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THE TOTAL ABORTION BAN IN NICARAGUA

WOMEN'S LIVES AND HEALTH ENDANGERED, MEDICAL PROFESSIONALS CRIMINALIZED

REPRODUCTIVE HEALTH IS A HUMAN RIGHT

AMNESTY INTERNATIONAL

Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

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Cover photo: A health worker advises a woman patient at a public hospital in the city of Ocotal, Nicaragua, November 2007.
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METHODOLOGY

Amnesty International delegates visited Nicaragua in June and October 2008. Their investigation focused on human rights concerns faced by women and girls in relation to recent changes to the law on abortion.

Amnesty International believes that where women's access to safe and legal abortion services and information is restricted, their fundamental human rights may be at grave risk. Amnesty International therefore calls on states to prevent and end grave abuses of women's human rights in accordance with state obligations under international human rights standards and: (a) repeal all laws which permit the imprisonment or any other criminal sanction on women who seek or have an abortion, and all other laws which provide for imprisonment or other criminal penalties solely for those providing information about or carrying out abortions; (b) provide access to medical services for complications arising from abortion to all women in need in any circumstance, regardless of the legal status of abortion; (c) take all necessary measures to ensure that safe and legal abortion services are available, accessible, acceptable and of good quality for all women who require them in cases of pregnancy as a result of rape, sexual assault or incest and pregnancy which poses a risk to the life or grave risk to the health of the woman. Amnesty International does not take a position on any other aspects of abortion.

Amnesty International delegates met various representatives of the medical profession, including doctors, gynaecologists, public health experts, psychiatrists and health workers. Meetings were also held with members of the National Assembly, lawyers, women's rights activists and human rights groups, development agency delegates and officials of the Women's Police Unit (La Comisaría de la Mujer). Amnesty International also heard the views of individuals who belong to groups that oppose abortion in all circumstances.

Delegates carried out a series of interviews with several women and girls who had been raped and met experts providing psycho-social and legal assistance to victims of rape.

Amnesty International would like to thank all who shared their experiences and knowledge. In particular, Amnesty International would like to express deep gratitude to the women and girls who agreed to share experiences which were deeply personal and painful to recall.

The names of women, medical professionals, health workers and other representatives interviewed by Amnesty International have been withheld in order to protect their privacy and ensure that their security is not compromised.

Amnesty International requested meetings in November 2008 with the Nicaraguan Ministry of Health, the National Assembly's Commission for Women, Youth, Children and the Family, and the Institute for Nicaraguan Women. Representatives from these institutions declined to meet Amnesty International delegates.

ABBREVIATIONS

Obstetric Protocols Rules and Protocols for the Management of Obstetric Complications, issued by the Nicaraguan Ministry of Health in December 2006.

PAHO Pan-American Health Organization

SONIMEG The Nicaraguan Society of General Medical Practitioners (La Sociedad Nicaragüense de Medicina General)

SONIGOB Nicaraguan Society of Gynaecologists and Obstetricians (La Sociedad Nicaragüense de Ginecología y Obstetricia)

UNDP United Nations Development Programme

WHO World Health Organization

1 INTRODUCTION

Abortion is a criminal offence in Nicaragua in all circumstances. The new Penal Code, introduced in 2008, provides for lengthy prison sentences for women and girls who seek an abortion and for health professionals who provide abortion services and life-saving and health-preserving obstetric care.[1]

Amnesty International is aware of the importance the Nicaraguan government has given to the alleviation of poverty, indigenous rights to land and reduction of maternal mortality. It is precisely in this context that Amnesty International is focussing on the issue of the complete prohibition of abortion in Nicaragua, since it marks such a grave departure from the governments' commitment to improving social equality, and has such severe consequences for the protection of human rights of women and girls.

The ban allows no exceptions. It applies in situations where continued pregnancy risks the life or health of the woman or girl, and when the pregnancy is the result of rape. The high level of teenage pregnancies in Nicaragua means that many of those affected by the revised laws are girls under 18.[2]

The repeal of the legal provisions allowing for therapeutic abortion endangers the lives of women and girls and puts medical professionals in an unconscionable position.

Before the law was changed, therapeutic abortion had been recognized as a legal, legitimate and necessary medical procedure for more than 100 years in Nicaragua. The law was interpreted in practice to permit abortion to be performed when the life or health of the woman or girl was at risk from continuation of pregnancy and, on particular occasions, in cases of pregnancy as a result of rape.[3] Law No. 165 permitted therapeutic abortion if three medical practitioners formally agreed that it was necessary and the permission of the husband or close family member had also been secured.[4]

ABORTION ACROSS THE WORLD

Abortion is a medical procedure considered essential and legal in 97 per cent of countries around the world[5], where it is permitted in some or all of the following circumstances:

- where the life of the pregnant woman is at serious risk if the pregnancy continues, or her physical and or psychological health are at risk as a result of the continuation of the pregnancy;
- when there is a high probability of foetal impairment; or
- in cases of rape or incest;
- for economic or social reasons;
- without restriction as to reason.[6]

Globally, the trend has been towards extending the circumstances in which such abortions may be performed legally.[7] In legislating and developing and implementing policies on abortion, all countries should be guided by the definition of 'health' in the Preamble to the Constitution of the World Health Organization: "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."[8]

Since 2006, several amendments have been made to the Nicaraguan Penal Code resulting in the total ban on all abortion which came into effect on 9 July 2008.[9] The current law makes no provision for pregnancies where serious complications arise which require urgent and decisive treatment, such as a termination, in order to prevent the death or serious damage to the health of the pregnant woman or girl. Nicaraguan medical bodies have expressed their grave concern at the detrimental effect of the criminalization of all forms of abortion on the treatment of obstetric complications. They include:

- the Nicaraguan Society of Gynaecologists and Obstetricians;
- the Nicaraguan Society of General Medical Practitioners;
- the Faculty of Medicine at Leon and Managua universities;
- the Association of Nurses;
- international health experts, including the Pan-American Health Organization (PAHO).

The total ban on abortion makes no provision for exceptions where the life or health of the woman is at risk and so implicitly requires doctors to ignore the Ministry of Health's Rules and Protocols for the Management of Obstetric Complications (Obstetric Protocols) on best practice for the management of complications during pregnancy. Obstetric Protocols mandate termination of pregnancy in response to specific obstetric complications in order to reduce maternal deaths.

Women or girls who become pregnant as a result of sexual violence must have access to support services, including access to safe and legal abortion, treatment for physical injuries and sexually transmitted infections, advice and support on pregnancy prevention and management, and counselling and social support.[10] But the revised penal code denies rape victims the freedom to decide for themselves how to respond to an unwanted pregnancy resulting from sexual coercion. If the rape victim decides against continuing the pregnancy, she stands in violation of criminal law and faces the risk of prosecution.

The revised penal code is gender-discriminatory, denying women and girls treatment which only they need.[11] Only women and girls risk physical and mental suffering or losing their lives as a result of delays in or denial of medical treatment if complications arise during pregnancy. Only women and girls are compelled to continue a medically dangerous or unwanted pregnancy or face imprisonment. Only women and girls suffer the mental anguish and physical pain of an unsafe abortion, risking their health and life in the process.

Health professionals face possible imprisonment for providing information about or carrying out abortions.[12] There are grave concerns that the criminalization of abortion in all circumstances means that some women and girls in Nicaragua are turning in desperation to unsafe clandestine abortions.

The new penal code has also affected the provision of health services to women and girls other than abortion. Medically indicated treatment which results in the unintentional death or injury of a foetus is now criminalized, irrespective of the intention of the medical professionals concerned or the circumstances in which the treatment was provided. Doctors who act in accordance with the Obstetric Protocols, intervening in order to save a patient from dying as a result of obstetric complications, risk their professional career and, potentially, their liberty. Examples of such interventions include treatment for malaria or HIV/AIDs, urgent cardiac surgery or intervention in an obstructed or otherwise complicated birth. Even health care providers trying to save the foetus during a difficult delivery which, through no negligence or intention to do harm, results in the injury or death of the foetus, could be subject to criminal prosecution.

"Doctors' hands are tied… we are anxious even about treating a miscarriage for example."

Nicaraguan doctor, interviewed by Amnesty International, October 2008

The new legal framework disempowers doctors and health professionals by making it harder, if not impossible, for them to make timely decisions about how to treat complications during pregnancy. Doctors have now to consider the legal implications of administering medically indicated treatment to pregnant women for conditions unrelated to the pregnancy in case the effects of the treatment place them at odds with the law. It is also an obstacle to timely treatment for women and girls suffering complications as a result of miscarriage or induced abortion. Denying or unduly delaying appropriate medical treatment to women and girls with obstetric complications, such as ectopic pregnancies, hypertension or haemorrhages can only increase the risk that women and girls will die or suffer serious long-term health complications needlessly.[13]

One woman health worker interviewed by Amnesty International in October 2008 expressed the anxieties and uncertainties facing Nicaraguan women and girls needing obstetric care: "We are defenceless, totally vulnerable. I am really worried about what this law means for me, for my daughters and my granddaughters."

The UN Millennium Development Goals (MDGs)[14] are a set of internationally agreed development priorities. Their success is contingent upon integrating human rights into the analysis of particular problems and in defining solutions. In accordance with the UN Millennium Development Goal 5 (MDG 5), Nicaragua has committed itself to reducing maternal mortality by 75 per cent by the year 2015, from its baseline of 230 deaths per 100,000 births in 2000.[15]

The Nicaraguan government has recognized that it faces several challenges in reducing the number of maternal deaths. These include a shortage of quality obstetric care, lack of appropriate and accessible services and facilities, and poverty.[16] The government has introduced a number of programmes to reduce maternal mortality and increased the budget allocation to the health sector as a whole.[17] These important measures taken by the authorities deserve recognition. However, Amnesty International is concerned that the criminalization of abortion in all circumstances will preclude Nicaragua from meeting various MDG obligations. The link between unsafe abortion

and maternal mortality and morbidity is now well established.[18] Twelve per cent of maternal deaths in Latin America are caused by complications from unsafe abortions.[19] The revised law also places a legal hurdle between medical professionals and the delivery of timely and appropriate reproductive and maternal health care. It will undermine programmes intended to reduce maternal mortality and morbidity.

Ministry of Health data recorded 115 maternal deaths in 2007 across the whole country.[20] The government has acknowledged that some 90 per cent of these deaths could have been prevented had prompt, appropriate medical care been given.[21] A doctor and expert in sexual and reproductive health who carried out a study of the case notes of each of the 115 deaths found that at least 12 of the deaths could have been prevented had therapeutic abortions been accessible.[22]

The poor quality of data makes it difficult to assess trends in maternal mortality rates in Nicaragua.[23] This is compounded in a situation where abortion is criminalized and stigmatized, making it impossible to account for deaths resulting from unsafe abortions.

The criminalization of abortion means abortion services can only be provided clandestinely. Those providing abortions or other treatments for obstetric complications have a strong incentive not to keep accurate patient records in order to remove potential evidence of unlawful conduct and protect both the patient and the doctor from possible prosecution. It also means that women are more likely to turn to risky methods of terminating a pregnancy and then fail to seek medical treatment for complications to avoid prosecution.

The revision of the penal code and its effects on women's health and lives raises concerns not only about Nicaragua's attainment of MDG 5. Where women's access to safe and legal abortion services and information is restricted, their human rights – including their rights to health, life, and freedom from torture and other ill-treatment – are put at risk. The criminalization of abortion contravenes Nicaragua's obligations under international human rights law.

This report examines the consequences of Nicaragua's total ban on abortion on women and girls who need life-saving medical treatment. It looks at the impact of this ban on access to treatment for obstetric complications and the implications for medical professionals trying to provide timely and appropriate health care. Based on this research and analysis, Amnesty International is calling on the Nicaraguan authorities to repeal the law criminalizing abortion in all circumstances. The State must provide legal access to safe abortion services where the life or health of the woman or girl is at risk, or the pregnancy is the result of rape or incest.

2 THE POLITICAL CONTEXT OF THE BAN ON ALL ABORTIONS

Elections in November 2006 returned Daniel Ortega, leader of the Sandinista National Liberation Front (Frente Sandinista de Liberación Nacional, FSLN), to power after some 16 years in opposition.

