

IT'S LEGAL!

**The Decriminalization
of Abortion in Cases of
Rape in Ecuador**

Executive Summary



CONTENT

INTRODUCTION	3
1. HOW TO USE THIS DOCUMENT	5
2. THE METHODOLOGY USED FOR THIS ANALYSIS	7
3. LEGAL AND POLITICAL CONTEXT	9
4. HISTORY OF THE DECRIMINALIZATION OF ABORTION IN CASES OF RAPE IN ECUADOR (2016-2021)	12
5. ADVOCACY IN FAVOR OF DECRIMINALIZATION	19
6. STRATEGIES AND TACTICS	21
7. FACTORS THAT ENABLED AND LIMITED THE ADVOCACY PROCESS	27
8. ADVOCACY WINS	30
9. LESSONS LEARNED	35
10. THE FUTURE OF ABORTION ADVOCACY	40
BIBLIOGRAPHY	42

INTRODUCTION

THE PAST five years changed history in Ecuador. For the first time, the country held a political and public debate on the importance of decriminalizing abortion in cases of rape and other grounds, during the reforms carried out in the national legislature and the ruling by Ecuador's Constitutional Court.

On April 28, 2021, the Constitutional Court of Ecuador declared article 150, number 2, of the Criminal Code as unconstitutional. This was the article that criminalized abortion in cases of rape, except for women with mental disabilities. The court's decision paves the way for all people who are survivors of sexual violence to freely access abortion.

At the heart of this historic achievement was a coalition of many organizations from the sexual and reproductive rights (SRR) movement. Through tireless commitment and years of work, these organizations led the way by compiling evidence, designing advocacy strategies, identifying effective spokespersons, and implementing creative communications campaigns that led to both legislative changes and a significant reduction in the stigma surrounding abortion in the country.

Planned Parenthood Global has had the immense pleasure of collaborating and sharing financial and technical resources with the Ecuadorian organizations. Through this experience, we have seen each organization strengthen its capacity for dialogue with authorities and society at large, truly contributing to the social decriminalization of abortion in the country.

This document provides information on the context, the main strategies implemented, the achievements, and lessons learned. We hope this document serves as evidence of the defense of women's and girls' sexual and reproductive health in Ecuador and describes why it is such a positive, powerful, and inspiring story.

The advocacy efforts described here have helped push the reality of sexual violence and forced maternity to the forefront of the national conversation and have challenged the country to reflect more deeply on the need for more just laws for women and girls. Along the way, alliances grew stronger and more voices have joined the movement, including Indigenous rights, child rights advocates, art and culture, the media, and others.

After 50 years of collaborating with a diversity of brave partners committed to fighting for access to sexual and reproductive health services including abortion, Planned Parenthood Global offers this publication to the community of sexual and reproductive rights advocates in the region to support the ongoing push for structural changes. Together, we can ensure that all people can make their own decisions about their bodies and their futures.

Heather Sayette
Regional Program Director
Planned Parenthood Global

IT'S LEGAL!

THE DECRIMINALIZATION OF ABORTION IN CASES OF RAPE IN ECUADOR

© Planned Parenthood Global, 2021.

Twitter: @ppglobe

Dawn Laguens

Interim Director

Dee Redwine

Vice President for Latin America

Heather Sayette

Regional Program Director

Coordination and technical support

Paulina Ponce, Program Officer

Content development

Aimee Maron, Social Researcher Specialized in Knowledge Management

Editorial coordination

Marianny Sánchez, Communications Associate Director

Marcela Estrada, Communications Officer

Translation

Aimee Maron, Social Researcher Specialized in Knowledge Management

Editor

Holly Nunn, Senior Writer, Planned Parenthood Federation of America

Photographs

Ximena Troya (cover photo), Karla Martínez, David Díaz, Tania Macera, Aimee Maron.

Design and layout

Mantis Creatividad Estratégica

Acknowledgments

Planned Parenthood Global is especially grateful to the people and organizations in Ecuador who provided interviews as input for this review and who played a leading role in the advocacy strategies towards the decriminalization of abortion in the country.

The contributions of Ecuadorian spokespersons from the Indigenous movement, the children's and adolescents' movement, trade union organizations, faith-based organizations, specialized lawyers, members of the scientific community, medical and lawyers' associations, journalists, and national and international human rights organizations were also included. Also, we are grateful for the contributions of civil servants and officials of public institutions of the national government, legislators, and legislative advisors.

Finally, we would like to thank the people and institutions that provided documentation that contributed to this work.

HOW TO **USE THIS DOCUMENT**

01

**IT'S
LEGAL!**



Who is it intended for?

THIS COMPREHENSIVE documentation of the advocacy process in Ecuador was developed to collect the key elements of the history of decriminalization of abortion in cases of rape in Ecuador. It will be useful for advocates, activists, spokespersons, and other people who develop advocacy actions to protect and expand sexual and reproductive rights (SRR) in Ecuador and in other countries in the region with similar contexts.

How can it be used?

