country having experienced at least some form of violence within her lifetime.¹ The persistence of gender discriminatory and stereotyped attitudes and behaviour, deeply rooted patriarchal and “machista” social norms, the normalization of violence and the social stigma attached to reporting violence all continue to pervade society at all levels, disproportionately affecting the most vulnerable women in society.

9. The vast majority of stakeholders with whom the Special Rapporteur met recognized that violence against women is a disturbingly common occurrence that is deeply rooted in society and that continues to have a significant negative impact on women, children and the wider community.

10. While cognizant of the economic imbalances in the country, the Special Rapporteur is deeply concerned at reports she received during the visit of proposed cuts to the 2020 budget for the prevention of violence against women and girls. Of particular concern are reports indicating that the budget allocated for the implementation of the Intersectoral Policy to Prevent Pregnancy in Girls and Adolescents will be reduced by 100 per cent and the budget for the implementation of the Comprehensive Organic Law to Prevent and Eradicate Violence against Women will be reduced by 84 per cent.

11. If implemented, the proposed budget cuts will significantly reduce efforts to implement the Comprehensive Organic Law to Prevent and Eradicate Violence against Women, and will nullify the much-needed Policy to Prevent Pregnancy in Girls and Adolescents. Given the high levels of overall violence against women and the increase in teenage pregnancies,² if taken, this decision would contribute to the violation of the human rights of women and girls in the country.

12. The visit was conducted at a particularly challenging time. While the Special Rapporteur was in Ecuador, the National Assembly rejected proposed revisions to the restrictive provisions on abortion in the Comprehensive Criminal Code (2014), and the Constitutional Court was considering the conformity of the Criminal Code with the Constitution. The Special Rapporteur hopes that her findings, which are based on international law standards, will contribute to this important national debate.

¹ Instituto Nacional Estadísticas y Censos (INEC), *Encuesta Nacional sobre Relaciones Familiares y Violencia de Género contra las Mujeres*, Noviembre 2019.

² Approximately 2,700 girls under 15 give birth each year. The birth rate among girls between 10 and 14 years old increased from 2.5 per 1,000 births in 2013 to 8 per 1,000 births in 2016.

III. State response and measures to address violence against women

A. Incorporation and implementation of the international framework on violence against women

13. Ecuador is a State party to all the international human rights instruments,³ including the Convention on the Elimination of All Forms of Discrimination against Women, which it ratified in 1981, together with the Optional Protocol thereto, which it ratified in 2002. At the regional level, Ecuador is party to the American Convention on Human Rights, recognizes the jurisdiction of the Inter-American Court of Human Rights and in 1995, ratified a number of additional instruments, including the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention).

14. In accordance with article 11 (3) of the Constitution, international treaties ratified by Ecuador are directly applicable in national courts, and can be directly enforced by civil, administrative or judicial authorities, even in the absence of national legislation. However, this does not always apply in practice, as the lack of full harmonization of the relevant laws with international human rights standards, combined with implementation gaps in almost all social policies related to women's rights and the elimination of violence against women are hampering progress in this regard. There is also a lack of specific training for judges, prosecutors, lawyers, police officers and civil servants on the Convention on the Elimination of All Forms of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 of the Committee on the Elimination of Discrimination against Women, and on the Belém do Pará Convention. Education on the aforementioned legal instruments is essential to ensure the direct application of international standards.

15. In October 2020, Ecuador is scheduled to present its tenth periodic report at the seventy-seventh session of the Committee on the Elimination of Discrimination against Women. The Special Rapporteur therefore hopes that the recommendations outlined in the present report, combined with those provided by the Committee, will assist the Government in its efforts to eliminate discrimination and violence against women.

B. Constitutional, legislative and policy framework

16. The Constitution of 2008 reflects the principles of human rights and recognizes personal integrity as part of the right to freedom. It contains many progressive provisions that guarantee non-discrimination as a fundamental right, and outlines steps towards the elimination of gender-based discrimination. It notes that the right to personal integrity includes physical, psychological, moral and sexual integrity, and establishes the obligation to adopt measures to prevent and punish violence, especially against women, children and adolescents. Violence includes slavery and sexual exploitation, servitude, trafficking and trafficking in human beings in all its forms (art. 66). The obligation to have special and expedited procedures for the prosecution and punishment of violence is also provided for (art. 81). Article 19 specifically prohibits advertising that induces violence, discrimination, sexism and other expressions that threaten rights.

³ Ecuador has ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Legislative framework and policies on combating and preventing violence against women

17. The Special Rapporteur welcomes the ongoing legal reforms undertaken by the Government over recent years with the aim of harmonizing its national legal system with the new constitutional provisions and its international commitments to human rights, and she encourages the Government to continue with the reform process. Although this progress is indeed important, considerable implementation gaps with respect to new laws relating to the rights of women and girls, ranging from the Comprehensive Organic Law to Prevent and Eradicate Violence against Women to the Comprehensive Criminal Code and the Health Code, continue to pose significant challenges, particularly at the local level and in remote areas.

(a) *Comprehensive Criminal Code*

18. The Comprehensive Criminal Code (2014) criminalizes physical, psychological and sexual violence (arts. 156–158), femicide (art. 141) and discrimination on the basis of sex, gender identity, sexual orientation and other grounds (art. 176). While many of its provisions are progressive, it has yet to be fully harmonized with the Comprehensive Organic Law to Prevent and Eradicate Violence against Women and with the Convention on the Elimination of All Forms of Discrimination against Women.

19. The Criminal Code is also not in line with international standards on access to safe abortion as it criminalizes women and girls who consent to having an abortion or cause themselves to abort, even in cases of rape. Under current legislation, women and girls who undergo abortions are penalized with prison terms ranging from six months to two years. During her visit, the Special Rapporteur received disturbing information that, between 2014 and 2018, 134 persons faced criminal proceedings due to allegations of voluntary termination of pregnancy, while 286 complaints were filed for seeking an abortion between 2014 and June 2019.⁴ The Special Rapporteur also received information suggesting that there may be as many as 250 women in prison or facing criminal charges. She would welcome clarity on these figures from the Government.