The close-run elections ensured that candidates were particularly responsive to the demands of various interest groups. It was in this context that the two major parties took up the call by leading members of the Roman Catholic Church in Nicaragua and some Christian groups to impose a complete ban on abortion. Prohibiting therapeutic abortion became a key campaign issue; both main candidates – Daniel Ortega and Eduardo Montealegre, the Nicaraguan Liberal Alliance (Alianza Liberal Nicaragüense) candidate, advocated a total ban on abortion.[24]

On 6 October 2006 the Catholic Church led a large procession to the National Assembly, calling on parliament to remove the penal code provisions exempting therapeutic abortion from punishment. Religious groups opposed to retaining therapeutic abortion as a legal option carried out a far-reaching publicity campaign, using television advertisements, leaflets and inserts in newspapers. The campaign materials did not use accurate medical evidence or refer to the impact the ban would have on the provision of life-saving medical treatment or on women and girls who become pregnant as a result of rape or incest. Arguing that every abortion is unjustified, the materials failed to acknowledge that access to safe abortion in certain circumstances is necessary to save women's lives and safeguard their health. Examples of the kind of emotive and misleading nature of much of the publicity included composite pictures containing graphic images of mutilated foetuses and digitally manipulated photographs of members of women's rights groups with "blood" spattered over them.[25]

The publicity campaign also targeted the medical profession. Manipulated photos showing doctors wearing masks beside figures of medieval witches and skeletons were used in leaflets inserted into the main daily newspapers. The leaflets claimed that those doctors who supported legal access to therapeutic abortion were not to be trusted, and that their motivation was financial gain rather than the best interests of the patient. In one leaflet targeting the medical profession, one gynaecologist in particular was singled out and made the focus of defamatory remarks, accusing her of manipulating information given to the public in an attempt to "legalize the assassination of 36,000 babies every year in Nicaragua." [26]

Shortly before the October 2006 general elections, the National Assembly voted to approve a bill which would outlaw abortion in all circumstances. Laws which have serious implications

for the right to health and life of women and girls should be based on medical evidence and public health experience.[27] However, no human rights impact assessment of the proposal was carried out in relation to the state's obligations to respect, protect and promote women's rights to health and life, as enshrined in the Constitution and several international and regional human rights treaties. Instead, politicians have since sought to justify their decision by claiming that the new law was a reflection of the will of the Nicaraguan people.[28]

In the run-up to the election, official efforts to inform public debate were woefully inadequate and stood in marked contrast to the intense campaigning by groups opposed to therapeutic abortion and in favour of a total ban. For example, the Ministry of Health made only limited attempts to explain the medical justification for therapeutic abortion and failed to highlight the way in which the proposed new laws contradicted Obstetric Protocols. No comprehensive explanation was given to the public of the detrimental impact that the criminalization of abortion would have on the ability of health care providers to act decisively when women or girls suffer complications during pregnancy.

EXPERT ADVICE AND KEY CONSTITUENTS IGNORED

Proponents of the ban on abortion argued that a total ban would have no negative effects. Those advocating criminalization of abortion in all circumstances claimed that medical advances meant that there was no need for therapeutic abortion to save the lives of women and girls in Nicaragua. [29] However, this view is contradicted by the experience of medical practitioners in Nicaragua and by national and international public health experts who repeatedly and categorically warned the government against a complete ban. International bodies who expressed concern at the proposal to introduce complete prohibition on abortion in Nicaragua include the Pan-American Health Organization (PAHO), the UN Development Programme (UNDP), the World Health Organization (WHO), the UN Children's Fund (UNICEF) and the Inter-American Commission on Human Rights (IACHR).[30]

"Access to therapeutic abortion is a universally accepted principle which transcends cultural differences, religious creeds and political ideologies. In most countries legislators have taken the framework of human rights into account, but at its heart, therapeutic abortion is a matter of common sense and humanity."

PAHO public statement, October 2006

In November 2006, the Inter-American Commission on Human Rights' Rapporteur on the Rights of Women wrote to the Nicaraguan Foreign Minister highlighting the need for therapeutic abortion. The letter stressed the negative impact the proposed ban would have on the lives and physical and psychological integrity of Nicaraguan women and girls. The letter stated that: "By revoking [the right to] therapeutic abortion, the Nicaraguan State will put the protection of women's human rights at risk. The Rapporteurship urges the Nicaraguan government to consider these human rights principles in its decision over the ratification of the derogation of Article 165 [the legal provision permitting therapeutic abortion]."[31]

In a joint public statement issued on 20 October 2006, 21 Nicaraguan medical associations, including those representing gynaecologists, obstetricians, nurses, psychiatrists, public health experts and cardiologists condemned the banning of therapeutic abortion. In a statement entitled "Declaration of Nicaraguan medical societies and faculties of medicine on

the criminalization of therapeutic abortion", they warned the government that their ability to provide health care and practice their profession would "be limited if this prohibition is passed". The statement requested that the law include exceptions to save life and safeguard health. [32]

The following Nicaraguan associations of health care professionals signed a joint public statement warning against a complete prohibition:

Nicaraguan Society of Gynaecology and Obstetrics, Nicaraguan Society of General Medicine, Medical Faculty of the National Autonomous University of Nicaragua (UNAN) León, Association of Gyno-Obstetricians, Radiographers of Nicaragua, Nicaraguan Association of General Surgery, Nicaraguan Association of Psychiatry, Centre for Health Studies and Investigations, Nicaraguan Public Health Association, Central American Association of Health Systems and Economy, Medical Faculty of the National Autonomous University of Nicaragua (UNAN) Managua, Nicaraguan Association of Orthopaedics and Trauma, Women Doctors' Foundation, Oral and Maxillofacial Surgery Association, Nicaraguan Association of Lapariscopic Surgery, Nicaraguan Dermatology Association, Nicaraguan Infectious Diseases Association, León Association of Gyno-Obsetricians, Nicaraguan Urology Association, Nicaraguan Cardiology Association, Nicaraguan College of Nurses and the Nicaraguan Internal Medicine Association.

The primary reason health care providers opposed the ban on therapeutic abortion was because, in practice, situations arise in which the continuation of the pregnancy could lead to the death of the woman or girl or serious permanent damage to her health. The statement goes on to say that "the campaign against therapeutic abortion put forward anti-scientific and untruthful arguments which manipulated medical terminology" and that "health care providers and institutions have not been listened to or their scientific and technical perspectives taken into account." The societies expressed concern that many best practice procedures recommended for Nicaraguan doctors and health professionals on the management of obstetric complications would be placed in jeopardy by this law. This would include the treatment of women and girls for complications unrelated to the pregnancy. They highlighted the serious conflict between the proposed ban and the procedures detailed in the Obstetric Protocols issued and distributed by the Ministry of Health.[33]

On 19 October 2006, the Coordinadora Civil issued a statement calling for the decriminalization of abortion and the protection of women's access to therapeutic abortion.[34] The Coordinadora Civil is a national network of civil society groups, individual organizations and some 22 networks across Nicaragua. Among its members are NGOs working on a wide range of issues including environmental rights and trade unions. The Coordinadora's statement called on politicians "not to give in to any external pressures to prohibit abortion in the electoral context" and to ensure the public were properly informed of the issues surrounding therapeutic abortion. The statement asked that space be allowed for the views of civil society, the scientific community and health professionals to be taken into account, for instance through the establishment of a Parliamentary Commission to hear and analyse the views of all those affected by the proposed legal change. The purpose of this Commission would be "to prevent the perpetuation of discrimination against women" and to ensure that any discussion "took into account the international and national obligations Nicaragua had to protect the right of women to life."

Despite efforts to dissuade the National Assembly from taking action that would harm women and girls the provision allowing for therapeutic abortion was repealed and replaced with a blanket prohibition. Other punitive measures that deny essential medical services to pregnant women and girls were also enacted. Given that numerous national and international organizations explicitly and repeatedly called lawmakers' attention to the consequences of the new law, it must be concluded that the National Assembly enacted the legislation with full knowledge of the severe pain and suffering that necessarily follow from the denial of essential medical services to pregnant women and girls. On 26 October 2006, members of Congress voted in favour of the bill revoking women's legal right to therapeutic abortion.

3 DENIAL OF ACCESS TO MEDICALLY INDICATED ABORTION

'I feel an enormous frustration… it is a slight against one as a person and a professional. The worst thing about this situation is it has been brought about by a political party in which I have believed all my life. I just do not understand why they feel it necessary to impose their views during an obstetric emergency over and above what I consider the best treatment as an experienced doctor and professional.

Nicaraguan gynaecologist, interviewed by Amnesty International, October 2008

Articles 143 and 145 of the revised Penal Code set out the penalties for abortion and who can be held criminally liable. Article 143 states that anyone who induces an abortion with the consent of the woman will face between one and three years' imprisonment. If the accused is a medical professional or health worker, he or she will also face a concurrent ban of between two and five years from working in medicine or the health sector. Article 143 also provides for a prison term of between one and two years for any woman convicted of self-induced abortion or of consenting to an abortion.

Under Article 145, anyone who causes a woman to abort through "recklessness" faces a possible prison term of between six months and a year. If the abortion takes place as a result of a health professional carrying out their professional duties, the health professional faces a ban of between one and four years on holding a medical position, in addition to the prison sentence. The woman in this instance does not face criminal sanctions.

The way in which the current law has been drafted violates a range of human rights of women and girls, including the right to the highest attainable standard of health. Medical procedures which have been recommended as best practice and saved thousands of women and girls' lives in Nicaragua are now outlawed.

When faced with obstetric complications, health professionals' overarching goal is to safeguard the woman's health and life and preserve her pregnancy. But in cases where the pregnancy poses a serious risk to life, medical intervention would prioritize the saving of the woman or girl's life. This view was advanced by all the doctors interviewed in Nicaragua, who emphasized their intention at all times is to ensure the best possible outcome for the patient.

Before the change in the law, very few therapeutic abortions were recorded – an average of nine a year for the period 1999-2005. However, the impact of criminalizing abortion in all circumstances extends far beyond this. It also restricts the provision of medically indicated treatment, such as cardiac surgery, which may, despite the best efforts of medical staff, end in the termination of the pregnancy.[35]

Studies carried out by the Alan Guttmacher Institute and the United Nations Population Fund indicate that Nicaragua has the highest teenage pregnancy rate in Latin America and the Caribbean, with around a quarter of all births being to girls aged between 15 and 19. In rural areas the rate is even higher with teenagers accounting for a third of all births.[36]

According to the Nicaraguan Society of Gynaecologists and Obstetricians (SONIGOB), the risk of obstetric complications is higher for women and girls aged under 20, compared with women aged between 20 and 35.[37] Such complications include cephalo-pelvic disproportion (when the pelvis is too narrow to allow the passage of the foetus). This often occurs in younger girls, who have not yet reached physical maturity. Pre-eclampsia (caused by a defect in the placenta) and eclampsia also occur more frequently during teenage pregnancies. They pose a risk to life and health if not treated swiftly and effectively. Recommended treatments in the Obstetric Protocols include, in serious cases, therapeutic abortion. Anaemia and lack of sufficient nutrition are both common problems among pregnant teenagers in Nicaragua; such conditions also underline the link between high-risk pregnancy and poverty.[38] The increased risk facing pregnant teenagers and the high number of such pregnancies means that the ban on therapeutic abortion and delays in the delivery of care for obstetric complications will have a particularly serious impact on young girls, especially those living in poverty.

PAHO's 2006 public statement advised the government against the criminalization of therapeutic abortion. Experts at PAHO analysed statistics based on annual hospital records from across the country provided by the Nicaraguan Ministry of Health.[39] These statistics showed that between 1999 and 2005, on average some 7,099 women and girls were admitted annually to hospitals in Nicaragua for health complications which ended in abortion or miscarriage. During this period on average, 347 women and girls were admitted each year for ectopic pregnancies (where pregnancy occurs outside the uterus) and 191 for molar pregnancies (where there is an abnormal growth of the placenta). In many such cases, quick judgment and action by medical professionals is required if the complications are to be managed effectively.