THIS DOCUMENT may be used in a variety of settings and for the following purposes:

- To serve as a resource for relevant information on the context and the process of decriminalization of abortion in cases of rape in Ecuador through legislative reforms and by the Constitutional Court.
- To learn about the development and implementation of strategies for legal and social progress for abortion access.
- To identify major achievements and lessons learned during the campaign for incremental changes in the recognition of reproductive rights.



Photo: David Díaz

THE METHODOLOGY

USED FOR
THE ANALYSIS



02

IT'S
LEGAL!



THIS DOCUMENT summarizes the results of the campaign for the decriminalization of abortion in cases of rape in the Comprehensive Organic Criminal Code (Criminal Code) in Ecuador's unicameral Legislature. This review involved the collection and analysis of official documents prepared by different government agencies during the process, statements from social organizations, argumentative papers prepared by people who intervened at different times, reports, relevant information on the issue in the media and social networks, and photographic and audiovisual materials. Additionally, 28 interviews were conducted with people directly involved in the advocacy process, as well as with allies from the media, unions, and associations, whose perspectives come from outside the campaign. Interviews were also conducted with two legislators and a former legislative advisor who were knowledgeable about the process and were able to offer some insights into the achievements of the women's movement and challenges from a legislative perspective.

LEGAL AND POLITICAL CONTEXT

03

**IT'S
LEGAL!**



DESPITE the progress made in public policy related to sexual and reproductive health in Ecuador during former President Rafael Correa's government (2007-2017), his administration was marked by the continued obstruction of efforts to decriminalize abortion in cases of rape, as well as a conservative approach to sex education for children and adolescents.

For example, in 2013, public remarks made by former Presidente Correa opposing the legislature's proposal to decriminalize abortion in cases of rape angered and antagonized the women's and feminist movement (Presidency of the Republic, n.d.). Due to Correa's public displays of obstruction, the Ecuadorian government received recommendations from several international human rights organizations and the United Nations (UN), through reports from five of its Committees¹, specifically calling for the decriminalization of abortion in cases of rape. These recommendations were made, to a large extent, thanks to the evidence from reports provided by women's organizations in Ecuador.

National women's organizations also provided an update on SRR and access to abortion in Ecuador to the UN Special Rapporteur on the Right to Health (Office of the High Commissioner for Human Rights, September 16, 2019), as well as a report on violence against women to the Special Rapporteur on Violence Against Women (Office of the High Commissioner for Human Rights, November 27, 2019). As a result of several hearings, both rapporteurs made public statements stressing the need for the Ecuadorian government make progress toward decriminalization of abortion during the legislative process to reform the criminal code (El Universo, 2019 and El Comercio, 2019).

In May 2017, the government of President Lenín Moreno (2017-2021) came to power and abolished the antiquated family planning programs — a move celebrated by women and organizations as



Photo: David Díaz

¹ Among the UN committees that submitted reports were the Committee on the Elimination of Discrimination against Women (CEDAW, 2015): Concluding Observations on periodic reports of Ecuador; the Human Rights Committee (2016), in its concluding observations on the sixth periodic report of Ecuador; the Committee against Torture (2017); the Committee on Economic, Social and Cultural Rights (CDESC); and the Committee on the Rights of the Child (2017).

a milestone in favor of SRR (Redacción Wambra, 2017). Moreover, during Moreno's administration, the Human Rights Secretariat was created at the request of the National Women's Coalition of Ecuador². The Human Rights Secretariat would play an important role in the advocacy process for the decriminalization of abortion in cases of rape, convening high-level authorities in the country to address Ecuador's compliance with international standards related to women's right to a life free of sexual, gynecological and obstetric violence (Secretaría de Derechos Humanos, 2019, p. 4). Despite having initially demonstrated openness to the women's movement proposals, in 2019 the Moreno administration cut allocations for the prevention of violence against women in the general budget and eliminated the budget for the prevention of pregnancy in girls and adolescents (Vistazo, 2020).

In the legislature, 2017 marked the beginning of several changes in the political parties holding minority seats. Even so, the legislature approved the Comprehensive Organic Law to Prevent and Eradicate Violence Against Women (2018). The approval of this law was considered an achievement, and the result of efforts by the women's movement. The movement had produced a draft bill, collected signatures, developed communication campaigns, raised public awareness around the issue, and organized awareness-raising activities with legislators and strategic actions to ensure the movements' demands were considered. This experience led to the development of institutional and individual capacities, which led to the success of the campaign to decriminalize abortion in cases of rape.



Photo: Tania Macera

² On September 18, 2018, the National Women's Coalition of Ecuador sent a letter to the President of the Republic in which it proposed an institutional adjustment to the country's Executive Function, which consisted of creating a Secretariat for Human Rights with an undersecretary specialized in the prevention of violence against women (Coalición Nacional de las Mujeres, 2018).