20. Under the Criminal Code, abortion is legal only when a pregnant woman's life or health is in danger, or when a woman with a psychosocial disability is pregnant as a result of rape. The restrictive norms within the criminal justice system and prohibition of therapeutic abortion in cases of pregnancy resulting from rape or incest and for non-viable pregnancies, as well as the overly restrictive interpretations that do not take account of severe fetal abnormalities and extrauterine pregnancies, place the health and other human rights of women and girls at extreme risk.

21. Such restrictive criminal law provisions are contrary to the recommendations that the Committee on the Elimination of Discrimination against Women made to Ecuador in this regard (CEDAW/C/ECU/CO/8-9, para. 33). Moreover, in its general recommendation No. 24 (1999) on women and health, the Committee explained that it is discriminatory for a State party to refuse to provide legally for the performance of certain reproductive health services for women (para. 11). It indicated that when possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion (para. 31 (c)).

22. Article 16 (e) of the Convention on the Elimination of All Forms of Discrimination against Women explicitly states that men and women shall have the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.

23. International human rights bodies have upheld the view that forcing a woman to carry to term a pregnancy resulting from rape has severe mental health consequences and constitutes a violation of the right to health, both physical and mental. This right is protected under several human rights treaties, such as article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, which provides that States

⁴ Wambra, "El rostro de las mujeres criminalizadas por abortar: empobrecidas y jóvenes". Available at <https://wambra.ec/mujeres-criminalizadas-aborto/#>.

parties should take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on the basis of equality between men and women, access to health-care services, including those related to family planning.

24. The current definition of rape in article 171 of the Criminal Code is not in line with international standards. The unacceptable tolerance of rape, including within the criminal justice system, has resulted in low reporting rates, and even when reported, in low prosecution rates and impunity for perpetrators. Moreover, force-based definitions of rape often require evidence that the victim failed to fight back. This essentially requires that victims resist, risking life or physical integrity to meet the definition of the crime. As such, the burden is placed on the woman to prove that she resisted. If she is unable to do so, the perpetrator walks free, while the victim is left stigmatized. The Special Rapporteur welcomes the decision taken in 2018 to reform the Criminal Code to remove any statute of limitations for sexual abuse of children and adolescents, in line with the 2018 amendment to article 46 of the Constitution. She recommends that the same be applied to all cases of rape.

25. During her visit, the Special Rapporteur met with some girls aged between 10 and 18 years old. After the meeting, the girls presented her with a “manifesto for a life free from violence”. In one of the demands in their manifesto, that “girls should not be mothers”, they noted that “we refuse to be criminalized for taking decisions related to our bodies. They cannot impose motherhood on us because we have the right to decide whether or not we want to have children and, if so, when, how many and with whom. The criminalization of abortion affects the most impoverished adolescent girls and young adult women who are forced to access unsafe abortion, putting our lives, freedom and health at risk.”

26. The demands outlined by the girls are fully in line with international human rights instruments that Ecuador has ratified, including the Convention on the Elimination of All Forms of Discrimination against Women (art. 16) and the Belém do Pará Convention. Unfortunately, these standards do not reflect the daily reality faced by these girls and so many others like them throughout the country.

27. Women who seek medical attention during obstetric emergencies or who seek information on abortion are often reported to the police or the prosecutor by doctors and medical staff, and health services are used to interrogate women, obliging them to incriminate themselves. This breach of doctor-patient confidentiality adversely affects the health of women by deterring them from seeking advice and treatment for botched abortions, even in cases where they have suffered sexual violence.

28. Another frequent occurrence is the use of conscientious objection by medical professionals when women seek medical attention related to abortions or emergency contraception. In 2017, concerns about the prosecutorial role adopted by some health professionals led the Ministry of Health to publish guidelines for health-care providers, reminding them of their duty to ensure patient confidentiality and to care for women with abortion-related complications (E/C.12/ECU/4, para. 190). Nevertheless, in practice these guidelines are often not followed, resulting in women being denied access to these services even if they are legally entitled to them.

29. While recognizing the steps that have been taken to bring the debate surrounding abortion to the National Assembly, the Special Rapporteur regrets that to date, Ecuador has not implemented the recommendation of the Committee on the Elimination of Discrimination against Women to decriminalize abortion (CEDAW/C/ECU/CO/8-9, para. 33). Moreover, the proposed amendments to articles 149 and 150 of the Comprehensive Criminal Code that would have decriminalized abortion in cases of rape, incest and forced artificial insemination were rejected by the National Assembly, most recently in September 2019.

30. During the Special Rapporteur’s visit, the Constitutional Court was considering proposed revisions to the restrictive definition of abortion in the Comprehensive Criminal Code and their conformity with the Constitution. The Special Rapporteur had a meeting with the majority of judges from the Constitutional Court during which they exchanged views on relevant international standards and jurisprudence in this regard. The Special Rapporteur sincerely hopes that progressive interpretation of the country’s Constitution

combined with adherence to the international human rights instruments to which Ecuador is party will prevail.

(b) *Comprehensive Organic Law to Prevent and Eradicate Violence against Women*

31. The Comprehensive Organic Law to Prevent and Eradicate Violence against Women, approved by the National Assembly in 2018, represents an important step in advancing women's rights in the country. The Law contains many progressive provisions, and provides for comprehensive measures on prevention, care, protection and reparation (art. 1). It refers to all forms of violence against women and girls in all settings, and provides for a national intersectoral system for its implementation. It recalls, as its foundation, the international human rights instruments adopted by Ecuador. This includes the Convention on the Elimination of All Forms of Discrimination against Women, general recommendations Nos. 19 and 35 on gender-based violence against women of the Committee on the Elimination of Discrimination against Women, the Beijing Declaration and Platform for Action, the Belém do Pará Convention and relevant recommendations from international human rights mechanisms.

32. As a means of implementing the Comprehensive Organic Law to Prevent and Eradicate Violence against Women, the Judicial Council agreed to develop an optimization plan in 2018.⁵ The aim of the plan is to strengthen specialized judicial units on violence against women across the country, and to establish a protocol to ensure the provision of adequate support to victims of such violence.

33. By 2014, 30 such units had been established in 24 cantons in 19 provinces (CEDAW/C/ECU/Q/8-9/Add.1, p. 8). During the visit, the Special Rapporteur was informed that 5 more such units had been established in Azogues, Lago Agrio, Morona, Francisco de Orellana and Tena. Another 3 were created in El Carmen, Naranjito and on Santa Cruz in October 2019.⁶ The Special Rapporteur believes that the establishment of such units in all provinces is crucial for the full implementation of the Law.