CONTRADICTIONS BETWEEN THE LAW AND OBSTETRIC PROTOCOLS

Before the complete prohibition on abortion came into force, medical professional behaviour in treating complications during pregnancy was governed by a set of best practice protocols issued by the Ministry of Health. The Rules and Protocols for the Management of Obstetric Complications (Obstetric Protocols) had an underlying objective "to institutionalize best

practices, those procedures that have proven to be the safest, most effective, most efficient and least costly and that ensure the reduction of maternal and infant mortality".[40]

In preparing the Obstetric Protocols, the Ministry of Health drew on the expertise of highly respected gynaecologists, experts in public health, directors of the gynaecological units of major hospitals and representatives of SONIGOB. The Obstetric Protocols were approved by the Ministry of Health in December 2006 and all health professionals in Nicaragua, working in both the public and the private sectors, were obliged to adhere to them.[41]

The Obstetric Protocols outline particular complications that can occur during pregnancy, and recommend appropriate procedures to ensure the best outcome for the pregnant patient and the foetus. One such complication, which is always treated as a medical emergency and is covered in detail in the Obstetric Protocols, is ectopic pregnancy.[42] An ectopic pregnancy, where for example, the fertilized egg may attach itself in the fallopian tube or the abdominal cavity, is considered non-viable and life-threatening. The growing foetus may rupture the uterine wall or fallopian tube causing the woman permanent internal damage and, without rapid intervention, death.[43]

On average 347 women and girls a year had terminations of ectopic pregnancies in Nicaragua between 1999 and 2005, according to the PAHO analysis of the Nicaraguan government's own statistics.[44] The procedure recommended by the Obstetric Protocols for the treatment of ectopic pregnancies is rapid intervention to remove the foetus. The Obstetric Protocols also contain clear advice on procedures to ensure the survival of the woman and techniques to avoid permanent long-term damage such as infertility.[45] According to the WHO's International Statistical Classification of Diseases and Related Health Problems, intervention to remove an ectopic pregnancy does not constitute a therapeutic abortion because it is the removal of a non-viable fertilized ovum.[46] During the same period, 191 women on average each year were admitted for treatment of molar pregnancies. In cases of women or girls suffering from miscarriages, incomplete unsafe abortions or molar pregnancies at 12 weeks gestation or less, the protocols recommend manual vacuum aspiration of the uterus.[47]

One doctor told Amnesty International that he was a member of a group opposed to abortion but that he saw abortion in the case of ectopic pregnancy as legitimate, as it was a non-viable pregnancy, calling it a "therapeutic act". Other doctors, however, said that although they continued to intervene in cases of ectopic pregnancy, they felt nervous about doing so because of the revised penal code. Another doctor said "people speak of life from the moment of conception – even in ectopic pregnancies it is a live embryo and there are no exceptions provided for in this revised law." Another doctor described the delays from extra scans now carried out, even in ectopic pregnancies, where one scan might previously have been judged sufficient. According to doctors interviewed by Amnesty International, this was particularly the case where there was still a foetal heartbeat. Statistics on the impact such delays have on the long-term health and fertility of women and girls in Nicaragua are not available.

One cause of maternal death in Nicaragua is hypertension (heightened blood pressure which, if left untreated, in severe cases can lead to convulsions, coma or even death). Twenty women and girls died as a result of this complication in 2007 and 14 died in 2008.[48] In cases of acute hypertension, the Obstetric Protocols recommend interruption of pregnancy as

one among a range of indicated treatments, depending on the symptoms shown and the stage of the pregnancy.[49] The objective of the Obstetric Protocols is to seek the best possible outcome for both woman and foetus; where the illness becomes life-threatening the aim is to save the woman's life rather than losing both woman and foetus.

One doctor interviewed by Amnesty International said that he felt that "medical expert opinion is made worthless by the revised legal framework." The revised penal code puts constraints on medical judgment and limits the treatment that doctors can consider for pregnant women and girls. This can result in potentially fatal delays in treatment or the denial of specific kinds of treatment. Another doctor told Amnesty International of her surprise when a colleague carried out several additional scans to check for foetal heartbeat, delaying treatment by several days to avoid the possibility of being accused of breaking the law. By the time the decision was made to intervene, the health of the woman had deteriorated substantially, to the extent that she nearly died. The doctor interviewed stated that the decision to intervene would have been made far earlier under the previous framework. It is not known if the patient was left with permanent health damage, infertility or disability as a result of the delay in treatment.

An anencephalic foetus, (where a major portion of the brain has failed to form) has no chance of survival and will often be stillborn or die within a few hours or days of birth. [50] One doctor told Amnesty International that she prayed that she would not receive a patient with an anencephalic pregnancy. She was distressed by the prospect of telling the pregnant woman she would be compelled to carry the pregnancy to full term, despite the potential physical and psychological impact on the woman.[51]

In the case of KL vs Peru, where the UN Human Rights Committee found that Peru had breached several articles of the International Covenant on Civil and Political Rights including Article 7 which prohibits torture and ill treatment. KL was compelled to involuntarily continue with an anencephalic pregnancy. An anencephalic foetus is severely malformed and normally only survives for a few hours or days after birth. KL was not only compelled to carry the pregnancy to term against her will, but also to breastfeed the baby before it died a short while later. [52] In Argentina in 2001, the courts permitted the interruption of an anencephalic pregnancy because of the psychological distress and physical risks the pregnancy posed to the woman. The woman told the court how much she and her husband had wanted the pregnancy and of their extreme distress when they were told that the foetus did not have any chance of survival. She described herself as feeling like a "walking coffin".[53]

The Penal Code supersedes the Obstetric Protocols in Nicaraguan law. The revised law means that life-saving medical interventions that doctors might recommend in specific cases, based on their professional judgment, in order to secure the best possible outcome for their patient are ruled out a priori, as a matter of criminal law. Doctors expressed concern that the very existence of the law put doctors and other medical professionals involved in the treatment of obstetric complications such as nurses and midwives at risk of prosecution.[54] One doctor summarized the dilemma facing medical professionals in Nicaragua following the criminalization of abortion in all circumstances: "We can lose our practitioners licence, our freedom and our reputation, simply because, when it was necessary, we acted."

"This is what the law says [prohibition of all forms of abortion] and we have to comply with it, even though I feel that it is a bad law and spoke out against it originally, now I am worried. I am worried that if I speak out against the law I might even be accused of the public defence of a criminal act. I just don't know how far we can go to fight against this law, or what the future holds for us."

Doctor interviewed by Amnesty International, October, 2008, Nicaragua

Once abortion became criminalized in all circumstances, essential, life-saving and health-preserving medical treatment was outlawed. SONIGOB were among the 21 organizations who publicly expressed their concern. Following the prohibition of abortion, SONIGOB wrote to the Minister of Health outlining their serious concerns over the discrepancy between the new law and the Obstetric Protocols and expressing their anxiety at the legal uncertainties this created for medical professionals.

In a private meeting with lawyers, SONIGOB and the Strategic Group for the Decriminalization of Therapeutic Abortion (Grupo Estratégico por la Despenalización del Aborto Terapéutico), a senior Ministry of Health official reportedly said that doctors should comply with the Obstetric Protocols, stating that doctors who comply with the Obstetric Protocols should have every confidence that they are not committing a crime.[55] However, several doctors told Amnesty International that such private, verbal assurances have no legal standing and do not protect them from prosecution. As one senior gynaecologist commented, "the Ministry of Health, in saying that doctors should continue adhering to the Obstetric Protocols, is effectively asking that doctors commit a crime and become criminals. They are asking us to rely on Obstetric Protocols which we know do not have the same legal precedence as the law. If I do not comply with the Obstetric Protocols I risk being disciplined by MINSA [Ministry of Health] and if I do not comply with the law I risk prosecution by the state."[56]

The authorities themselves have given conflicting interpretations of the scope and meaning of the law. For example, in a meeting with government representatives examining Nicaragua's report under the International Covenant on Economic, Social and Cultural Rights in November 2008, members of the United Nations Committee on Economic Social and Cultural Rights asked detailed questions on the impact of the law including its effects on women's and girls' access to obstetric care.[57] The Nicaraguan representative at the meeting, Ms Lovo Hernández, asserted that "at no stage were doctors prohibited from administering emergency care to women whose health was in danger". However, when asked again for clarification of the legal status of therapeutic abortion, according to the summary of the proceedings Ms Lovo Hernandez told the Committee that "therapeutic abortion was illegal" in Nicaragua "even in the circumstances described [for victims of rape]… and that this "was the situation under current legislation, reflecting the will of the people."[58] No references were made by the state representatives to any human rights impact assessment or analysis being conducted before the law was introduced.

Similar concerns were also expressed by international health experts on the UN Human Rights Committee to Nicaraguan officials in October 2008, and by the UN Committee against Torture in May 2009 (see Nicaragua's Human Rights Obligations below).[59]

The precarious legal position in which doctors have been placed means that women are now dependent on the individual willingness of a particular doctor to deal quickly and confidently with obstetric complications. One doctor expressed concern that less experienced colleagues might avoid making decisions on the treatment of women presenting certain obstetric complications. Uncertainties over what treatment might contravene the law could encourage them to leave such decisions to colleagues taking over the next shift at the hospital. She was extremely concerned at the impact such delays might have on the health of the patient.

Doctors interviewed by Amnesty International repeatedly stressed the chilling effect of the new law. They described how they were very conscious at all times of the threat of criminal prosecution hanging over them as they cared for their patients. One doctor told the delegation: "Up to now the state has not persecuted us using these criminal provisions…but what most worries me is that we are at the edge of a cliff, and that at any moment a doctor could be attacked using one of these provisions." [Another doctor expressed his anxiety that the law may be used "politically to destroy any doctors who speak out against the government."]

DENIED A VOICE IN THEIR TREATMENT

The current legal framework does not allow medical professionals to engage women and girls in meaningful discussion about their treatment options. If a patient in the early stages of pregnancy is found to be suffering from a potentially life-threatening but treatable condition, for example, she has no option but to continue with the pregnancy, even if doing so means that she may die. The options available to her would be entirely dependent on how confident her doctor felt in providing treatment, despite the legal implications.

An example given to Amnesty International by gynaecologists was that of a pregnant woman diagnosed with cervical cancer. A doctor told Amnesty International, "before, no woman was forced to have a therapeutic abortion, or to have a particular course of treatment. They had the right to decide over their life or death. A woman used to be informed of the choices she had and then had every right to say, 'I understand the risks, I know I might die, but I choose to continue anyway with this pregnancy.' It was my obligation to support her in this decision. Equally if a woman told me, 'No I have children already, I need to live. It makes me sad to lose this pregnancy, but I want the cancer treatment in order to give me the best possible chance.' I would be able to respect her right to choose life." The revised legal framework no longer allows doctors to take into account the views of the patient.

Empowering women by allowing them meaningful involvement in decision-making processes that affect them has been found to be instrumental in ensuring the success of programmes aimed at reducing poverty and increasing equality between men and women. This is of particular relevance when the ability of women to make decisions about health care is already limited.

CRIMINALIZATION OF ABORTION PREVENTS WOMEN FROM SEEKING TREATMENT

At all stages of pregnancy, but particularly during the first three months, spontaneous abortion (miscarriage) may occur for entirely natural reasons. Publicity surrounding the law has helped fuel fears among women who miscarry that they will be accused of self-induced abortion.[60] There is particular concern that women and girls who have a miscarriage may find themselves under suspicion of procuring an abortion if they present with symptoms of

miscarriage and there is not sufficient medical evidence or expertise available to assess whether the pregnancy ended without external intervention.[61] Because of fear of criminal prosecution, some women experiencing complications after miscarriages delay seeking medical treatment. Women who are suffering complications as a result of an unsafe abortion have a strong incentive not to seek medical treatment. Fearful of prosecution, they delay seeking the treatment they need and so put their own lives at risk.

One health worker told Amnesty International that a woman admitted to hospital following a miscarriage was so terrified of being prosecuted for abortion that she asked doctors not to intervene in case any treatment was seen as intentional termination of the pregnancy. She told the health worker that she was concerned that her neighbour, who knew she was pregnant, might report her for having an abortion, even though her miscarriage was spontaneous.

It is often difficult and in some cases impossible to prove whether a women suffered a miscarriage or had an abortion. Given the current law, it is unlikely that authorities will rely on the woman's word. This leaves women and girls at risk of investigation and false accusations of having an abortion. As one gynaecologist explained, "Unless there are lesions, it is very difficult to discern if an abortion was induced or not. This means that if a woman suffers a spontaneous abortion she is vulnerable to accusations by another person that it was an induced abortion, since there is no real way of proving otherwise."

According to doctors and women interviewed by Amnesty International, fear of being accused of self-induced abortion may also be discouraging women experiencing difficulties in pregnancy from seeking medical assistance.

This atmosphere of fear and recrimination may also have been reflected in the case brought to Amnesty International's attention of medical staff verbally abusing a woman whom they suspected of having had an induced abortion and making her wait until all other patients had been seen before treating her.