HISTORY OF DECRIMINALIZATION OF ABORTION IN CASES OF RAPE IN ECUADOR (2016-2021)

04

**IT'S
LEGAL!**



THE INTRODUCTION of the Criminal Code reform bill in 2016 by the then-Public Defender Ernesto Pazmiño, marked the beginning of the arguments for access to abortion in cases of rape (Pazmiño, 2016). Following the introduction, the Permanent Specialized Commission of Justice and Structure of the State (Justice Commission) held broad debates, inviting testimonies from medical and legal experts, religious leaders, representatives of feminist organizations, among others, thanks to the efforts of women's organizations. After analysis of the Criminal Code in the Justice Commission, two debate sessions were held in the Plenary of the legislature, which were attended by a diverse group of guests presenting arguments in support of the decriminalization of abortion in cases of rape. For the first time in its political history, Ecuador held an official, public, and extended legislative debate on abortion.

On September 17, 2019, the legislature held a final vote on the articles related to the decriminalization of abortion. While a simple majority (65 votes) voted in favor of decriminalization, the majority was five votes short of the required absolute majority required for approval. Following this vote, the text approved by the legislature was sent to President Lenín Moreno, who partially contested it on grounds of unconstitutionality related to the rights of women and girls, among other reasons, (Moreno, 2019). The bill was subsequently remitted to the Constitutional Court. On November 26, 2019, despite 33 amicus briefs³ presented in the constitutional process supporting the decriminalization of abortion in cases of rape, the Constitutional Court issued its opinion stating that it was not within its competence to render a decision, since the reforms had not been approved by the legislature. However, at the



³ Written statements that can be submitted by any person in constitutional judicial proceedings to provide the judge with the arguments necessary for the resolution of the case.

⁴ Press Release No. 243 refers to legal action No. 34-19-IN filed by National Women's Coalition of Ecuador, Fundación Desafío, and the Ecuadorian Front for the Defense of Sexual and Reproductive Rights.

⁵ This demand was presented on July 30, 2019, by representatives of the National Women's Coalition of Ecuador, Fundación Desafío, and the Frente Ecuatoriano por la Defensa de los Derechos Sexuales y Derechos Reproductivos (Ernest et al., 2019).

same time, the court publicly announced⁴ that it would undertake the constitutional legal analysis corresponding to abortion in the legal action 34-19-IN⁵ filed by Fundación Desafío and other organizations in July of 2019 and admitted the lawsuit for review (Corte Constitucional, 2019).

In addition to Desafío's legal action, between July 2019 and April 2021, six other lawsuits were filed (115-20-IN⁶, 109-20-IN⁷, 105-20-IN⁸, 23-21-IN⁹, 25-21-IN¹⁰, 27-21-IN¹¹) for the decriminalization of abortion in cases of rape and other grounds — such as incest, serious malformations of the fetus, and pregnancy by forced insemination. Among the main legal arguments was the principle of equality and non-discrimination, arguing that access to abortion in cases of rape should not be limited only to women with mental disabilities. Given their similarities, the Constitutional Court consolidated all seven actions into a single judicial proceeding, along with a total of 77 amicus briefs¹², which are legal briefs that had been filed by interested parties, in favor of decriminalization. On April 28, 2021, through ruling No. 34-19-IN/21, article 150 number 2 was ruled unconstitutional, thus decriminalizing abortion in cases of rape for all women in Ecuador.



6 Written statements that can be submitted by any person in constitutional judicial proceedings to provide the judge with the arguments necessary for the resolution of the case.

7 Press Release No. 243 refers to legal action No. 34-19-IN filed by National Women's Coalition of Ecuador, Fundación Desafío, and the Ecuadorian Front for the Defense of Sexual and Reproductive Rights.

8 This demand was presented on July 30, 2019, by representatives of the National Women's Coalition of Ecuador, Fundación Desafío, and the Frente Ecuatoriano por la Defensa de los Derechos Sexuales y Derechos Reproductivos (Ernest et al., 2019). This legal action was presented on December 10, 2020, by representatives of the Women's Council of Cuenca Canton and consulting firm BOLENA, Gender and Diversities (Soliz et al., 2020)

9 Written statements that can be submitted by any person in constitutional judicial proceedings to provide the judge with the arguments necessary for the resolution of the case.

10 Press Release No. 243 refers to legal action No. 34-19-IN filed by National Women's Coalition of Ecuador, Fundación Desafío, and the Ecuadorian Front for the Defense of Sexual and Reproductive Rights.

11 This demand was presented on July 30, 2019, by representatives of the National Women's Coalition of Ecuador, Fundación Desafío, and the Frente Ecuatoriano por la Defensa de los Derechos Sexuales y Derechos Reproductivos (Ernest et al., 2019). This demand was presented on November 18, 2020 by representatives of the organization Mujeres por el Cambio (María Fernanda Chalá, Doménica Aguirre, Catherine González) and Kintiñan Foundation for the Defense of Human and Nature Rights in Ecuador (Cachaguay et al., 2020).

12 Written statements that can be submitted by any person in constitutional judicial proceedings to provide the judge with the arguments necessary for the resolution of the case.

The timeline below highlights the milestones of this process, as well as some critical achievements.

Timeline of the Process for the Decriminalization of Abortion in Cases of Rape in Ecuador

2016

JULY 06

Bill to reform the Criminal Code presented by Ernesto Pazmiño, Public Defender.