34. The Comprehensive Organic Law to Prevent and Eradicate Violence against Women also provides for the establishment of a national observatory on gender-based violence against women (art. 16 (2)). It should be responsible for the preparation of reports, studies and proposals to improve decision-making, and should ensure the effective implementation of the Law. At the time of drafting of the present report, the observatory was yet to be established.

35. The Special Rapporteur notes that the single registry on violence against women and the early warning system referred to in the Law are promising initiatives. Nevertheless, structural problems at the local level and the lack of proper coordination between the police, the judiciary, social services, the health-care system and other stakeholders, as well as the lack of training in applying the Law, could pose significant obstacles to their establishment.

36. The main challenge now is to ensure that the Comprehensive Organic Law to Prevent and Eradicate Violence against Women is fully implemented at all levels. Steps must therefore be taken to accelerate its effective implementation, including through adequate budgetary allocation, particularly at the provincial and local levels.

(c) *National plan*

37. Article 19 (3) of the Comprehensive Organic Law to Prevent and Eradicate Violence against Women provides for the development of a national plan to prevent and eradicate violence against women, girls and adolescents, while article 19 (4) envisages the adoption of strategies to prevent and eradicate violence against women. During the visit, the Special Rapporteur was informed that they had not yet been adopted.

38. Ecuador has had in place since 2014 a national plan to eradicate gender-based violence against women, children and adolescents, which targets the comprehensive and

⁵ Pursuant to its resolution No. 052A-2018 of 23 August 2018.

⁶ Report submitted to the Special Rapporteur by the Council of the Judiciary during the visit.

intersectoral eradication of gender-based violence. A national strategy to eradicate gender-based violence against children, adolescents and women was submitted in March 2018 as the basis for the National Equality Agenda for women and lesbian, gay, bisexual, transgender and intersex persons (HRI/CORE/ECU/2018, para. 144).

39. The Special Rapporteur notes that the previous national plan and related strategies lacked a holistic and human rights-based approach to violence against women, as they did not sufficiently address the need for adequate crisis services, shelters or safe houses for women and children who are victims of violence and opportunities for empowerment in such places.

C. National machinery on violence against women and gender equality

40. In accordance with the Constitution (art. 156), the Organization Act on National Equality Councils was approved in 2014. The Act provided for the establishment of the National Council on Gender Equality and for the creation of local councils for the protection of the rights of specific groups of the population, including women.

41. The National Council on Gender Equality is the body responsible for ensuring the full application and fulfilment of the relevant rights enshrined in the Constitution and in international human rights instruments. It is responsible for ensuring gender mainstreaming across all public policies related to the rights of women and lesbian, bisexual, transgender and intersex women, in line with the National Equality Agenda for women and lesbian, gay, bisexual, transgender and intersex persons (2018–2021).

42. The Special Rapporteur notes that the Council lacks a clear mandate to lead and coordinate the design and implementation of gender equality policies within the respective entities at the national and local levels, and that the percentage of the official budget allocated for the implementation of gender equality policies is decreasing. According to information received during the visit, the budget was cut substantially between 2018 and 2019. The fact that local councils for the protection of rights lack a mandate and specific guidelines for promoting equality between women and men and protecting women's rights is also of concern.

43. In 2019, the Subsecretariat for the Prevention and Eradication of Violence against Women, Children and Adolescents within the Human Rights Secretariat was designated as the principal coordinating intersectoral body for the implementation and monitoring of the Comprehensive Organic Law to Prevent and Eradicate Violence against Women.

44. Also in 2019, the Subsecretariat presented the Ministry of Finance with a budget forecast of US\$ 5,408,561. This sum included proposals for the establishment of new shelters and to strengthen protection services for women victims of gender-based violence. The Special Rapporteur was informed that in the budget proposal sent to the National Assembly by the Ministry of Finance, only US\$ 876,862 was allocated for the implementation of the Law.

45. The lack of effective coordination between the Subsecretariat for the Prevention and Eradication of Violence against Women, Children and Adolescents and National Council on Gender Equality should be addressed. Efforts should be made to ensure strong cooperation between the two bodies in order to guarantee coordinated implementation of the Comprehensive Organic Law to Prevent and Eradicate Violence against Women.

D. Independent human rights institutions

46. The Office of the Human Rights Ombudsperson, established in accordance with articles 214 to 216 of the Constitution, is a body governed by public law that has national jurisdiction, legal personality and administrative and financial autonomy. The Office has a decentralized structure, with representatives in each province and abroad. It is responsible for protecting and safeguarding persons living in Ecuador and protecting the rights of Ecuadorians abroad. In 2012, the Office became the national mechanism for the prevention of torture and is recognized as such by the United Nations (HRI/CORE/ECU/2018, para.

120). The Office has the authority to raise awareness on any matter related to human rights and administer the law protecting people from discrimination based on different grounds.

E. Provision of shelters and access to essential services

47. In March 2015, the National Directorate for Domestic and Gender Violence was created, through Ministerial Agreement 870 issued by the former Ministry of Justice, Human Rights and Religious Affairs, now the Human Rights Secretariat. The Directorate had a protection unit for victims of violence that was responsible for the implementation, institutionalization and expansion of the national network of shelters and specialized care centres for victims of violence, within the framework of the national plan to eradicate gender-based violence. The Directorate was converted into a Subsecretariat in 2018, pursuant to Presidential Decree No. 560.

48. During her visit, the Special Rapporteur was concerned by the fact that almost all interlocutors with whom she met pointed to the dire shortage of adequate shelters throughout the country offering a safe house for women and girls who had been victims of violence, particularly in indigenous communities and in rural and remote areas. The limited support provided to the shelters that are in place and the lack of coordinated, gender-friendly and comprehensive essential services for survivors of violence are also of considerable concern.

49. The lack of safe shelters and 24-hour helplines, as well as the lack of awareness among women of their rights in such cases, only contributes to the high level of impunity of perpetrators of violence against women.