Doctors, too, are fearful of prosecution: "a doctor attending a spontaneous abortion is also at risk of being accused of interrupting the pregnancy." Doctors, fearful of being accused of carrying out an abortion, may delay intervening even when a miscarriage is already well under way, particularly if there is a foetal heartbeat.

4 ABORTION AS AN OPTION FOR PREGNANT RAPE VICTIMS

"And what about the girls who are pregnant because of rape, and who live in poverty? They have no other [legal] choice but to give birth."

Health worker at a centre providing psycho-social support for survivors of sexual violence, interviewed by Amnesty International, October 2008

As a result of the revised penal code, women and girls in Nicaragua who become pregnant as a result of rape or incest now have no option but to carry the pregnancy to term or to seek unsafe and illegal abortions.

Globally, rape and incest are generally under-reported crimes and Nicaragua is no exception. However, the statistics that are available suggest that many of those who experience sexual violence are young girls and teenagers.[62] In more than half of the rape cases reported in Nicaragua, the victims are girls below the age of 18, according to the records of the Women's Police Unit (Comisaría de la Mujer) and the Nicaraguan Forensic Institute (Instituto de Medicina Legal).[63] According to the Nicaraguan Forensic Institute, 77 per cent of rape cases reported in December 2008 involved girls under the age of 17 (295 of 379 cases).

Under-reporting of crimes of sexual violence compromises the reliability of data about the number of pregnancies which result from rape.[64] In an attempt to combat this lack of information, Catholics for Choice Nicaragua Section carried out a survey of the local press to analyse rape reports in the media. The results show that between 2005 and 2007, 1,247 girls were reported in newspapers to have been raped and or to have been the victims of incest. Of these crimes, 198 (16 per cent) were reported to have resulted in pregnancy. The overwhelming majority of the girls made pregnant as a result of rape or incest (172 of the 198) were between 10 and 14 years old.[65]

Local and international NGO's providing support to survivors of rape and incest told Amnesty International that this survey does not reflect the true scale of the problem, particularly in rural areas.[66] The director of a faith-based NGO working with victims of gender-based violence and sexual abuse described how they had recently supported a girl aged nine, a victim of incest, to carry a pregnancy resulting from rape to full term. When asked if any alternatives had been offered to the girl during the initial counselling, the organization said it would have been impossible to do so, since there are no other options available.

The WHO Guidelines for the Medico-Legal Care for Victims of Sexual Violence state that "Victims of sexual assault require comprehensive, gender sensitive health services in order to cope with the physical and mental health consequences of their experience and to aid their recovery from an extremely distressing and traumatic event." They note that survivors may "suffer from a range of physical injuries, genital and non-genital, or in extreme cases death. Mortality can result either from the act of violence or from acts of retribution or from suicide. In addition, rape victims are at increased risk from: unwanted pregnancy; unsafe abortion; sexually transmitted diseases including HIV/AIDS; sexual dysfunction; infertility; pelvic pain and pelvic inflammatory disease and urinary tract infections." The Guidelines include pregnancy testing, pregnancy prevention and access to safe abortion services among the range of services that rape victims should be ensured access to.[67]

The importance to rape victims of having this range of services and options available cannot be underestimated. Women and girls who have been targeted for sexual violence experience a loss of control over their bodies and a violation of their physical integrity. Forcing them to carry an unwanted pregnancy to term from rape or incest perpetuates that loss of control. Rape trauma experts emphasize that a critical element of healing is to regain a sense of control. As the mother of a rape victim told Amnesty International following both her own and her daughter's experience of sexual violence, "If I could ask the officials here for anything, I would ask them to hear and trust the words of rape victims and change the treatment of victims of sexual violence. I would ask them to stop denying victims of rape the option to have a therapeutic abortion."[68] All the rape victims interviewed by Amnesty International underlined the importance of having all options available to them in order to have control over the consequences of rape and abuse so they can personally decide what is best for them, including therapeutic abortion.

Because the new law denies rape victims the choice of having access to safe abortion services legally, it compels them to continue the pregnancy against their will, resulting in extended and intense physical and psychological suffering. Faced with these circumstances, some rape victims seek illegal and unsafe abortions, putting their health, liberty and even life at risk. Some attempt suicide. One doctor told Amnesty International that he had seen a mother and her 15-year-old daughter just that week. The daughter had been raped by a neighbour and found out she was pregnant as a consequence of the rape. She was distraught and had attempted to kill herself by cutting her wrists.[69]

"M", an 18-year-old, described to Amnesty International the physical and psychological pain she experienced when she survived rape, but became pregnant as a result. M was just 17 years old when she was brutally raped by a relative. She says:

"I went to collect the clothes for the laundry that were in my room, when he forced his way in there and raped me three times. At the same time he was telling me that he was going to kill me and my mother. I was crying and pleading…he pulled out his gun and I was terrified, horrified. He said that I had to keep quiet."

Later on, M explained that for fear that something would happen to her or her family she didn't speak about what had happened, and that she felt very traumatised during this period and cried a lot.

"I spoke about it six months later because I hadn't got my period and I couldn't stand keeping silent any longer. I'd had the [contraceptive) injection, but I don't know what happened there, I didn't think I could be pregnant, I thought I hadn't had my period because of the brutality with which he'd raped me."

"The doctor examined me and told me I was pregnant…I…started to cry and cry and cry, she asked me 'but what's wrong? What's wrong?', but I couldn't tell her. A while later I nearly died from pre-eclampsia, I was in the hospital for more than a week. Finally they operated on me and did a caesarean section."

M also told Amnesty International:

"I've felt like killing myself many times – the trial was like a ten month-long nightmare. I had to see him again, and seeing him again meant having a relapse over and over again. I felt like I was dying slowly, slowly, slowly…When the case fell apart, I was hysterical. My mother took it really badly as well, she knew that I wasn't the guilty one. As well as everything else, I had a baby by him who I had to accept. What happened to me shattered my dreams, my hopes – I wanted to be someone who worked outside the home but I spend all day at home looking after the baby…I can't even sleep and I feel very unsafe, many of my days are a nightmare, it's very hard to carry on and I feel very sad and very tired. I ask myself, why did these things happen to me?"

Representatives of various non-governmental organisations and some doctors told Amnesty International that they were very concerned that pregnant women and girls are driven to take their own lives when denied a choice in their futures in Nicaragua, and are particularly concerned at the situation of young rape victims who, as a result of the law, are now coerced into continuing with the pregnancy, regardless of their wishes or the psychological or physical risks which maybe associated with continuing with such a pregnancy. An analysis by the Ministry of Health of maternal mortality figures for 2007 and 2008 found that the principal causes of adolescent maternal mortality were the consumption of poison and pre-eclampsia.[70]

MENTAL PAIN AND SUFFERING

The criminalization of abortion and the denial of access to safe abortion services lead to severe mental pain and suffering. This includes:

- A woman or girl's fear and horror at discovering that she is pregnant, in some cases after being raped or sexually abused within the family over a long period, is compounded by the knowledge that she cannot go anywhere for help unless she continues with the pregnancy against her will.

- Fear of seeking care when suffering miscarriage, in case of being accused of having carried out an abortion, leading to dangerous delays in treatment.

- The anguish of seeking an unsafe and illegal alternative, the pain of unsafe treatment with uncertain outcomes, and no proper aftercare and the possibility of being imprisoned if found out.

- Fear of being detained and imprisoned.

- Fear that, if a woman is deprived of her liberty, her other dependents will suffer.
- Fear of being labelled a criminal or murderer for requesting an abortion.
- The anxiety of not being able to access appropriate medical care.
- Fear of health damage and death if continuing with a risky pregnancy, particularly for girls who are not yet physically mature and likely to suffer a painful, protracted and potentially dangerous labour as a result.
- Severe depression because of lack of needed socio-medical counselling.
- Fear of the consequences in family and society of the pregnancy being discovered.
- Fear of the consequences of an abortion being discovered.

The combination of these fears and physical pain, leading to severe depression, self-destructive behaviours or, as noted above, suicide.

Public health research has established a causal link between unwanted pregnancy and suicides among women. According to the WHO, "Suicide is disproportionately associated with adolescent pregnancy, and appears to be the last resort for women with an unwanted pregnancy in settings where reproductive choice is limited; for example, where single women are not legally able to obtain contraceptives and legal pregnancy termination services are unavailable."[71]

Representatives from various NGOs told Amnesty International that the government does not at present systematically investigate whether unwanted pregnancy is a factor in suicides committed by women and girls. They reported a significant rise in the number of suicides by women and girls and expressed their concern that the actual figure of suicides due to unwanted pregnancy could be much higher than officially recorded.

A woman working in a centre which provides psycho-social and legal support to women victims of sexual violence told Amnesty International, "This law is particularly cruel for victims of rape… I really hope I do not have to treat a girl who is pregnant as a result of rape. Some of my colleagues already have and… well the only thing we can do is support them psychologically. We do not provide financial support for them to live on, we cannot do that, only support them emotionally. It makes me feel really bad for them. I have worked for over 30 years with women and girl [survivors of violence] and now I feel such a terrible frustration." She told Amnesty International that in the past at least girls in this situation could have gone to hospital and sought a safe therapeutic abortion.

In its 2006 decision to end the criminalization of abortion, the Constitutional Court of Colombia commented on the entitlement of rape victims to a safe and legal abortion if they decide that they do not want to continue with the pregnancy. It concluded, "It is hard to imagine a more serious violation… a woman who becomes pregnant as a result of rape cannot be legally required to act as a heroine and take on the burden that continuing with the pregnancy entails. Nor can her fundamental human rights be disregarded as would be the case if she were required to carry the pregnancy to term against her will, turning her into a mere instrument of

procreation… she cannot be obliged to procreate nor be subjected to criminal sanctions for exercising her constitutional rights while trying to lessen the consequences of the crime of which she was a victim."[72]

The Beijing Declaration and Platform for Action, adopted by the Fourth UN World Conference on Women on 15 September 1995, states: "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence."

Rape is the ultimate denial of this right. In specific circumstances it constitutes a form of torture and other cruel, inhuman or degrading treatment.[73] In such cases, a rape victim is entitled to the fullest rehabilitation possible. Full rehabilitation must address both the continuing impact of the initial violation and its after effects, including a pregnancy which the victim may not wish to bring to term.

Any woman who has become pregnant as a result of sexual violence, including incest, must have the option of accessing safe and legal abortion as part of a range of support services, including treatment and follow-up care for physical injuries, pregnancy prevention and management, treatment for sexually transmitted infections and counselling and social support.[74]

Unnecessary obstacles frustrating access to safe abortion services and lack of access to effective remedy were the focus for the European Court of Human Rights in the case of Tysiac v Poland. The Court considered that Poland provided no effective mechanism to ensure the availability or legality of therapeutic abortion, either in a consultation process between the woman and her doctors or between doctors themselves. The Court recognized that Alycia Tysiac had suffered severe distress and anguish and her right to privacy, enshrined in article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention), had been violated, in particular due to the lack of procedural fairness. Retroactive civil and criminal remedies were not sufficient.

In the case of Nicaragua, there is now no remedy at all, as there is no mechanism for accessing a legal abortion.

5 DENIAL OR DELAY IN TREATMENT FOR OBSTETRIC COMPLICATIONS

Foetal and maternal life and health can be put at risk by medical conditions experienced by pregnant women whether these are caused by the pregnancy, such as pre-eclampsia, or aggravated by it, such as malaria. Foetal and maternal life and health can also be put at risk by obstructed or premature labour. In each situation of medical risk, doctors will aim to preserve or restore both foetal and maternal life and health. But some medical interventions during pregnancy or delivery aimed at preserving maternal and or foetal life and health can result in unintentional injury or death of the foetus. These include, for instance, malaria or cancer treatment and surgery or expedited delivery.

Article 148 of the penal code deals with penalties for any serious injury or harm to the embryo or foetus: "Whosoever, by whatever method or procedure wounds the unborn or causes an illness which has grave consequences for normal development, or causes a grave and permanent physical or psychological wound will be punished by between two to five years in prison and a prohibition on exercising any medical profession or providing services of any type in a clinic or gynaecological practice, public or private, for between two and eight years." [75]

The wording of Article 148 implies that any medically indicated treatment that results in the injury or death of the embryo or foetus could be treated as a criminal offence, even if the medical professional had no intention of harming the foetus. Indeed, the framing of the law could lead to criminalization of medical care aimed at saving a foetus during a difficult labour if this results in serious harm or death, even in cases where there was neither negligence nor intent to cause harm. It is hardly surprising, therefore, that many health professionals described to Amnesty International their intense anxiety about treating pregnant women and girls and attending difficult births.