JULY 21

The reform bill is admitted to the Justice Commission to be analyzed and unified with other bills on criminal matters.

Achievement:

Thanks to the efforts of women's organizations, medical professionals and lawyers, experts on the subject, religious leaders, representatives of feminist organizations and the Indigenous movement, among others, are invited to appear before the Justice Commission¹³.

2018

DECEMBER 19

Report for the First Debate on the Criminal Code reform bill

Achievement:

Communication campaigns are implemented, organizations proactively speak out, leading to significant presence in social networks and the media of messages in favor of decriminalizing abortion in cases of rape.

¹³ Among those who intervened in the Justice Commission were César Paz and Miño, geneticist; Julián Cruzalta, religious figure; Dr. Ernesto Pazmiño, Public Defender; Dr. Gina Benavides, Ombudsman; José Miguel Vivanco, Americas Director at Human Rights Watch; Dr. Verónica Espinosa, Minister of Public Health; Dr. Rosana Alvarado, Minister of Justice, Human Rights and Worship; Dr. César Saldoval Vargas, General Director of ECU 911; Dr. Virginia Gómez de la Torre, Fundación Desafío; Abg. Carolina Baca, professor at SEK International University; Luis Pedemera, member of the United Nations Committee on the Rights of the Child; Dr. Daniela Salazar, Vice Dean of the College of Jurisprudence of San Francisco de Quito University; Paola Mera Zambrano, Technical Secretary of the National Council for Gender Equality; Dra. Marcella Da Fonte, professor at Universidad Andina Simón Bolívar and UDLA; Dr. Paolina Vercutere, Women's Platform; Dr. Hugo Cahueñas, professor at Universidad San Francisco de Quito; Ibeth Orellana, National Council for Gender Equality; Lizi Ernest, National Women's Coalition of Ecuador.

2019

JANUARY 03

First Debate in the national legislature in plenary. (Session 565 - Part One)

Achievement:

Authorities from public institutions such as the Ombudsman's Office, the National Council for Gender Equality, spokespersons from civil society organizations, and experts make appearances thanks, in part, to the efforts of women's organizations. Additionally, several legislators share moving testimonies with arguments supporting the decriminalization of abortion in cases of rape.

MAY 08

Report for the Second Debate on the criminal code reforms.

MAY 14

Minority Report for the Second Debate on the Organic Reform Bill of the Comprehensive Organic Criminal Code, presented by Lourdes Cuesta and Esteban Torres, requesting that the report for the Second Debate of the plenary be approved in its entirety, except for the reforms regarding the grounds for decriminalization of abortion.

JULY 30

The National Women's Coalition of Ecuador, Fundación Desafío, and the Ecuadorian Front for the Defense of Sexual and Reproductive Rights filed two legal actions (unconstitutionality action and action for non-compliance) with the Constitutional Court to decriminalize abortion in cases of rape.

SEPTEMBER 03

Second Debate in the national legislature in plenary (Session 611 - Part one)

SEPTEMBER 17

Second Debate in the national legislature and voting (Session 611 - Part two)

Achievement:

- A balanced political debate is held, with arguments in favor of decriminalizing abortion in cases of rape based on scientific and legal evidence.
- Several civil society organizations, as well as leaders of political parties¹⁴, leaders of public institutions, unions, leaders of religious communities, and Indigenous organizations, among others, make public statements addressed to the Legislature in favor of the decriminalization of abortion in cases of rape.

¹⁴ This, in particular, involved a statement by Jaime Nebot, leader of the Social Christian Party (PSC), a political-partisan organization of conservative ideology in favor of the decriminalization of abortion in cases of rape.

2019

SEPTEMBER 17

Voting on the criminal code reforms

Achievement:

Voting on the articles related to the decriminalization of abortion achieved a simple majority of 65 votes in favor, 59 votes against, and 6 abstentions.

SEPTEMBER 19

The legislature sends the criminal code reform project to the President of the Republic.

Achievement:

Public pronouncements are made in favor of the presidential veto, with the goal of decriminalizing abortion in cases of rape. The United Nations Special Rapporteur on Health, the Ecuadorian Ombudsman's Office, as well as women's, children's and adolescents' groups and organizations, and other civil society and academic associations express their support.

OCTOBER 18

The Ecuadorian President partially vetoes the Bill sending it to the Constitutional Court seeking to determine whether the criminalization of abortion in cases of rape constitutes "revictimization and discrimination against women."

OCTOBER 28

Legislature refers presidential veto to the Constitutional Court (Case No. 4-19-OP).

OCTOBER 18 a NOVEMBER 26

Achievement:

24 favorable amicus briefs are filed with the Constitutional Court in relation to the presidential veto to determine the constitutionality of Art. 150 of the criminal code for the decriminalization of abortion in cases of rape.

2019

NOVEMBER 26

The Constitutional Court issues opinion No. 4-19-OP and does not determine the constitutionality of the law because it is outside its competency.

Achievement:

The Constitutional Court accepts lawsuits on unconstitutionality and non-compliance claims by women's organizations and commits to ruling on the issue.