F. Protection orders

50. The Comprehensive Organic Law to Prevent and Eradicate Violence against Women provides for protection orders in cases of domestic violence. While some progress has been made in this regard, there is a lack of awareness among women of this right, along with a lack of coordination between Community Police Units and Judicial Units specializing in violence against women. Strengthened cooperation between Community Police Units and these Judicial Units is essential for the full implementation of this Law and its corresponding protection measures. It seems, however, that the police are not receiving sufficient training on how to address cases of gender-based violence, particularly in relation to risk assessment in cases involving violence against women.

IV. Manifestations of violence against women, its causes and consequences

51. The collection of data on violence against women by the National Statistics Institute is commendable and represents a positive step to measure and respond to violence against women and girls as a matter of public concern. Data shared with the Special Rapporteur demonstrate that 65 per cent of women have been victims of some form of violence, with 60 per cent having experienced psychological violence, and between 30 and 40 per cent having suffered from physical violence.⁷ However, data on femicide or gender-related killings of women and on suicides of women remains limited.

A. Femicide or gender-related killings of women

52. Ecuador is among the countries in the Latin American and Caribbean region with the highest rates of femicide. Between January 2014 and February 2019, 642 femicides were

⁷ INEC, *Encuesta Nacional sobre Relaciones Familiares y Violencia de Género contra las Mujeres*.

recorded in the country, including 28 girls and 55 adolescents.⁸ The Special Rapporteur notes that only those cases of femicide that are prosecuted as such are included in official statistical data. Comparable administrative data on cases of femicide or gender-related killing of women and girls disaggregated by the age and ethnicity of the victim, the sex of the perpetrator, and the relationship between the perpetrator and the victim are not available.

53. The Comprehensive Criminal Code defines femicide as the exercise of power relations resulting in the death of a woman for “being a woman” (art. 141). It is punishable with a prison sentence ranging from 22 to 26 years. The Criminal Code also provides for funds to be made available for children who have been orphaned as a result of femicide. The Special Rapporteur welcomes the proposal to expand the compensation coverage of these provisions, particularly as data collected indicate that between January 2014 and February 2019, some 600 children were orphaned as a result of femicide.⁹

54. During her visit, the Special Rapporteur met with a woman whose daughter had been killed in front of the daughter’s four children, despite having been granted a protection order and access to a panic button. It is evident that, while there are some provisions in law and some practical measures in place to address femicide, the lack of coordination between the police, prosecutors and relevant administering agencies is hampering the implementation of preventive measures.

55. While data exist on prosecuted cases of femicide, there is a lack of official administrative data on all gender-related killings of women and girls. The Special Rapporteur reiterates the call she made for all States to establish a “femicide watch”, a “gender-related killing of women watch” or observatories on violence against women, and to collect and release data each year on 25 November, the International Day for the Elimination of Violence against Women, on the number of intimate partner and the number of family-related femicides based on an established relationship between the victim and the perpetrator, and the number of other gender-related killings (see A/71/398). Data on perpetrators and the prosecution of cases should also be collected and published. Most importantly, all such cases should be carefully analysed by a specialized observatory or femicide watch to identify any failure of protection, with a view to improving and developing further preventive measures.

56. The Special Rapporteur commends the work being carried out by non-governmental organizations, including women’s organizations at the local level, to quantify gender-related killings of women. The Asociación Latinoamericana para el Desarrollo Alternativo (Latin American association for alternative development – Aldea), for example, has been collating information and data on violence and associated injuries and on incidents related to gender-based violence and killings.¹⁰

B. Domestic violence

57. Domestic violence continues to pervade society in Ecuador, with 20 per cent of women having experienced some form of violence in the home within her lifetime. In 2019, 4 per cent of women had experienced some form of violence at home.¹¹ Domestic violence, including physical, sexual and psychological abuse, is still considered a private matter and not an issue of public concern in most parts of the country. The incidence of domestic violence is still underreported, owing in part to the lack of public awareness about this societal problem, fear of retaliation and stigmatization, the lack of trust in law enforcement agencies and the low quality of existing services and protection mechanisms for victims of violence.

⁸ Data compiled through the Asociación Latinoamericana para el Desarrollo Alternativo. See www.fundacionaldea.org/noticias-aldea/tag/Feminicidios.

⁹ Ibid.

¹⁰ Ibid.

¹¹ INEC, *Encuesta Nacional sobre Relaciones Familiares y Violencia de Género contra las Mujeres*.

C. Sexual violence, including rape, with specific focus on girls

58. According to data received during the Special Rapporteur's visit from the Attorney General's Office, between August 2014 and October 2019, a total of 5,426 rape cases were filed in court. Between January and June 2019 alone, there were 2,430 reported cases of rape, equivalent to 14 reported cases of rape a day. Between 10 August 2014 and 30 November 2015, official statistics showed a total number of 7,407 reported cases of rape, sexual assault and other sexual violence against women, in which only 72 resulted in the perpetrator being sentenced.¹² This means that only 1 per cent of complaints of sexual violence against women actually result in a sentence.

59. Sexual violence within intimate partner relationships is still largely a taboo subject in Ecuador, with low levels of reporting. When intimate partner sexual abuse is reported, it is less likely to result in prosecution and conviction than assault by a stranger.

60. Sexual violence against children and adolescent girls remains prevalent in Ecuador, as does the high level of impunity in these cases (CRC/C/ECU/CO/5-6, paras. 26–27). Girls under 14 years old are in fact the primary victims of sexual violence. Between 2015 and 2017, there were 718 reported cases of sexual violence against children under the age of 10.¹³ The Attorney General's Office receives an annual average of 14 reports of rape each day, in 3 of which the victims are girls under the age of 14.¹⁴

61. The rate of teenage pregnancy in Ecuador remains among the highest in Latin America. In Ecuador, the birth rate among girls aged between 10 and 14 years old increased from 2.5 per 1,000 births in 2013¹⁵ to 2.6 per 1,000 births in 2018.¹⁶ In 2018, over 2,000 girls under 15 gave birth. Not included in these statistics are cases in which the pregnancy ended in miscarriage, stillbirth or with therapeutic or clandestine abortion, meaning that the overall numbers of child and teenage pregnancies in Ecuador in 2018 are likely to have been much higher.