This provision violates the requirement for *mens rea* - that is the need to prove the accused had intentionally harmed or was reckless to the extent that harm was caused, which has a higher threshold than negligence. In certain circumstances it might be appropriate to prosecute a medical service provider who intentionally harms or acts with reckless disregard. However, only in such cases should criminal sanctions apply.

Article 149 states: "Whosoever through recklessness causes the injury described in the previous article to the unborn will be punished with between one and two years in prison and a prohibition on exercising any medical profession or providing services of any type in a clinic or gynaecological practice, public or private, for between one to five years. The pregnant woman will not be punished". This appears to criminalize conduct that might more appropriately be dealt with under professional medical procedures. For instance, a doctor or

other medical staff may undertake medical interventions without adequate training or professional care which accidentally cause injury or death to the foetus or woman.

The current legal framework compels Nicaraguan women and girls to take unnecessary risks. Treatment for obstetric complications has become a lottery. The treatment women receive depends not on what the Obstetric Protocols say, but on whether the individual doctor feels sufficiently confident to provide the best practice treatment and defy the law. One doctor described how medical professionals had to push concerns about possible prosecution to the back of their minds as they struggled to ensure that the treatment they gave was that which, in their medical judgment, promised the best possible outcome for the patient. She told Amnesty International: "The ideal outcome is to save both the patient and secure the safety of the foetus… [W]here that is not possible the patient must be stabilized – otherwise both the foetus and the pregnant woman will die."

Amnesty International supports greater accountability as part of efforts to secure the rights of patients to the best possible health care. Where acts breach fundamental human rights or agreed standards of practice, the individuals responsible should be held to account. However, criminalizing essential medical procedures will not lead to greater accountability for the medical profession. The development of the Obstetric Protocols was a significant and positive step towards ensuring equal access to quality health care for women and girls suffering from obstetric complications. Strengthening the support and training that health professionals receive on how to apply the Obstetric Protocols is vital in order to deliver appropriate treatment when complications arise during pregnancy. Providing appropriate facilities and technical capacity to enable them to provide quality and timely care is also essential.

6 NICARAGUA'S HUMAN RIGHTS OBLIGATIONS

The obligation on states to progressively realize the right to the highest attainable standard of health is enshrined in various international and regional instruments to which Nicaragua is a party. The Nicaraguan Constitution states: "In the national territory every person enjoys state protection and recognition of the inherent rights of the human person, the unrestricted respect, promotion and protection of human rights and the full exercise of the rights enshrined in the Universal Declaration of Human Rights, in the American Declaration on the Rights and Duties of Man, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights of the United Nations, and in the American Convention on Human Rights of the Organization of American States."[76]

In the Americas region, as elsewhere, restrictive abortion laws are being repealed or reformed.[77] For example, in 2006 the Colombian Constitutional Court found that a complete ban on abortion was unconstitutional and contrary to Colombia's obligations under international human rights law. The Court ruled that abortion should be permitted in certain circumstances, such as where continued pregnancy constituted a threat to the life or health of the woman; when the foetus had serious malformations inconsistent with life; and when the pregnancy was the result of rape or incest. The Court argued that the constitutional duty of the state to protect life did not require the criminalization of abortion: "Even though the legal system protects the foetus, it does not grant it the same level or degree of protection it grants a human person." The Court concluded that "a criminal law that prohibits abortion in all circumstances extinguishes the woman's fundamental rights."[78]

UN COMMITTEE AGAINST TORTURE

Nicaragua is party to the Convention against Torture. On 15 May 2009, after reviewing the situation in Nicaragua against the obligations of the state under the Convention against Torture, the UN Committee against Torture concluded that Nicaragua should revise its legal framework in relation to abortion. The Committee noted with concern that three other expert committees of the United Nations had requested the repeal of the complete ban on abortion.[79] The expert Committee observed that the complete ban gave them cause for "profound concern" as it exposes women and girls to a constant threat of serious violations to their rights, particularly if continuation of the pregnancy poses a threat to their life, or for victims of rape.[80] The Committee also expressed concern at the situation of human rights defenders in Nicaragua, in particular those defending women's rights and reproductive rights.[81]

UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The Committee on Economic, Social and Cultural Rights oversees the implementation of the right to health as set out in the UN Covenant on Economic Social and Cultural Rights. It

issues guidelines on how the Covenant should be interpreted. In its General Comment No. 14, the Committee established that a retrogressive measure could include "the adoption of legislation or policies which are manifestly incompatible with pre-existing domestic or international legal obligations in relation to the right to health."[82] The introduction of the revised law on abortion constitutes a retrogressive measure under international law.[83]

In November 2008 the Committee expressed concern at the ban on abortion in all circumstances and recommended that Nicaragua reform its restrictive abortion laws and allow therapeutic abortion where continued pregnancy threatened the health and life of the woman or where the pregnancy was the result of rape.[84]

The Committee has stated that the realization of women's right to health requires the removal of all barriers restricting their access to health services, education and information, including in the area of sexual and reproductive health.[85]

UN HUMAN RIGHTS COMMITTEE

The UN Human Rights Committee was established by the International Covenant on Civil and Political Rights, to which Nicaragua is party. The Committee has found that in order to give effect to the right to life, states are required to take positive measures to stem preventable death, including measures to end life-threatening clandestine abortions.[86] It has highlighted that Nicaragua has breached its obligations under the Covenant by not formally confirming and providing assurance that the medical profession must adhere to the best practice protocols for the treatment of obstetric complications, and that health professionals can do so without fear of prosecution.[87]

The UN Human Rights Committee was categorical in its final recommendation to Nicaragua in October 2008 regarding the prohibition of abortion. "The Nicaraguan State must amend its laws on abortion so that they comply with the Covenant. The state must take measures to help women avoid unwanted pregnancies, so that they are not forced to seek illegal and unsafe abortions which put their lives at risk, or that they have to travel abroad to obtain an abortion. The state must also avoid imposing criminal sanctions on members of the medical profession for carrying out their professional duties as doctors."[88] The Committee also expressed concern that the ban had not excluded therapeutic abortion in cases where the life of the pregnant woman or girl was at risk from continuation of the pregnancy, and at the impact of the ban on rape survivors. The Committee stated that to compel a victim of rape to carry a pregnancy to full term or seek an unsafe abortion constituted a violation of the prohibition of torture in Article 7 of the Covenant, among other provisions.

According to the UN Human Rights Committee, denying women access to reproductive health services is a violation of their reproductive rights. Denying them access to lifesaving obstetric care, including post-abortion care, is a violation of their right to life and a form of cruel, inhuman and degrading treatment.[89]

CONVENTION OF BELÉM DO PARÁ

Nicaragua is a party to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará). This states that "violence against women shall be understood as any conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, either in the public or

the private sphere" (Article 1) and includes violence "that is perpetrated or condoned by the state or its agents regardless of where it occurs" (Article 2c). Article 3 outlines the particular rights of women that the state has an obligation to promote and protect: "Every woman has the "the right to have her life respected… and the right to have her physical, mental and moral integrity respected". Article 6(a) of the Convention of Belém do Pará establishes the right of women to be "free from all forms of discrimination". [90] The revised legal framework breaches all these rights and others contained in the Convention.

UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

The UN Committee on the Elimination of Discrimination against Women monitors states' compliance with the Convention on the Elimination of All Forms of Discrimination against Women. It has stated that "laws that criminalize medical procedures only needed by women and that punish women who undergo those procedures" form "barriers to women's access to appropriate health care" which contravene the state's obligation to respect women's human rights. The Committee has expressly called on states to amend legislation criminalizing abortion "in order to withdraw punitive measures imposed on women who undergo abortion."[91]

In 1999 the Committee found that the criminalization of abortion in all circumstances in Colombia constituted a violation of women's right to health and life.

INTER-AMERICAN CONVENTION ON HUMAN RIGHTS

Nicaragua is a party to the Inter-American Convention on Human Rights. The President of the Inter-American Court of Human Rights, has commented that: "In certain cases, such as when continuing the pregnancy would endanger the life of the woman, or when the pregnancy is as a result of rape, the criminalization of abortion would cause a violation of the obligation of the state to protect the life of the woman".[92]

In the decision *de la Cruz Flores v Peru* (2004), the Inter-American Court of Human Rights upheld the right of the medical profession not to be criminalized in the provision of essential health care, which they were obliged to provide in accordance with their medical codes of ethics. The Court found a further breach on the part of the state as it had forced doctors to reveal privileged information, violating the principle of confidentiality between the doctor and patient.[93] Judge Garcia Ramirez, stated that "In my view, the state must not, through rules and regulations that dissuade a doctor from fulfilling their duties, violate the professional obligation doctors have to protect the right to health and life, for example through threatening doctors with criminal prosecution, threatening them with being struck off as a medical practitioner, or by compelling doctors to make distinctions contrary to the principles of non-discrimination and equality, or obliging them to assume responsibilities other than their own, or which conflicts with their own duties, and raises unacceptable dilemmas or changes the dynamics of the relationships between doctors and their patients, like what happens when you compel a doctor to report or break confidentiality regarding the patients they attend." [94]

The Inter-American Commission of Human Rights is responsible for promoting the rights enshrined in the Inter-American Convention on Human Rights and for receiving complaints of violations of individuals' rights by state parties. The Commission's Special Rapporteur on Women's Rights, Victor Abramovich, wrote to the Nicaraguan Foreign Minister in November 2006 noting that "therapeutic abortion is recognized internationally as a specialized and

necessary health service for women." Commissioner Abramovich went on to say that "[t]he denial of this health service constitutes a violation of women's life and physical and psychological integrity. Equally [the prohibition on therapeutic abortion] would be an obstacle to the work of health professionals, whose obligation is to protect life and deliver adequate treatment to their patients."[95]

In an interview in March 2007, following the introduction of the revised law, Commissioner Abramovich was asked for his view of whether or not the criminalization of abortion was a violation of human rights. He replied that: "It would be correct to remove abortion from the criminal code, maybe have some rules governing the same but… to decriminalize abortion."[96]

When asked specifically about the derogation by Nicaragua in relation to therapeutic abortion, Commissioner Abramovich reported that during a special audience on the issue of Nicaragua's breach of the Convention he had received information about several cases where doctors risked their liberty and profession to save the life of the woman. He stated: "If [the doctors] intervened they would commit a crime, if they did not, she would die… because of their own humanitarian conscience, the doctors performed an abortion. The law is contrary to common sense. This should not be a philosophical discussion."[97]

7 CONCLUSIONS

Nicaragua faces many demanding challenges in the battle against poverty, malnutrition, disease and unemployment and the urgent need to improve access to basic services like health care and education. Many of these problems will take decades to overcome. In contrast, the human rights concerns associated with the complete prohibition could, in large part, be resolved quickly and easily.

Amnesty International considers the complete ban on abortion to be a serious breach of Nicaragua's obligations to protect, respect and fulfil the human rights of women and girls both under its own Constitution and international treaties to which it is a party. The revision of the penal code is a retrogressive measure under international law and places Nicaragua at odds with proven public health policy.

Laws which have serious implications for the right to health and life of women and girls should be based on medical evidence and public health experience. It is clear that these laws are not. Women human rights defenders have been subjected to legal harassment and accused of the public defence of a crime (apología del delito) for campaigning for therapeutic abortion. This legal harassment has caused some fear on the part of others, such as doctors and nurses, and discouraged them from becoming too actively involved in campaigning on the issue. This has further stifled informed public debate and discussion around the implications of the law.

The prohibition on abortion is discriminatory because of its negative consequences for women and girls. The revised law is discriminatory in that it denies women and girls legal access to appropriate health care; the rights of men and boys are not infringed in this way.

The removal of legal access to therapeutic abortion forces pregnant women and girls to suffer the physical and psychological trauma of continuing with a pregnancy, even when this action puts their health or lives at risk, when the pregnancy is the result of rape, or when the foetus has severe abnormalities and no viable prospect of life. Although rape is internationally recognised as a form of torture in many circumstances, in Nicaragua even the limited data available shows it is a pervasive problem and suggests it is widely tolerated. Owing to the frequency of acts of rape and incest committed against young and teenage girls (in the majority of cases by older men and relatives) girls 18 years old and under suffer disproportionately from the consequences of the new law. Nicaraguan law now criminalizes an internationally recognized aspect of reparation for the human rights violation of torture, when that torture is perpetrated in the form of rape.