2021

JULY 2019 - APRIL 2021

Seven legal actions of unconstitutionality are presented to the Constitutional Court on article 150 number 2 of the criminal code, aiming to decriminalize abortion in cases of rape (115-20-IN, 109-20-IN, 105-20-IN, 23-21-IN, 25-21-IN, 27-21-IN).

Achievement:

77 amicus briefs were presented to the Constitutional Court in support of the decriminalization of abortion in cases of rape.



APRIL 28

Achievement:

The Constitutional Court declares article 150 numeral 2 of the criminal code unconstitutional and decriminalizes abortion in cases of rape.



ADVOCACY IN FAVOR OF

DECRIMINALIZATION
OF ABORTION IN
CASES OF RAPE

05

**IT'S
LEGAL!**



5.1. Advocacy Audiences

One of the main long-term objectives of women’s and feminist organizations in Ecuador is to achieve access to safe and legal abortion through various strategies. In this campaign, priority was given to the decriminalization of abortion in cases of rape and other grounds¹⁵, due to the opportunity created by the legislative reforms to the Criminal Code and the associated legal actions that were presented before the Constitutional Court.

The table below highlights the audiences prioritized in this advocacy process.

Audience	Goal
Legislators	To have an impact on individual and party positions, raising awareness and using accurate and scientific data to overcome religious convictions and also elevate the technical debate in the legislature, especially in the vote to achieve the approval of the Criminal Code reforms on abortion, while ensuring that authorities from different levels of the government could access quality information.
Constitutional Court	To provide legal arguments, public health evidence, testimonials, and other arguments on the legal actions filed with the Constitutional Court in order to ensure that authorities have a wealth of analytical information and technical evidence at their disposal, that supports the decriminalization of abortion in cases of rape.
Mass Media and alternative media journalists	Raise their understanding, as public opinion makers, by providing them with training and resources such as statistical data, information on international human rights standards and legal mechanisms, research results, information verification strategies (fact-checking), as well as access to interviews with experts on the subject.
Social movements and collectives	To diversify the voices speaking out in favor of the decriminalization of abortion in cases of rape and thus broaden the debate and visibility of the realities of violence and discrimination against women and girls in the country.

¹⁵ Incest, nonconsensual insemination, and congenital pathologies incompatible with independent extrauterine life to demand incremental changes toward decriminalization of abortion (Comisión Especializada Permanente de Justicia and Estructura del Estado, 2019, p. 58).

STRATEGIES AND TACTICS

06

**IT'S
LEGAL!**



THIS CAMPAIGN for the decriminalization of abortion in cases of rape used different strategies and tactics depending on the specialty, institutional mission, capacities, and scope of action of the organizations, collectives, and individuals involved.

6.1. Legislative Advocacy

DURING THE LEGISLATIVE process surrounding the Criminal Code reforms, women's and feminist organizations carried out a series of actions to ensure a more informed and balanced debate in the Justice Commission, as well as in the national legislature in plenary. Additionally, they aimed to help legislators overcome their personal and religious biases in favor of the SRR of girls and women in the country, and to assume a favorable position in support of decriminalizing abortion in cases of rape. To this end, they held work sessions, workshops, one-on-one meetings with assembly members, and meetings with advisors and members of legislative blocs, in which they presented statistics, scientific, legal, public health, and human rights arguments, as well as testimonies and facts about the realities faced by women and girls who are pregnant because of rape.

Furthermore, ongoing political dialogue was established with the legislators and their advisors, thanks to constant discussions and negotiations on behalf of the women's organizations, under

the leadership of Fundación Desafío, which allowed them to gain a deeper understanding of the dynamics and the current situation within the Legislature. These strategic alliances allowed the women's organizations to ensure the attendance of national and international experts and influential people in favor of the decriminalization of abortion in cases of rape in the Justice Commission and in the plenary of the legislature.

6.2. Developing Evidence

EVIDENCE in the form of research, investigative reporting, and opinion polls played an important role in supporting the design of campaigns and communications products, as well as other advocacy tools. The publication entitled *Vidas Robadas* [Stolen Lives], a qualitative study published by Fundación Desafío in 2016, recounts the health effects of 15 girls who had been "raped and pregnant before the age of 14" (Gómez de la Torre et al., 2016). This was highlighted as a critical resource that provided valuable data and information to the advocacy process. The study *Costos de Omisión en Salud Sexual y Reproductiva en Ecuador* [Costs of Omission in Sexual and Reproductive Health in Ecuador] carried out by the Ministry of Public Health, the National Secretariat of Planning and Development, the United Nations Population Fund, and Sendas was also recognized as important (Ministerio de Salud Pública et al., 2017).



6.3. Communications Strategy

THE COMMUNICATION strategy developed and implemented by several organizations of the women’s movement was highlighted as decisive to the advocacy process. This strategy included several components that are explained below. A central aspect of the strategy was the pedagogical mediation of messages so that the legal and technical arguments could be easily understood by the public in general, but also by legislators, Executive Branch authorities, and

other key stakeholders. This strategy maintained an important and sustained presence in social media networks and made abortion a priority issue, receiving significant media coverage between 2019 and 2021 in Ecuador.