62. The Special Rapporteur was troubled to learn that incest is prevalent in certain provinces, where local customs deem it more appropriate for girls to have their first sexual experience with a family member rather than a stranger. It is reported that 9 out of 10 girls under the age of 14 have their first sexual experience with persons older than them, while 8 out of every 100 become pregnant by men aged 30 years or older. In half of the reported cases, the family failed to take steps to prevent the sexual abuse within the family from happening again.¹⁷

63. A large number of child and adolescent pregnancies are the result of sexual violence. According to the law, children cannot legally give consent before the age of 14, which means that sex with anyone younger than 14 years old is, by definition, rape.

D. Sexual violence within the education system

64. The Constitution provides that the State is responsible for eliminating all forms of violence within the education system and for safeguarding the physical, psychological and sexual integrity of students (art. 347). The Organic Law on Intercultural Education (2011)

¹² Ecuador, Fiscalía General del Estado, "Las víctimas de violencia de género también reciben ayuda legal y psicológica", *Revista Fiscalía Ciudadana*, No. 39 (2016), p. 9.

¹³ Coalición Nacional de Mujeres del Ecuador, "Contribución conjunta para la lista de cuestiones anterior a reportar" (2019), para. 21. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fIFR%2fECU%2f34223&Lang=en.

¹⁴ Soraya Constante, "El delito de abortar en Ecuador", *El País*, 28 September 2016.

¹⁵ Inter-American Commission of Women, Follow-up Mechanism to the Belém do Pará Convention (MESECVI). *Informe hemisférico sobre violencia sexual y embarazo infantil en los Estados Parte de la Convención de Belém do Pará*, para. 87.

¹⁶ INEC, "Estadísticas vitales: registro estadístico de nacidos vivos y defunciones 2018", p. 12. Available at www.ecuadorencifras.gob.ec/documentos/web-inec/Poblacion_y_Demografia/Nacimientos_Defunciones/2018/Principales_resultados_nac_y_def_2018.pdf.

¹⁷ Data provided to the Special Rapporteur during the visit by representatives of UNICEF.

and the Organic Law on Higher Education, as amended in 2018, incorporate the principles of equality and non-discrimination, and provide for the eradication and sanctioning of any form of violence against women and girls in educational settings. The Ministry of Education has developed protocols to address cases of pregnancy and gender-based violence within the school environment, and on training staff on gender-based violence and child sex abuse.¹⁸

65. Protection from sexual violence in schools and the guarantee of reproductive rights are fundamental to girls' and women's right to life, health and equality. Pregnancy is one of the principal causes of school dropout, with Ministry of Education estimates indicating that in 2015, 6,487 adolescents abandoned their studies as a result of pregnancy.

66. Between 2015 and 2017, the Ministry of Education registered 4,584 complaints of violence detected or committed within the National Education System, representing 17 per cent of the total number of reported cases of sexual abuse of children.¹⁹ The majority of complaints were found to be against suspected perpetrators from within the victim's close circle. In 2017, the National Assembly established the AAMPETRA Commission, a special multiparty legislative commission named after the private school where 41 children were sexually abused by one teacher.²⁰ 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 it, and evaluated the action taken by the Ministry of Education and relevant State institutions in the past to respond to school-related sexual violence.²¹

67. Comprehensive sex education, both at home and in educational institutions, is paramount if sexual violence in schools and at home is to be avoided, a call reiterated by the girls the Special Rapporteur met with during her visit. The girls also called for "respectful, friendly and specialized sexual and reproductive health services, as well as access to modern, accessible and high-quality contraceptive methods to prevent pregnancy".

68. A joint study by UNICEF, World Vision and the Ministry of Education revealed that 6 out of every 10 students has been a victim of violence at school, with 16 per cent of girl students having contemplated suicide as a result.²² Many incidents of such violence, including sexual violence, are perpetrated by teachers or administrators who abuse their position of authority to intimidate students and instil fear.

69. Furthermore, the right to access justice for victims of sexual violence and harassment is essential to their ability to participate meaningfully in society. The 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.

70. The case of Paola Guzmán exemplifies how sexual violence in educational contexts encompasses a broad range of human rights violations, including violations of women's and girls' right to live free from violence, their right to access to reproductive health care and to freely make reproductive choices and also the right to access to justice.

71. Paola Guzmán was sexually harassed and abused for two years by the vice-principal of her high school, who offered to provide her with academic assistance on the condition that she have sexual intercourse with him. At age 16 she became pregnant. The vice-principal arranged for a school doctor to perform an abortion, but the doctor made this conditional on Paola agreeing to have sexual relations with him too. Ultimately, Paola

¹⁸ "Protocolos de actuación frente a situaciones de violencia detectadas o cometidas en el sistema educativo" (2017) and "Protocolos de actuación frente a situaciones de embarazo, maternidad y paternidad de estudiantes en el sistema educativo" (2017).

¹⁹ "Ecuador: aumentan denuncias de abuso sexual a menores en el 2018, según informe Aampetra", *El Universo* (Quito), 11 October 2018.

²⁰ Academia Aeronáutica Mayor Pedro Traversari.

²¹ Human Rights Watch, *World Report 2019*, p. 181.

²² Ecuador, Ministry of Education, UNICEF and World Vision, *Una mirada en profundidad al acoso escolar en el Ecuador*, 2016, p. 30.

committed suicide by ingesting white phosphorus, and died in December 2002. The perpetrators have yet to face justice for their actions leading up to Paola's death.²³

72. In February 2019, the Inter-American Commission on Human Rights concluded that the State is responsible for violations of Paola Guzmán's rights to life, personal integrity, autonomy, private life and dignity, her right to enjoy special protection from the State as a child, her right to equality and non-discrimination, her rights to education and health, and her right to live without violence. The Commission submitted the case to the jurisdiction of the Inter-American Court, given the State's failure to comply with the recommendations made in the merits report. The case was tried before the Inter-American Court on 28 January 2020. During the trial, the State apologized for its failure to act and to bring the perpetrators to justice. The Special Rapporteur welcomes the State's acknowledgement of its failure to protect the victim, and urges it to fully implement the recommendations made by the Inter-American Commission and the Inter-American Court.

73. The Special Rapporteur considers that the education system must be well prepared not only to contribute to identifying cases of violence, but also to promoting prevention strategies. In this regard, effective complaint mechanisms must be put in place and must be accessible to ensure the rapid protection of victims.