The criminalization of all forms of abortion has the effect of delaying and even denying women and girls a range of treatments which could, unintentionally, result in the termination of the pregnancy. In short, the revised legislation in Nicaragua is an obstacle to women and girls accessing the health care they need.

The current legal framework compels Nicaraguan women to take unnecessary risks with their health and lives. The effects of the law are most marked among women and girls living in poverty; those who depend on the public health system and do not have the resources to seek treatment outside Nicaragua; those living in rural areas; and survivors of sexual violence. Those women or girls who in desperation seek an unsafe abortion risk their health and lives and can face criminal prosecution and imprisonment.

The fact that women and girls who become pregnant as a result of rape or incest are now compelled to carry their pregnancies to full term is a violation of their human rights. The involuntary continuation of pregnancy causes untold physical and mental suffering for the woman or girl. The effect of the law is that rape survivors are not provided with the necessary range of options or appropriate support in whatever decision they make on how to manage the consequences of the trauma of sexual violence. The fact that women and girls who are victims of rape are forced to seek unsafe abortion services is a human rights violation. Where the woman or girl commits suicide or dies because she was denied medical care during pregnancy, this violation becomes a violation of her right to life.

The criminalization of abortion places Nicaraguan health professionals in legal jeopardy. It obliges them to act unethically and deny treatment which would have ensured the best possible outcome for their patients. It forces them to risk imprisonment if they act in accordance with official procedures and best practice protocols to end a pregnancy which poses a risk to the life or health of a woman or girl.

The criminalization of abortion in all circumstances has created a situation where some doctors are delaying treatment of women and girls for fear that they may be prosecuted for causing an abortion or damage to the foetus. In the short term, such delays can cause great anxiety and psychological distress. They can also have serious implications for the woman or girl's long-term health, including aggravating existing health conditions or making them unable to have children in future. At worst, delays can put lives at risk. Even though there have been no prosecutions as yet under the law, the prohibition on abortion has a chilling effect on the ability of medical professionals and health workers to provide medically indicated treatment.

Fear of prosecution means that women and girls are now delaying seeking treatment or even deciding not to seek hospital treatment for haemorrhaging, sepsis or other serious complications following unsafe abortions or miscarriages. The decision to delay treatment can have serious health consequences and even lead to their death.

The ban on abortion and accompanying punitive laws weigh heavily on the medical profession and constitute an obstacle to independent medical judgment and women's timely access to medically indicated care. It contradicts best practice procedures established by the Ministry of Health which govern the management of complications during pregnancy and creates legal uncertainty for doctors. As long as the law does not allow for exceptions where there are serious dangers to the life or health of the woman or girl, it will continue to jeopardize the delivery of their medical care.

The reality is that even though there have not been prosecutions as yet, the chilling effect of the new law is such that some medical professionals may feel justified in not offering

treatment, while others may simply feel unable for fear of breaching the law. The net result of the chilling effect is delays in diagnosis and treatment, to the detriment of Nicaraguan women and girls seeking medical care.

Unless the criminal laws are repealed and a legal provision enacted permitting therapeutic abortion to protect the health and life of the pregnant woman, the legal framework will continue to be an obstacle to best practice decision-making by medical professionals when dealing with obstetric complications. The Nicaraguan government, through the revised legal framework on abortion, is forcing medical professionals to risk their career and potentially their liberty if they adhere to the Obstetric Protocols in order to preserve a woman's life or health.

The Nicaraguan Government must repeal Articles 143, 145, 148 and 149 of the Penal Code in order to respect, protect and fulfil the rights of women and girls in Nicaragua, including their right to life, health and dignity. Amnesty International is calling on the Nicaraguan authorities to fulfil their obligations under international human rights law and remove this retrogressive legislation before yet more women and girls needlessly suffer or lose their lives.

8 RECOMMENDATIONS

Amnesty International urges the Nicaraguan authorities to:

- Repeal Articles 143, 145, 148 and 149 of the Penal Code and decriminalize abortion in all circumstances. Women and girls must not be subject to criminal sanctions for seeking or obtaining an abortion under any circumstances;

- Reform legislation to allow for therapeutic abortion in cases of pregnancy resulting from rape or incest and in circumstances where continuation of pregnancy would put the health or life of the woman or girl at risk. The reforms must ensure that safe abortion is accessible without unreasonable restrictions;

- Ensure that medical professionals are not criminally sanctioned for providing safe abortion services;

- Ensure all institutions promote and strengthen awareness and implementation of the Obstetric Protocols when treating obstetric complications;

- Remove the legal obligation, and any practical obstacles, that compel women and girls who are pregnant as a result of rape or incest to continue involuntarily with the pregnancy;

- Undertake immediate law reform to ensure rape victims have access to comprehensive remedies including counselling, medical care and psycho-social and legal support in line with World Health Organization guidelines and ensure they are fully supported to make free and informed decisions on how to manage the consequences of rape, including continuation or termination of a pregnancy;

- Ensure full investigations into cases of suicide of girls or women of reproductive age to establish whether unwanted pregnancy was a contributing factor;

- Ensure women and men receive and have access to contraceptive services and information in order to make informed choices about sex and reproduction, free from coercion and discrimination;

- Increase the provision of antenatal, maternity and postnatal services and assistance and support for parenting;

- Ensure human rights defenders and medical professionals campaigning to raise awareness of the negative impact of the revised law and to promote and defend the human rights of women and girls are able to carry out their legitimate work without restrictions or fear of reprisals, in accordance with the UN Declaration on Human Rights Defenders.

TERMINOLOGY

Abortion: The termination of pregnancy from whatever cause before the foetus is capable of extra-uterine life.[98] **Induced abortion** is defined as the "intentional termination of pregnancy prior to foetus reaching the state of viability by mechanical (surgical) means or by drugs." **Spontaneous abortion** is an abortion that was not artificially induced (and is commonly referred to as 'miscarriage').[99] **Unsafe abortion**: A procedure for terminating unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking minimal medical standards or both"[100]

Emergency obstetric care (EmOC): Basic EmOC comprises parenteral administration of antibiotics, oxytocics and anticonvulsants, manual removal of the placenta, manual vacuum aspiration, vacuum extraction, (plus stabilization of woman and newborn for referral, pre-referral care and referral. Comprehensive EmOC comprises all of the above elements plus surgery (caesarean) and safe blood transfusion.[101]

Eclampsia: A condition peculiar to pregnancy or a newly delivered woman, characterized by fits followed by more or less prolonged coma. The woman usually has hypertension and proteinuria (an excess of serum proteins in the urine). The fits may occur before during or after birth.[102]

Family planning: Implies the ability of individuals and couples to anticipate and attain their desired number of children and the spacing and timing of their births. It is achieved through contraception, defined as any means capable of preventing pregnancy, and through the treatment of involuntary infertility. The contraceptive effect can be obtained through temporary or permanent means.[103]

Foetus (fetus): The stage of prenatal development between the embryo and birth.[104]

Hypertension: A diagnosis of hypertension in a pregnant woman is made when her blood pressure exceeds a certain level. Hypertension can be pregnancy-induced (occurring without a previous history of hypertension) pre-exist and be aggravated by pregnancy.[105]

Maternal death: The death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management but not from accidental or incidental causes. A late maternal death is defined as "the death of a woman from direct or indirect obstetric causes more than 42 days but less than one year after termination of pregnancy.[106]

Maternal morbidity: Serious disease, disability or physical damage such as fistula or uterine prolapse, caused by pregnancy-related complications.[107]

Maternal mortality ratio: The number of maternal deaths per 100,000 live births.[108]

Miscarriage: Premature expulsion of a non-viable foetus from the uterus.[109] Also called 'spontaneous abortion.' At what gestational age (point in pregnancy) a miscarriage becomes a stillbirth for reporting purposes depends on the country's policy.[110]

Post-abortion care: Care given to manage complications of abortion. Key elements include emergency treatment of abortion complications, family planning counselling and services, and links to comprehensive reproductive health services.[111]

Sexual health: Sexual health is a state of physical, emotional, mental and social well-being related to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled.[112]

Skilled birth attendant: A medically qualified provider with midwifery skills (midwife, nurse or doctor) who has been trained to proficiency in the skills necessary to manage normal deliveries and diagnose, manage, or refer obstetric complications. Ideally, skilled attendants live in, and are part of, the community they serve. They must be able to manage normal labour and delivery, perform essential interventions, start treatment and supervise the referral of mother and baby for interventions that are beyond their competence or not possible in a particular setting.[113] The proportion of births attended by skilled health personnel is one of the indicators for target 5a (reducing by three quarters the maternal mortality ratio) relating to Millennium Development Goal 5 (improving maternal health).

Reproductive health: Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed of and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. In line with the above definition of reproductive health, reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being by preventing and solving reproductive health problems. It also includes sexual health, the purpose of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases.[114]

Unsafe abortion: A procedure for terminating unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking minimal medical standards or both.[115]

Unmet need for family planning: Women with an unmet need for family planning for limiting

or spacing births are those who are fecund and sexually active but are not using any method of contraception, and report not wanting any more children. As an indicator for Millennium Development Goal 5 ("Improve maternal health"), unmet need is expressed as a percentage based on women who are married or in a consensual union.

ENDNOTES

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1 Articles 143 and 145 of the revised Penal Code (Law No.64, Penal Code of the Republic of Nicaragua). Articles 148 and 149 of the Penal Code also pose a significant problem to the delivery of obstetric care in Nicaragua. See http://www.poderjudicial.gob.ni/arc-pdf/CP_641.pdf, visited 23 March 2009.

2 Article 1 of the UN Convention on the Rights of the Child defines girls as girl children aged under 18 years of age. See http://www2.ohchr.org/english/law/crc.htm.

3 The circumstances in which therapeutic abortion was permitted were not explicitly defined in Nicaraguan law. However, the Health Ministry in its laws governing the provision of therapeutic abortion, defined therapeutic abortion as: "Interruption of pregnancy before 20 weeks gestation through medically indicated treatment due to maternal pathologies…that are exacerbated by the pregnancy or for maternal pathologies that have a negative effect on the growth and development of the foetus." Ministerio de Salud, Norma de Atencion al Aborto. Managua, Nicaragua, 1989.

4 Article 165 of the previous Penal Code (1893) had stated: "To fulfil legal requirements, the need for a therapeutic abortion shall be determined scientifically by at least three medical professionals and have the agreement of the partner or family member closest to the woman." [Amnesty International's own translation].

5 United Nations Department of Economic and Social Affairs Population Division, World Abortion Policies, http://www.un.org/esa/population/publications/2007_Abortion_Policies_Chart/2007_WallChart.pdf, and Centre for Reproductive Rights Factsheet on World Abortion Laws, available at http://reproductiverights.org/sites/crr.civicactions.net/files/pub_fac_abortionlaws2008.pdf, visited 23 March 2009.

6 International Federation of Gynaecology and Obstetrics, Ethical aspects of induced abortions for non-medical reasons, November 2006, paras 1 and 2. See http://www.figo.org/docs/Ethics%20Guidelines%20-%20English%20version%202006%20-2009.pdf, visited 10 December 2008.

7 Reed Boland and Laura Katzive, Developments in Laws on Induced Abortion:1998–2007, International Family Planning Perspectives, 2008, 34(3):110–120; WHO, Safe Abortion: Technical and Policy Guidance for Health Systems, 2003, p15.

8 Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June 1946; signed on 22 July 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2, p. 100) and entered into force on 7 April 1948, http://www.who.int/about/definition/en/print.html

9 Articles 143-149, Law 641: Penal Code of the Republic of Nicaragua, in Chapter 2: "Abortion, Genetic manipulation and harm to the unborn foetus".

10 World Health Organisation (WHO), Guidelines for medico-legal care for victims of sexual violence, http://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/index.html, last visited 18 March 2009.

11 See the UN Committee on the Elimination of All Forms of Discrimination against Women, General recommendation No. 24: Article 12 of the Convention (women and health), paras. 14 and 31 (c) . Available at: http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm last visited 21June 2009.