6.3.1. Communications Campaigns

Several communication campaigns were promoted as part of the advocacy process in favor of decriminalizing abortion in the context of the criminal code reforms. This section briefly summarizes the most important campaigns according to the interviews conducted:



Déjame Decidir / Aborto por violación

[Let Me Decide / Abortion in Cases of Rape]

In 2018, the campaign *Déjame Decidir* was launched by Fundación Desafío, the Ecuadorian Front for the Defense of Sexual and Reproductive Rights, the National Women’s Coalition of Ecuador, and the Collective Women with a Voice (Fundación Desafío, 2019) for the decriminalization of abortion in cases of rape using the hashtags #DéjameDecidir and #AbortoPorViolación (24 Ecuador, 2018). This campaign supported the advocacy process in the legislature in the context of the reforms to the criminal code during 2019 and continued throughout 2020 while the Constitutional Court processed the legal actions filed.



Gafas para ver la realidad [Glasses for Seeing Reality]

This campaign was promoted by La Ince and used virtual reality to raise awareness amongst decision-makers about the reality of forced maternity among girls and adolescents in Ecuador. The campaign promoted an informed debate on the decriminalization of abortion in cases of rape (La Ince, n.d.).



Aborto Libre Ecuador [Free Abortion Ecuador]

Aborto Libre is “a coalition aimed at fighting for the decriminalization of abortion” (Ospina Peralta et al., 2019: p. 28) led by Surkuna and other organizations with the purpose of representing the *Campaña por el Derecho al Aborto Legal* [Campaign for the Right to Legal Abortion] in Ecuador.



Niñas No Madres [Girls, Not Mothers]

This regional campaign was launched by Planned Parenthood Global, Amnesty International, the Latin American Consortium Against Unsafe Abortion (CLACAI), and the Information Group in Reproductive Choice (GIRE), with the purpose of “documenting the serious consequences of sexual violence and forced maternity in the lives of Latin American girls” (NiñasNoMadres, 2020).

6.3.2.

Use of Social Networks

Women's organizations achieved significant visibility of their messages through sustained campaigns on Facebook and Twitter. Several topics trended on Twitter (Fundación Desafío et al., 2019) and expanded the conversation on the need to decriminalize abortion, gaining support from digital activists. Social media helped to strengthen the organizational and advocacy efforts among authorities. Additionally, social media was used at other junctures to position the issues related to the decriminalization of abortion such as discussions of the Health Code, during the 2021 presidential election campaigns, and at various moments to ask the Constitutional Court to rule on the legal actions on abortion.

6.3.3.

Working with Journalists for Media Outreach

Work with journalists included raising awareness through training, providing up-to-date information, and exploring a variety of journalistic formats such as fact-checking or podcasts for community radio stations. The role of digital media in general, and specifically digital media outlets GK and Wambra, were highlighted by interviews on forced pregnancy among girls. Among the highlighted reports are: *Las niñas invisibles de Ecuador* [The Invisible Girls of Ecuador]¹⁶, *El silencio más grande de todos* [The Greatest Silence of All]¹⁷ and *Las cifras de la violencia contra las niñas en América Latina* [The Statistics of Violence Against Girls in Latin America]¹⁸, which were part of the regional project *Ser niña en América Latina* [Being a Girl in

Latin America]¹⁹. Legislative journalists monitored the legislature's debate of the Criminal Code reforms, and several articles were published on the legislators' and political party leaders' positions during the debates, as well as their final votes²⁰.

The work with journalists ensured coverage of abortion by traditional media outlets as part of the current political situation, resulting in an unprecedented number of favorable articles published on abortion. This effort enabled the incorporation of health and human rights perspectives, as well as statistical information to support more informed and balanced coverage of the topic, thereby taking abortion out of stereotypical news that used to only be seen in the so-called "red chronicles". Media coverage maintained attention on the issue even as political situations evolved leading up to the Constitutional Court's decision in April 2021.

6.3.4.

Spokespersonship

People interviewed recognized the value of the diversity of voices that spoke out in favor of decriminalizing abortion, in addition to the incorporation of young people into the discussion, the efforts to prepare spokespersons at the local level, training on public speaking, and the development of manuals, such as the *Guía Práctica para Voceras/os* [Practical Guide for Spokespersons] (developed by Fundación Desafío and the Ecuadorian Front for the Defense of Sexual and Reproductive Rights). All these tactics increased the effectiveness and capacities of spokespersons to influence public opinion and the legislative debate using technical, sensitive, and, at the same time, accessible language. Spokespersonship on abortion was extended to a diversity of actors outside the feminist movement in Ecuador and was maintained throughout the advocacy process.

¹⁶ Published by Wambra in 2018 (Acosta & Aguilar, 2018).

¹⁷ Published by GK in 2018 (Ponce, 2018).

¹⁸ Published by GK in 2018 (GK, 2018).

¹⁹ "Seven digital media from six countries (Nómada (Guatemala), GK (Ecuador), Wambra (Ecuador), Confidencial (Nicaragua), MTNT (Colombia) and Vice (México)) collected information on this violence against girls and created a digital tool to visualize it" (Wambra, n.d.).