E. Situation of women in detention

74. The Special Rapporteur visited the Chillogallo detention centre in Quito, which is specifically for mothers with children, where she spoke with a number of women and girls who were incarcerated. Many of them had been victims of multiple and intersecting forms of violence, sexual assault, trauma and abuse. While noting the availability of an equipped day-care centre for the children, the Special Rapporteur is concerned that the other facilities within the detention centre are not conducive to raising young children. There is provision for a mother and child programme, but the lack of adequate medical care for children and of an on-site paediatrician is of considerable concern.

75. The Special Rapporteur was also concerned about the level of overcrowding and the lack of adequate facilities, such as a separate meeting area for receiving visitors, and access to health care, particularly psychosocial care, inadequate re-entry programmes to prevent reoffending and the lack of alternatives to custodial sentences. The Special Rapporteur is also concerned at reports suggesting that there may be as many as 250 women in prison or facing criminal charges for voluntary termination of pregnancy.

F. Situation of migrant and refugee women

76. The rights to asylum and protection against refoulement are enshrined in the Constitution (art. 41). The domestic legal framework on asylum seekers and refugees is primarily governed by the Human Mobility Law (2017), which marked a milestone in terms of strengthening the legal framework for refugee protection. In October 2019, through Executive Decree No. 826 of the Ministry of External Relations and Human Mobility, a protocol was issued for granting temporary residence visas, on humanitarian grounds, to children and adolescents from the Bolivarian Republic of Venezuela.

77. Ecuador hosts the largest recognized refugee population in the region. As at January 2020, there were 69,183 persons with refugee status living in Ecuador, 97 per cent of whom were Colombian. The remaining 3 per cent were of over 80 different nationalities, including an increasing number of Venezuelans.²⁴

78. The social situation of migrants and refugees and the limited programmes available to facilitate their local integration in the country make refugee women and girls especially vulnerable to human trafficking for sexual exploitation. Despite the efforts made in the

²³ Inter-American Commission on Human Rights, Report No. 110/18, case 12,678, merits, *Paola del Rosario Guzmán Albarracín and relatives*.

²⁴ Data provided by the Ministry of External Relations and Human Mobility, April 2020.

context of the action plan against trafficking in persons (2019–2030), the situation is of particular concern in the context of the growing number of Venezuelan refugee and migrant women arriving in Ecuador, many of whom are increasingly exposed to the risk of sexual exploitation.

79. Social discrimination poses a serious challenge to the exercise of refugees' fundamental rights, including the rights of refugee women. Discrimination and xenophobia mainly affect Venezuelans and Colombians, based on their nationality. The Special Rapporteur met with a number of migrant and refugee women who shared their stories with her. She is concerned that the sexualized stereotyping of Colombian and particularly Venezuelan women places them at great risk of physical and sexual violence.

80. Discrimination also affects refugee children's access to education. While their right to education is legally ensured, the number of Venezuelan children enrolled in the public system is relatively low. The dropout rates of refugee and migrant children and adolescents, owing to discrimination and the fact that they are often placed in classes well below their age and education level, are a serious concern. The Special Rapporteur recognizes the efforts being made by the Government in this regard, including through the joint initiative between the Ministry of Education and UNICEF, "Seamos Amigos" (Let's be friends). The aim of the initiative is to promote empathy and for schools and colleges to generate an inclusive atmosphere and tackle violence against migrants and refugee children.

81. Migrants and refugees who are victims of sexual and gender-based violence face barriers to accessing health-care services at hospitals and health-care centres, where assistance has been denied or not fully provided on account of their legal status. Furthermore, access to income-generating opportunities is crucial to the socioeconomic inclusion of refugees, asylum seekers and migrants. The lack of access to income-generating activities exacerbates risks for women, girls and young people in particular, exposing them to different forms of exploitation and abuse.

82. The Special Rapporteur commends the Government of Ecuador on its efforts to guarantee that persons in need of international protection can enter the country, on the steps the Ministry of External Relations and Human Mobility has taken to address discrimination against migrants under the National Equality Agenda for human mobility (2017–2021), on the various campaigns conducted in 2019 and its campaign planned for 2020 to raise awareness of and prevent all forms of discrimination, including those specifically targeting women. Nevertheless, she is concerned about the lack of a specific strategy on sexual and gender-based violence against migrant and refugee women. She is also concerned about the lack of measures being taken to identify, prevent and respond to situations of sexual and gender-based violence affecting migrants and refugees, including measures aimed at facilitating women's access to alternatives to migration and to simplified regularization procedures, particularly for migrants and refugees from the Bolivarian Republic of Venezuela.

G. Situation of women who face multiple and intersecting forms of discrimination and violence

83. During her visit, the Special Rapporteur paid special attention to the situation of women and girls who face multiple and intersecting forms of discrimination and violence and experience higher rates of all forms of violence against women.

84. Violence against women disproportionately affects women and girls who face intersecting and multiple forms of discrimination, such as indigenous women, Afro-Ecuadorian women, Montubio women, lesbian, bisexual, transgender and intersex women, women with disabilities, migrant and refugee women, women living in rural and remote areas, and women environmental rights defenders.

1. Indigenous women, Afro-Ecuadorian women and Montubio women

85. The 2008 Constitution establishes that Ecuador is an intercultural and plurinational State, enshrines the direct and immediate enforceability of international human rights

instruments, and recognizes 21 collective rights of the indigenous communes, communities, peoples and nationalities, and guarantees that the authorities must obtain their free, prior and informed consent for projects on their lands or that could affect them environmentally or culturally (art. 57). It also recognizes collective rights for Afro-Ecuadorians (art. 58).

86. Despite the progressive provisions of the Constitution, Afro-Ecuadorian and Montubio women continue to face multiple forms of exclusion and discrimination. As a result, they endure extreme forms of poverty, humiliation and the denial of their social and economic rights. Their vulnerable economic status, combined with the prevailing patriarchal values, expose them to various forms of gender-based and sexual violence. They are also more vulnerable to mistreatment by public and private companies, as they are often not requested to provide their free, prior and informed consent in decision-making processes relating to large-scale projects for the exploitation of natural resources. Moreover, when such projects are carried out, these women are rarely provided with alternative housing and livelihoods or adequate compensation.