12 Reasonable restrictions could include cases of abortion without legal authority, particularly when treating patients who are unable to give consent, or criminal negligence. Amnesty International opposes forced abortion as a grave violation of women's human rights.

13 Olga María Reyes, a 22-year-old law student died from an ectopic pregnancy in November 2006, just after therapeutic abortion was removed from the statute books as a legal option. Her family and experts who analysed her medical records and the circumstances of her death, attributed the delay in her treatment which led to her death to fear of prosecution under the revised legal framework. See Human Rights Watch, Over their Dead Bodies – Denial of Access to Emergency Obstetric Care and Therapeutic Abortion in Nicaragua, available at http://www.hrw.org/en/reports/2007/10/01/over-their-dead-bodies, visited 9 February 2009.

14 United Nations General Assembly Resolution A/55/L.2, 8 September 2000, paragraph 19; Millennium Development Goals, see: http://www.un.org/millenniumgoals/MDGs-FACTSHEET1.pdf

15 UN Millennium Development Goal 5 envisages reducing maternal mortality by three quarters between 1990 and 2015, and to achieve universal coverage of skilled care at birth by 2015. See http://www.who.int/making_pregnancy_safer/topics/mdg/en/index.html, visited 23 March 2009.

16 See Nicaragua State Report to the Committee on Economic, Social and Cultural Rights, October 2007, (E/C.12/NIC/4), 22 October 2007, Paragraphs 503 and 505.

17 A significant project relating to the reduction of maternal morbidity and mortality is the publication of the Obstetric Protocols. Another important project has been the increase in medical professionals posted to the rural and remote areas in Nicaragua and to increase the number of maternal waiting houses (*casas maternas*) in rural areas where women can stay for the final stages of their pregnancy in order to ensure that professional medical attention is on hand when needed. (See Nicaragua State Report to the Committee on Economic, Social and Cultural Rights, October 2007 at Para. 970 – 974.) The government has also increased the resources for contraception and for screening for cervical cancer. (Summary record (partial) of the 31st meeting of the Committee on Economic Social and Cultural Rights to consider the Nicaragua State Party Report, E/C.12/2008/SR.31, November 2008, at para. 14).

18 See page 14, "Safe abortion: Technical and Policy Guidance for Health Systems" World Health Organisation, Geneva, 2003 and further "Global and Regional estimates of the incidence of unsafe abortion and associated mortality in 2003" 5th edition, World Health Organisation 2003. Available at: http://who.int/reproductive-health/publications/unsafeabortion_2003/ua_estimates03.pdf

19 See page 9, statistic taken from a study published in 2006, "Nota informativa: Derogacion del Derecho al Aborto Terapeutico en Nicaragua: Impacto en Salud" published by the Pan-American Health Organisation (OPS-OMS) November, 2006 Available from:

http://www.bertha.gob.ni/adolescentes/descarga/doc1/Derogacion%20del%20%20Aborto%20Terapeutico%20en%20Nicaragua.pdf

20 In that year, 38 women and girls died from haemorrhage, 20 from hypertension and related illnesses, three from sepsis, four from pulmonary embolism (a blood clot occurring in the lung. In pregnancy this can occur during and after delivery), two from unsafe abortion and one from amniotic fluid embolism (an allergic reaction by the pregnant woman to amniotic fluid or other debris entering into her bloodstream, often resulting in heart or lung collapse).

21 Ministry of Health, Análisis Comparativo de Situación de Mortalidad Semanas Epidemiológicas 1 a la 53, Años: 2007-2008.

22 Study carried out by Dr Karen Padilla, La Muerte Materna en Nicaragua: La vida de cada mujer cuenta, IPAS Centroamérica, June 2008.

23 Nicaragua State Report to the Committee on Economic, Social and Cultural Rights, 22 October 2007, (E/C.12/NIC/4), para 502, p106.

24 See for example "Rosario Murillo dice que el FSLN se opone tajantemente al aborto y respalda totalmente la posición de la jerarquía católica", 15 August 2006, available at http://www.radiolaprimerisima.com/noticias/2528,; and "PLC, ALN y FSLN contra el aborto terapéutico", El Nuevo Diario, 12 October 2006 http://impreso.elnuevodiario.com.ni/2006/10/12/politica/31159, both visited 23 March 2009.

25 For more information on the situation of women human rights defenders in Nicaragua see Amnesty International, Defending Women's Right to Life and Health: Women Human Rights Defenders in Nicaragua (Index: AMR 43/001/2008).

26 The leaflet referred to in this paragraph was published on 8 November 2006 in the leading newspapers in Nicaragua.

27 "Human rights impact assessment is the process of predicting the potential consequences of a proposed policy, programme or project on the enjoyment of human rights. The objective of the assessment is to inform decision makers and the people likely to be affected so that they can improve the proposal to reduce potential negative effects and increase positive ones." (Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to the UN General Assembly, UN Doc. A/62/214, 8 August 2007, paragraph 37.

28 See paras 29-32 of the record of the meeting of the Committee on Economic Social and Cultural Rights http://daccessdds.un.org/doc/UNDOC/GEN/G08/449/39/PDF/G0844939.pdf?OpenElement, visited 10 February 2009.

29 One such argument put forward by some religious authorities in Nicaragua is that nowadays there are no occasions when abortion or interruption of pregnancy are required, due to alleged advances in medicine which eliminate all such risks during pregnancy. See: http://www.aciprensa.com/noticia.php?n=15509 and Terra Actualidad – EFE, "El cardenal nicaragüense Obando y Bravo afirma que quien aborta se auto excomulga", May 2007.

30 See for example PAHO, Information on the Derogation of the right to therapeutic abortion in Nicaragua: The Impact on Health, November, 2006, available at

http://www.minsa.gob.ni/bns/observatorio/documentos/otros/Derogacion%20del%20Derecho%20al%20Aborto%20Terapeutico%20en%20Nicaragua%20Impacto%20en%20Salud.pdf, visited 23 March 2008. Representatives of UNICEF, UNDP, UNFPA, PAHO and WHO, jointly with the Ambassadors representing Norway, the Netherlands, the European Commission, Finland, Denmark, Iceland and the representative of the Department of Foreign and International Development for the United Kingdom all signed a letter to the National Assembly expressing their grave concern on 20 October 2006.

31 Letter dated 10 November 2006, from Victor Abramovich of the Inter-American Commission on Human Rights, and Santiago A. Canton to Norman Calderas Cardenal, Nicaraguan Minister of Foreign Affairs (Amnesty International's own translation).

32 See the Declaration of Nicaraguan medical societies and faculties of medicine on the criminalization of therapeutic abortion, 20 October 2006; available at http://www.euram.com.ni/Terapeutico/Archivos%20PDF/Antes%20Penalizacion/Sociedades%20Medicas,%20Enfermeria%20y%20Universidades,%20Declaracion.pdf and also the SONIMEG statement at http://www.sonimeg.net/index.php?option=com_content&view=section&layout=blog&id=8&Itemid=13, both visited 23 March 2009.

33 See Obstetric Protocols for the Management of Obstetric Complications, Nicaraguan Ministry of Health, December 2006. Copy held in Amnesty International records.

34 Coordinadora Civil statement, 19 October 2006, available at: http://www.puntos.org.ni/boletina/contenido.php?CodBole=140&key=1946&subsec=1963, visited 23 March 2009.

35 See the Declaration of Nicaraguan medical societies and faculties of medicine on the criminalization of therapeutic abortion, 20 October 2006; available at http://www.euram.com.ni/Terapeutico/Archivos%20PDF/Antes%20Penalizacion/Sociedades%20Medicas,%20Enfermeria%20y%20Universidades,%20Declaracion.pdf and the Amicus Curiae submitted by the Nicaraguan Society of Gynaecologists and Obstetrics to the Nicaraguan Supreme Court on 28 May 2007, at page 22.

36 See Datos sobre la salud sexual y reproductive de la juventud nicaragüense, May 2008, available at: http://www.guttmacher.org/pubs/2008/07/02/fb_Nicaragua.pdf; and UNPF, Personalising Population – Background on Nicaragua, available at: http://www.unfpa.org/focus/nicaragua/background.htm, both visited 23 March 2009.

37 Amicus Curiae submitted by the Nicaraguan Society of Gynaecologists and Obstetrics (SONIGOB) to the Nicaraguan Supreme Court on 28 May 2007, at page 16. Copy held in Amnesty International records.

38 Ibid, SONIGOB Amicus Curiae, Page 16.

39 PAHO, Information on the Derogation of the right to therapeutic abortion in Nicaragua: The Impact on Health, November 2006, available at http://www.minsa.gob.ni/bns/observatorio/documentos/otros/Derogacion%20del%20Derecho%20al%20Aborto%20Terapeutico%20en%20Nicaragua%20Impacto%20en%20Salud.pdf, visited 23 March 2009.

40 Obstetric Protocols, p26.

41 Obstetric Protocols, p26.

42 Obstetric Protocols, p124.

43 Obstetric Protocols, p124.

44 PAHO, Information on the Derogation of the right to therapeutic abortion in Nicaragua: The Impact on Health, November, 2006, available at http://www.minsa.gob.ni/bns/observatorio/documentos/otros/Derogacion%20del%20Derecho%20al%20Aborto%20Terapeutico%20en%20Nicaragua%20Impacto%20en%20Salud.pdf, visited 23 March 2008.

45 Obstetric Protocols, pp 124-133.

46 For the classification of ectopic pregnancy see WHO, International Statistical Classification of Diseases and Related Health Problems, 10th Revision, Version for 2007, Chapter XV; available at http://www.who.int/classifications/apps/icd/icd10online, visited 10 December 2008.

47 See page 377 of the Obstetric Protocols for the management of Obstetric Complications, Nicaraguan Ministry of Health, December 2006. Copy held in Amnesty International records.

48 Ministry of Health, Análisis Comparativo de Situación de Mortalidad Semanas Epidemiológicas 1 a la 53, Años: 2007-2008.

49 The Obstetric Protocols, Page 183.

50 Dr Luis Távara Orozco, Porqué la anencefalia debe justificar el aborto terapéutico, Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos, February 2006, available at: http://www.promsex.org/files/Anencefalia.pdf, visited 23 March 2009.

51 Interview with Nicaraguan gynaecologists by Amnesty International, October 2008 and Dr Luis Távara Orozco, Porqué la anencefalia debe justificar el aborto terapéutico, Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos.

52 See K.L v Peru, HRC Comm. No. 1153/2003, 24 October 2005and also K.L v Peru, analysis by Interights Bulletin Vol. 15 No.3, 2006 pages 102 -104.

53 Decision, National Supreme Court of Justice, Argentina S.T. v The local government of Buenos Aires, 11 January, 2001.

54 Articles 148-149 of the Penal Code.

55 Interviews carried out by Amnesty International during October and November 2008.

56 The Ministry of Health is responsible for registering and regulating doctors in Nicaragua. It has the power to take away doctors' licence to practice. See Ley General de Salud, Capitulo Unico de las Medidas Administrativas, Articles 77-86, in particular 84. Where investigations into complaints against doctors reveal potential breaches of the Penal Code, these can also be referred to the Public Ministry. Complaints against health professionals can also be filed

directly with the police for investigation.

57 See AMR 43/002/2008 Amnesty International Submission to the UN Committee on Economic, Social and Cultural Rights. Available from: http://www.amnesty.org/en/library/asset/AMR43/002/2008/en/36414c3c-9392-11dd-8293-ff015cefb49a/amr430022008en.pdf

58 Para 29-32 of the summary of the record of the 31st Meeting of the Committee on Economic, Social and Cultural Rights (E/C.12/2008/SR.31), 10 November 2008, available at: http://daccessdds.un.org/doc/UNDOC/GEN/G08/449/39/PDF/G0844939.pdf?OpenElement Last visited on 21 June 2009

59 Para 13 of the final observations of the UN Human Rights Committee (CCPR/C/NIC/CO/3) 30 October 2008; available at http://www.pnud.org.ni/files/doc/1228928031_Binder1.pdf, visited 23 March 2009.

60 Miscarriage is defined as the premature expulsion of a non-viable foetus from the uterus. It is also called 'spontaneous abortion'. http://www.who.int/reproductive-health/publications/pcpnc/pcpnc.pdf

61Concerns expressed during interviews with several doctors, gynaecologists and obstetricians carried out by Amnesty International during October and November 2009.