²⁰ GK published several articles such as *On Whose Side Will the Assembly Be* (Ponce, 2019), *Nebot and Lasso Give Freedom to their Legislative Blocks to Vote Conscientiously on Abortion for Rape* (Ponce & Borja, 2019), *The Long Wait to Decriminalize Abortion for Rape* (Ponce & Borja, 2019), *By Conviction or Political Calculation, More Assembly Members Support Abortion for Rape* (Ponce, 2019). While, Wambra's publications were *The Different Positions of the Debate on Abortion in the Assembly* (Wambra, n.d.); *The Assembly's "No" to Women and Girls* (Acosta, n.d.); *Checking Assembly woman Viviana Bonilla* (Wambra Research Team, n.d.).

6.4. Strategic Alliances

THE DEVELOPMENT of strategic alliances was another element that made the social decriminalization of abortion in cases of rape successful through collaborations with organizations, collectives, and public figures. The advocacy process involved a variety of key actors, including feminist doctors, jurists, academic collectives, labor unions, the children's and adolescents' movement, environmentalists, and the Indigenous movement. Among the most prominent alliances were those with the Confederation of Indigenous Nationalities of Ecuador (CONAIE) and the Ecuadorian Faith Network (which was created in the context of this advocacy process), both of which made public statements in favor of decriminalizing abortion in cases of rape. These two groups represent new allied voices, from sectors that historically had not expressed their support so intentionally and publicly. Similarly, the alliances generated with local organizations, human

rights organizations, leftist feminist organizations, and legal networks were relevant in the process brought before the Constitutional Court.

6.5. Public Demonstrations and Actions

MOST PROMINENT were the feminist marches and demonstrations that received national and international media coverage and brought visibility to the issue, building needed social support. The common factor in these demonstrations was the increasing acceptance and involvement of the general public and, in particular, of youth. Some actions were even self-organized via social networks, demonstrating that interest in the issue transcended the women's movement itself. These demonstrations continued even in the context of the COVID-19 pandemic.



Photo: Ximena Troya

6.6. International Support

INTERNATIONAL ORGANIZATIONS also played an important role in supporting organizations in Ecuador in their advocacy process. Planned Parenthood Global (PP Global) was highlighted for its sustained financial and technical support to women's and feminist organizations before and during this advocacy process. Moreover, interviewees highlighted PP Global's coordination role with other organizations, which helped them to collectively plan strategies at key moments during this process.

People also mentioned Human Rights Watch's support as an international human rights organization. The regional representative of the organization, José Miguel Vivanco, participated in key moments of the legislative debate and delivered arguments in favor of the decriminalization of abortion in cases of rape with his testimony in the Justice Commission of the National Assembly of Ecuador and in his visit to the country prior to the vote on the reforms to the criminal code. Additional support came from the Gender Roundtable of International Cooperation (MEGECI for its name in Spanish) — with the participation of the Resident Coordinator of the

UN System in Ecuador, the Representative of UN Women in Ecuador and the British Ambassador — who addressed a letter to President Moreno in favor of the decriminalization of abortion in cases of rape.

6.7. International Strategic Litigation


AS PART of the strategy for national and international organizations to raise awareness on forced pregnancy, Norma's case was presented to the United Nations Human Rights Committee on May 29, 2019 (Norma vs Ecuador). Norma was a 13-year-old girl who was forced to continue her pregnancy despite having requested an abortion from a state health provider, based on the health risks given her young age, in addition to the fact that the pregnancy was the result of an incestuous sexual violation by her father (El Universo, 2019). This strategic litigation process, which is still under review, was supported by the communication campaign *Niñas no Madres* and contributed to the change in messaging utilized in marches, in social media and general media coverage.



FACTORS THAT ENABLED

AND LIMITED
THE ADVOCACY
PROCESS

07

SEGUIMOS
AQUÍ 

IT'S
LEGAL!



DURING the interviews, several factors were identified that enabled and facilitated advocacy while others challenged and limited it. All these factors are described below.

7.1. Factors that Enabled the Advocacy Process

A CRITICAL factor that influenced the socio-political environment for advocacy in favor of decriminalization of abortion in cases of rape in Ecuador was the progress towards decriminalizing abortion in Argentina in 2018, which originated the “**Green Wave**”. *The National Campaign for the Right to Legal, Safe and Free Abortion* (La Barra Espaciadora, 2018) and the slogans “Sex education to prevent, contraceptives to enjoy, free abortion to decide,” which emerged in national women’s meetings in Argentina, served as inspiration to create the national campaign for free, legal, and safe abortion called *Aborto Libre Ec* (Aborto Libre Ec, n.d.) in Ecuador. The full legalization of abortion in Argentina by the end of 2020 was also seen as a catalyst that gave greater visibility to feminist demands, particularly the demand for access to abortion symbolized by the green bandana. Many also perceived that the Green Wave fostered a significant increase in the participation of young women in mobilizations

at the national level, in social media, and in the specific debates about abortion in cases of rape in Ecuador.