87. Similarly, indigenous women face intersecting and multiple forms of discrimination on the grounds of gender and ethnicity, often owing to their low socioeconomic status. They also face social exclusion, particularly those living in remote areas where language barriers also hinder integration. Those forms of discrimination and exclusion create extremely difficult social conditions and manifest themselves in an alarmingly high prevalence of violence against indigenous women. Indeed, indigenous women continue to experience higher rates of domestic and family violence and more severe forms of such violence than other women, particularly those who are defending their territories from multinational mining and other extractive companies. For women who have experienced violence at the hands of foreign workers or within their own homes and communities, no culturally sensitive shelters exist that provide for their protection.

88. The Special Rapporteur is also concerned at reports suggesting that indigenous women who are environmental human rights defenders have been targeted, criticized, threatened, intimidated, subjected to surveillance and harassed, including online, because of their gender and their work. Documented incidents show that women human rights defenders, as well as their family members and intimate partners, face reprisals, death threats, verbal abuse and harassment by State and non-State actors in an attempt to undermine their work.

2. Women with disabilities

89. In line with the Committee on the Rights of Persons with Disabilities (CRPD/C/ECU/CO/2-3, para. 31), the Special Rapporteur is concerned about the lack of specific provisions for the prevention of gender-based violence, neglect and abuse directed at girls and women with disabilities, particularly those with psychological or intellectual disabilities, Afro-Ecuadorian and Montubio women, indigenous women, and migrant and refugee women with disabilities in the public and private institutional and other spheres.

90. The Special Rapporteur received reports that, despite the provisions outlined in the handbook on the rights of persons with disabilities in accessing justice, compiled by the National Council for Persons with Disabilities (CONADIS) and the Judicial Council, women with psychosocial disabilities continue to face significant obstacles to obtaining access to justice. The prevalent practice of restricting the exercise of legal capacity makes it impossible for such women to initiate or participate in legal proceedings on their own behalf, and public officials, because of their prejudices, tend to doubt the credibility of their testimonies. Women and girls with disabilities face additional obstacles to leaving situations of family violence. While the Organic Law on Health guarantees the right of everyone to receive medical treatment based on their informed and prior consent and expressly prohibits forced sterilization, the Special Rapporteur is deeply concerned at reports that forced sterilization of women with disabilities continues to occur in Ecuador, as do cases of rape, incest and subsequent forced abortions.

3. Lesbian, bisexual, transgender and intersex women

91. Through her interactions with members of the lesbian, bisexual, transgender and intersex community, the Special Rapporteur learned that, despite the progressive legislation and jurisprudence in place in Ecuador,²⁵ including a ruling by the Constitutional Court in May 2018 that a girl born in Ecuador with two British mothers should be registered as an Ecuadorian citizen and the registry office should record the names of her two mothers, the prevailing stigma, family pressure and social expectations have led to continuing discrimination on the basis of sexual orientation. The Special Rapporteur is deeply concerned at reports suggesting that “de-homosexualization” clinics continue to exist, with information received indicating that some 65 of these clinics have been in existence at various stages in Quito over the past 12 years.

H. Emerging forms of violence against women

92. Online violence against women and girls is an emerging issue in the country. The Special Rapporteur recommends that the Government address this new form of violence against women and girls as a form of gender-based violence interrelated with the broader framework of discrimination and violence against women and girls. In this regard, she refers the Government to the recommendations contained in her report on online violence against women and girls (A/HRC/38/47).

V. Conclusions and recommendations

93. **On the basis of the above findings and in a spirit of cooperation and dialogue, the Special Rapporteur on violence against women, its causes and consequences, offers the Government of Ecuador the following recommendations.**

94. **The Government should ensure that the Convention on the Elimination of All Forms of Discrimination against Women, its Optional Protocol, general recommendation No. 35 of the Committee on the Elimination of Discrimination against Women and the Committee’s jurisprudence, as well as the Belém do Pará Convention, are included as an integral part of the professional training of judges, prosecutors, lawyers, police officers and civil servants in order to ensure their direct application in line with the Constitution of Ecuador.**

95. **Concerning the Comprehensive Organic Law to Prevent and Eradicate Violence against Women, the Government should:**

(a) **Ensure an adequate budget allocation for the full implementation of the Policy to Prevent Pregnancy in Girls and Adolescents;**

(b) **Ensure that the budget allocation for the implementation of the Comprehensive Organic Law to Prevent and Eradicate Violence against Women is increased;**

(c) **Expedite the adoption of the national strategy and national action plan on ending gender-based violence and allocate adequate resources for their implementation;**

(d) **Strengthen cooperation between the Subsecretariat for the Prevention and Eradication of Violence against Women, Children and Adolescents and the National Council on Gender Equality in order to ensure the coordinated implementation of the Comprehensive Organic Law to Prevent and Eradicate Violence against Women;**

²⁵ Article 141 of the Criminal Code, which defines femicide, includes reference to killings of women based on gender identity; article 142 determines aggravating circumstances in this regard; while articles 151.3 and 177 provide for the criminalization of torture and hate crimes based on gender identity and sexual orientation.

(e) Guarantee the systematic participation of women's organizations in the implementation of the Comprehensive Organic Law and other decision-making processes concerning the protection of women's rights at the national and local levels;

(f) Ensure the establishment of specialized judicial units on violence against women throughout the country, including in remote and rural areas, and provide adequate resources and funding for their full implementation;

(g) Ensure sustainable funding for a sufficient number of safe shelters throughout the country, offering culturally sensitive accessibility for women with disabilities in line with the Special Rapporteur's report on a human rights-based approach to integrated services and protection measures on violence against women, with a focus on shelters and protection orders (A/HRC/35/30);

(h) Establish an observatory on violence against women, as provided for in the Comprehensive Organic Law to Prevent and Eradicate Violence against Women, and include in its mandate a femicide prevention watch that should include the collection of administrative data by police and other relevant stakeholders on: (i) all intimate partner gender-related killings of women and girls (intimate partner femicides) based on the established relationship between the victim and the perpetrator (husbands, ex-husbands, partners etc.); (ii) family-related gender-based killings of women and girls based on the established family relationship between the victim and the perpetrator, or family-related femicide; and (iii) other gender-related killings or femicide;