62 Ann Olsson, Mary Ellsberg, Staffan Berglund, Andrés Herrera, Elmer Zelaya, Rodolfo Peña, Felix Zelaya and Lars-Åke Persson "Sexual abuse during childhood and adolescence among Nicaraguan men and women: a population-based anonymous survey", Child Abuse and Neglect Volume 24, Issue 12, December 2000, Pages 1579-1589. See also Anuario Estadistico de la Policia Nacional 2006, 2.10 Caracteristicas de las Mujeres Victimas de la Delincuencia a Nivel Nacional por Tipologia en año 2006, page 53, which records that of the 1462 rapes reported that year some 1004 of the survivors were under the age of 18, the majority – 691 - were under the age of 14.

63 See Corte Suprema de Justicia Instituto de Medicina Legal, Subdirección de Vigilancia y Epidemiología Forense, Boletín Estadístico Mensual Numero 12 Diciembre 2008 and also Policia Nacional – Comisaria de la Mujer, Caracteristicas de las Mujeres victimas de Delicuencia a Nivel Nacional, 1 Semestre de 2008, which records that of the 945 victims of rape reported in the first semester of 2008, some 626 were below the age of 17 years old. Both documents held in Amnesty International records.

64 UN Committee on the Elimination of Discrimination against Women, General Recommendation No.12, para4, calls on states to include in their periodic reports "[s]tatistical data on the incidence of violence of all kinds against women and on women who are victims of violence." General Recommendation No.19, Article 2 (c) recommends that state parties "encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence." Available at: http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#top, last visited 23 March 2009.

65 Católicas por el Derecho a Decidir, "Medios de Comunicación y abuso sexual", 18 April, 2008.

66 Opinions shared by local NGO representatives with Amnesty International delegates during a visit to Nicaragua in June, 2008.

67 WHO Guidelines for the Medico-Legal Care for Victims of Sexual Violence, p2 and p28.

68 Amnesty International interview with mother of rape victim and rape victim herself [names withheld], Nicaragua, October 2008.

69 Interview with a gynaecologist in Managua, Nicaragua, November 2008. Name withheld. Also, interviews with experts working in the field of sexual abuse emphasised the concern they had at the rising number of suicides which might be linked to involuntary continuation of pregnancy. Although the state has not investigated whether or not they are victims of sexual violence, the prevalence of sexual violence against young girls and adolescents in Nicaragua and the rise in teenage deaths as a result of consumption of poison are of concern. Análisis Comparativo de Situación de Mortalidad Semanas Epidemiológicas 1 a la 53 Años: 2007 – 2008 Ministerio de Salud, 5 January 2009.

70 Análisis Comparativo de Situación de Mortalidad Semanas Epidemiológicas 1 a la 53 Años: 2007 – 2008 Ministerio de Salud, 5 January 2009.

71 WHO and UNFPA, Mental health aspects of women's reproductive health - A global review of the literature, 2009, p9; available at: http://whqlibdoc.who.int/publications/2009/9789241563567_eng.pdf, visited 23 March 2009.

72 See Colombian Constitutional Court Decision C-355/2006, Excerpts of the Constitutional Courts Ruling, published by Women's Link Worldwide, p52.

73 "It is widely recognized, including by former Special Rapporteurs on torture and by regional jurisprudence, that rape constitutes torture when it is carried out by or at the instigation of or with the consent or acquiescence of public officials." (Report of the UN Special Rapporteur on torture, Manfred Nowak, to the 7th Session of the Human Rights Council, UN Doc. A/HRC/7/3 15 January 2008, paragraph 34.) The Special Rapporteur on torture has also recognised domestic violence as one of the "forms of violence that may constitute torture or cruel, inhuman and degrading treatment" (id, paragraph 44) and elaborated on different manifestations of state acquiescence in domestic violence (id, paragraph 46) He has further drawn attention to the feeling of protection from social stigmatization which victims of sexual violence in Guatemala have reported feeling when the crime is defined as torture rather than rape, forced impregnation or sexual slavery (id, paragraph 66)

74 WHO, Guidelines for medico-legal care for victims of sexual violence, http://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/index.html, visited 23 March 2009.

75 Unofficial translation of the law by Amnesty International.

76 Article 46 of the Nicaraguan Constitution, available at: http://www.constitution.org/cons/nicaragu.htm, visited 23 March 2009.

77 See Reed Boland and Laura Katzive, Developments in Laws on Induced Abortion:1998–2007, International Family Planning Perspectives, 2008, 34(3):110–120, who found that at least 16 countries have increased the legal access to safe abortion services. Such countries in the Americas who have increased legal access to abortion on several grounds, include Colombia, Mexico (D.F.) and Saint Lucia. The study is available at: http://www.guttmacher.org/pubs/journals/3411008.pdf last visited on 22 June 2009 and, further, WHO, Safe Abortion: Technical and Policy Guidance for Health Systems, 2003, p15.

78 See Colombian Constitutional Court Decision C-355/2006, Excerpts of the Constitutional Courts Ruling.

79 See paragraph 16 of the Concluding Observations by the Committee against Torture, 14 of May 2009, CAT/C/NIC/CO/1.

80 See paragraphs 15 and 16 of the Concluding Observations by the Committee against Torture, 14 of May 2009, CAT/C/NIC/CO/1.

81 Ibid. Para 18.

82 See UN Committee on Economic Social and Cultural Rights, General Comment 14, paras 43 and 48, (E/C.12/2000/4), available at: http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument last visited 21 June 2009.

83 See Substantive Issues Arising in the Implementation of the International Covenant on Economic Social and Cultural Rights, General Comment No. 14 (2000) The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), at para 32, Available at: http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument last visited on 21 June 2009.

84 In its concluding observations, the UN Committee on Economic Social and Cultural Rights "urges the State party to review its legislation on abortion and to study the possibility of providing for exceptions to the general prohibition on abortion in cases of therapeutic abortion or pregnancies resulting from rape or incest. Furthermore, the State party should adopt measures to assist women in avoiding unwanted pregnancies, so that they do not have to resort to potentially life-threatening illegal or unsafe abortions, or have abortions abroad. Furthermore, the State should avoid penalizing medical professionals in the exercise of their professional responsibilities." (para26). See (E/C.12/NIC/CO/4). Available at: http://daccessdds.un.org/doc/UNDOC/GEN/G08/456/34/PDF/G0845634.pdf?OpenElement last visited on 21 June 2009.

85 General comment 14 (Right to health), see also Committee on Economic, Social and Cultural Rights, General Comment No.16 (The equal right of men and women to the enjoyment of all economic, social and cultural rights).

86 See Human Rights Committee, General Comment 28, Article 3, Equality of rights between men and women, para10, (U.N. Doc. CCPR/C/21/Rev.1/Add.10), 2000.

87 See Final Conclusions of the UN Human Rights Committee, (U.N. Doc. CCPR/C/NIC/CO/3), 2008, para13.

88 See Final Conclusions of the UN Human Rights Committee, (U.N. Doc. CCPR/C/NIC/CO/3), 2008, para13.

89 See Final Conclusions of the UN Human Rights Committee, (U.N. Doc. CCPR/C/NIC/CO/3), 2008, para13.

90 Nicaragua became a party to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) on 12 December 1995. Articles 1,2, 3,4 (a,b,c,d,e,f,and g), 6, 7 (a,c,e,f,g), 8 (a,b,c,g,h,i) are all particularly relevant to the situation of women since the complete prohibition on abortion was introduced. The full text of the Convention of Belém do Pará is available from http://www.oas.org/juridico/english/treaties/a-61.html, visited 23 March 2009.

91 UN Committee on the Elimination of All Forms of Discrimination Against Women, General Recommendation No.24, (20th Session 1999) paras 14 and 31 Available at: http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom24 last visited on 21 June 2009.

92 See, Cecilia Medina Quiroga, President of the Inter-American Court of Human Rights, "La Convención Americana: Teoría y Jurisprudencia", Centro de Derechos Humanos de la Facultad de Derecho de la Universidad de Chile, Santiago, 2003, p78.

93 Inter-American Court of Human Rights, Case of De la Cruz-Flores v. Peru. Merits, Reparations and Costs. Judgement, 18 November 2004. Series C No. 115; see particularly paras. 97, 100, 101 and 102.

94 Separate Opinion of Judge Sergio Garcia Ramirez in the Judgement of the Inter-American Court of Human Rights in the case of De la Cruz Flores, 18 November 2004, para8. Unofficial translation by Amnesty International.

95 Letter dated 10 November 2006, from Victor Abramovich and Santiago A. Canton to Norman Calderas Cardenal, Nicaraguan Foreign Minister.

96 Interview, Commissioner Victor Abramovich, 9 March 2007, available at: http://www.iidh.ed.cr/comunidades/DerechosMujer/noticia_despliegue.aspx?Codigo=3937, visited 23 March 2009.

97 Interview, Commissioner Victor Abramovich, 9 March 2007, available at: http://www.iidh.ed.cr/comunidades/DerechosMujer/noticia_despliegue.aspx?Codigo=3937, visited 23 March 2009.

98 http://www.who.int/reproductive-health/publications/conflict_and_displacement/pdf/appendix9.en.pdf

99 World Health Organisation, Sexually transmitted and other reproductive tract infections: A guide to essential practice – Glossary, http://www.who.int/reproductive-health/publications/rtis_gep/glossary.htm

100 http://www.who.int/reproductive-health/publications/interagency_manual_on_RH_in_refugee_situations/a3.

101 http://www.who.int/making_pregnancy_safer/clossary_fact_sheet.pdf

102 http://www.who.int/reproductive-health/publications/conflict_and_displacement/pdf/appendix9.en.pdf

103 Working definition used by the Special Programme of Research and Research Training in Human Reproduction, and the Division of Family Health, http://www.euro.who.int/document/e68459.pdf

104 World Health Organisation, Glossary, http://www.who.int/peh-emf/publications/Glossary.pdf

105 http://www.who.int/reproductive-health/publications/conflict_and_displacement/pdf/appendix9.en.pdf

106 World Health Organisation, UNICEF, UNFPA, Maternal Mortality in 2000: Estimates developed by WHO, UNICEF and UNFPA, http://www.who.int/reproductive-health/publications/maternal_mortality_2000/mme.pdf

107 http://www.unfpa.org/mothers/terms.htm

108 http://www.who.int/reproductive-health/publications/conflict_and_displacement/pdf/appendix9.en.pdf

109 http://www.who.int/reproductive-health/publications/pcpnc/pcpnc.pdf

110 http://www.who.int/reproductive-health/publications/interagency_manual_on_RH_in_refugee_situations/a3.pdf

111 http://www.who.int/reproductive-health/publications/rtis_gep/glossary.htm

112 WHO Draft working definition, October 2002, http://www.who.int/reproductive-health/gender/glossary.html

113 http://www.unfpa.org/mothers/terms.htm

114 ICPD Programme of Action, A/CONF.171/13, paragraph 7.2, http://www.who.int/reproductive-health/publications/studying_unsafe_abortion/glossary.html

115 http://www.who.int/reproductive-health/publications/interagency_manual_on_RH_in_refugee_situations/a3.

WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, **AMNESTY INTERNATIONAL** CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

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THE TOTAL ABORTION BAN IN NICARAGUA

WOMEN'S LIVES AND HEALTH ENDANGERED, MEDICAL PROFESSIONALS CRIMINALIZED

The lives and health of women and girls in Nicaragua have been put at risk by amendments to the penal code, criminalizing abortion in all circumstances. Theses changes in the law deprive pregnant women and girls of medical treatment, including therapeutic abortion.

Nicaragua's new law makes no provision for complications in pregnancy, which may require a termination in order to save the life or preserve the health of the mother. Similarly, a woman or girl who becomes pregnant as a result of being raped is now compelled to carry the pregnancy to term or face criminal prosecution – despite the mental and physical trauma or health risks she may face.

Doctors and nurses have raised serious concerns about the implications of the new law for medical professionals. For example, doctors who intervene to save women and girls whose lives or health are put at risk by obstetric complications may jeopardize their professional careers and face possible imprisonment if treatment results in unintentional miscarriage or harm to the foetus.

Amnesty International calls on Nicaragua to fulfil its obligation to protect, respect and fulfil the human rights of women and girls. The authorities should repeal the new law to ensure that women and girls are not sanctioned, criminally or otherwise, for seeking or obtaining an abortion. They should also ensure that women and girls whose health or life is at risk or who are pregnant as a result of rape or incest are able to access legal abortion services without unreasonable restrictions.

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