(i) Ensure careful analysis of all cases of femicide on an annual basis to identify any failure within the protection chain, with a view to improving and developing further preventive measures, in close cooperation with the National Council on Gender Equality, the Ombudsperson and representatives of civil society, as recommended in the Special Rapporteur's report on this topic (A/71/398);

(j) Establish protection orders as legal instruments in criminal and civil laws and grant the competent authorities the power to issue effective protection orders for all forms of violence against women and domestic violence. The orders must be easily available 24 hours a day, seven days a week, and must be enforced to protect the well-being and safety of those under their protection, including children.²⁶

96. Concerning the Comprehensive Criminal Code, the Government should:

(a) Take steps to amend the current definition of rape and ensure that it is based on the absence of consent and that it is in line with international standards, as indicated by the Committee on the Elimination of Discrimination against Women in its general recommendation No. 35;

(b) Take immediate measures to ensure that the necessary legislative and other steps are taken to guarantee that the statute of limitations for initiating any legal proceedings with regard to rape and other sexual violence covers a period of time that is sufficient and commensurate with the gravity of the offence in question to allow for the efficient initiation of criminal proceedings after the victim has reached the age of majority;

(c) Repeal articles 149 and 150 of the Comprehensive Criminal Code (2014) to ensure that no criminal charges can be brought against women and girls who undergo abortion or against qualified health-care professionals and all others who provide and assist in the abortion;

(d) Adopt legislation to provide for expanded grounds for legal abortion, at least where there is a threat to the pregnant woman's physical or mental health or severe fetal impairment or when the pregnancy is the result of rape or incest;

²⁶ The Special Rapporteur draws the Government's attention to the recommendations contained in her thematic report on a human rights-based approach to integrated services and protection measures on violence against women, with a focus on shelters and protection orders (A/HRC/35/30).

(e) Introduce, as an interim measure, a moratorium on the application of criminal laws concerning abortion, and halt all related arrests, investigations and criminal prosecutions, including of women seeking post-abortion care and of health-care professionals;

(f) Ensure that all possible legal avenues are applied to re-examine and review the cases of women who are in prison on charges related to abortion in order to ensure their release, including through Presidential pardon;

(g) Strengthen the status and mandate of the National Council on Gender Equality and ensure the provision of adequate budgetary and human resources for implementing, monitoring and evaluating activities related to combating violence against women;

(h) Expand the activities of the Ombudsperson, particularly in relation to receiving complaints from women who have been victims of rape and sexual violence, and in the prevention of femicide.

97. Concerning health, the Government should:

(a) Expedite the adoption of the new health code and ensure the accessibility and affordability of sexual and reproductive health services and products, including safe, modern contraception, oral and emergency contraception (long-term or permanent), and adopt a protocol to facilitate access at pharmacies, clinics and hospitals;

(b) Provide women and girls with access to high-quality abortion and post-abortion care in all public health facilities, and adopt guidance on doctor-patient confidentiality in this area;

(c) Develop training for health-care professionals on providing legal abortions, particularly on the grounds of a threat to life or physical and mental health;

(d) Ensure the inclusion of age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health as a compulsory curriculum component for adolescents, including information on early pregnancy prevention and access to abortion, and monitor its implementation.

98. Concerning educational settings, the Government should:

(a) Ensure that schools are fully involved in the promotion of a protective environment for children, and assist in the promotion of such an environment. The combined efforts of public authorities, communities, teachers, parents and civil society organizations are needed to ensure better protection from violence (A/HRC/23/35/Add.2, para. 97);

(b) 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.

99. Concerning women in detention, the Government should improve prison conditions for women and their children, in particular to ensure that there are adequate health-care facilities, including facilities for obstetric and gynaecological care, and adopt a gendered approach to the incarceration of women and girls, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

100. Concerning migrant and refugee women, the Government should:

(a) Strengthen efforts to combat discrimination against migrant, asylum-seeking and refugee women and girls, particularly Venezuelans and Colombians, and ensure that they have full and equal access to asylum procedures and/or migratory alternatives, in line with general recommendation No. 32 (2014) on the gender-related

dimensions of refugee status, asylum, nationality and statelessness of women of the Committee on the Elimination of Discrimination against Women;

(b) Strengthen the investigative capacity of the Anti-Trafficking and Migrant Smuggling Unit of the police, ensure that victims of trafficking who may be in need of international protection are properly identified and referred to asylum procedures, and ensure that adequate financial and technical resources are in place to ensure the protection and assistance of victims of trafficking, including through the establishment of more specialized shelters.

101. Concerning indigenous, Afro-Ecuadorian and Montubio women, the Government should:

(a) Adopt a specific national action plan on violence against indigenous women that would include appropriate temporary special measures to accelerate their full participation at decision-making levels, in line with the commitments made under the United Nations Declaration on the Rights of Indigenous Peoples;

(b) Systematically consult indigenous, Afro-Ecuadorian and Montubio women and seek their free, prior and informed consent in decision-making processes relating to large-scale projects for the exploitation of natural resources that have an impact on their rights and legitimate interests;

(c) Investigate cases of alleged sexual violence perpetrated by workers associated with large-scale projects against indigenous, Afro-Ecuadorian and Montubio women.

102. Concerning women with disabilities, the Government should strengthen the implementation of legislation and establish accessible monitoring and reporting mechanisms to detect, prevent and combat all forms of violence, including sexual violence, against women and girls with disabilities, in line with the recommendations of the Committee on the Rights of Persons with Disabilities (CRPD/C/ECU/CO/2-3, para. 32).

103. Concerning lesbian, bisexual, transgender and intersex women, the Government should address the stigma and discrimination faced by these women, as well as the lack of protection measures in place for them, including by raising public awareness of their rights, in cooperation with civil society, and take steps to prevent and sanction any practice deemed as “de-homosexualization” or “re-orientation treatment”.

104. Concerning media and online violence against women, the Government should strengthen the mandate of the Council on the Regulation and Development of Information and Communication to eradicate discriminatory and sexist portrayals of women in the media; ensure that the activities and freedom of expression of representatives of non-governmental organizations working on the rights of women are not restricted; and develop legislation to criminalize new forms of online violence against women and girls, as recommended by the Special Rapporteur in her report on online violence against women (A/HRC/38/47).