Another factor that influenced the advocacy process was the **exposure given to the issue of abortion in both mass and alternative media outlets**. According to those interviewed, in comparison with the previous legislative review of the criminal code, this time abortion attracted more attention and in turn encouraged more of a debate in the legislature. Also, the prevailing opinion was that the messaging around SRR in the media was significantly more favorable, with a predominance of comments from the legal and scientific fields; there were also more voices from civil society sectors. With some exceptions, most of the media treated the issue with neutrality or were openly in favor of it.

7.2. Factors that Limited the Advocacy Process

AMONG THE FACTORS that limited the advocacy process, one of the most emphasized was related to **organizational challenges within and beyond the women’s movement**. Achieving consensus on the design and implementation of the advocacy strategy and the objectives of the process became an internal challenge within the women’s





Photo: David Díaz

movement. Some women’s organizations were in favor of focusing their advocacy on abortion on demand, while others believed it more convenient, due to the socio-political situation, to focus on the incremental decriminalization of abortion, starting with cases of rape. There were also differences in the resources (time, materials, logistical capacity) available at the local level outside of Quito, versus in Quito, to carry out similar actions by women’s organizations. Those interviewed also highlighted the challenge associated with maintaining relationships and organizational processes with women belonging to different sectors of society – particularly rural sectors and farmworkers – along with the importance of strengthening the relationship with the Indigenous movement.

Another challenge for the advocacy process was the **opposition to abortion by anti-abortion groups**. Interviewees mentioned strategies employed by the Catholic Church to establish political alliances within key areas of the government and garner the support of influential people from powerful political, financial, and economic spheres in the country. The Catholic Church also made a series of public statements²¹ against the decriminalization of abortion, which included specific policy proposals and how they thought public institutions and authorities should act. Interviewees also recognized the ability of anti-abortion groups to divert the debate on the

decriminalization of abortion into a discussion based on moral and religious precepts. Similarly, people also mentioned regional anti-rights campaigns such as *Con mis hijos no te metas* [Do not mess with my children] (Martínez, 2017), which motivated marches and public demonstrations in favor of “family values.” According to interviewees, these groups have a growing presence in Latin America, as well as in Ecuador, where they promoted several public actions, especially during the criminal code reform process.

In addition to the aforementioned factors, the advocacy process was limited by the **country’s political context**. Interviewees emphasized the uncertainty caused by the changes in the political party composition of the legislature in 2017, as a result of the presidential and legislative elections in Ecuador. Similarly, people mentioned the lack of credibility of the legislative body²² and the presidency²³ among the public, as a result of corruption cases and the political crisis caused by the National Strike in October 2019. Furthermore, there were changes in the leadership of the Legislature and the Justice Commission, which led to a redirection of the political strategy within the legislature. Finally, the dynamics of the 2021 presidential elections were another factor that implied political changes in the context of the final phase carried out in Ecuador’s Constitutional Court.

²¹ On September 17, 2019, the day of the vote in the National Assembly to approve the reforms to the Criminal Code, the Archbishop of Quito, Alfredo Espinoza, “requested in the Ecuadorian Episcopal Conference to the assembly members ‘not to stain their hands with blood, not to vote in favor of a crime’” (La República, 2019).

²² This was reflected in the poll conducted by Cedatos according to which, “The people’s approval of the National Assembly’s (Ecuadorian Legislature) management fluctuated between 43% in May 2017 and 14.7% in May 2020” (CEDATOS, 2020).

²³ According to the poll conducted by CEDATOS, “the approval of President Lenin Moreno’s management at the beginning of his term of office was 66% and rose to 77% in August 2017; in May 2018 it dropped to 46% and as of June 2019 it registered 24.3%” (CEDATOS, 2019, p. 1).

ADVOCACY

WINS



08

**IT'S
LEGAL!**

THIS SECTION highlights the most outstanding achievements mentioned by interviewees complemented by additional resources.

8.1. A Majority Vote in Favor of Decriminalization of Abortion in Cases of Rape

ONE OF THE MOST outstanding achievements is having reached a simple majority²⁴ in the Ecuadorian Legislature, with 65 votes (out of 137 Assembly members) in favor of decriminalizing abortion in cases of rape; 70 votes were required to make this change effective in the Criminal Code (El Comercio, 2019). It's significant to mention that the 65 votes came from diverse political parties, including historically conservative parties and politicians. Interviewees emphasized the importance of the different awareness-raising tactics in addition to the consistent sharing and dissemination of evidence and informative materials that helped change legislators' opinions in favor of abortion in cases of rape.

8.2. Political Debate with Evidence-based Arguments

THE POLITICAL and public debate focused on health and scientific aspects of abortion are among



Photo: Karla Martínez

the most important achievements. The debates in the Justice Commission and the Plenary provided the opportunity to reach the most conservative or undecided legislators with valid scientific arguments and marked significant progress in understanding abortion beyond the stigma. This was achieved through testimonies from experts in human rights, sexual and reproductive rights, from the social, legal, public health, and children's rights spheres. Additionally, many indicated that this debate led to overcoming misinformation and personal prejudices and to build a debate geared more towards rights and abortion in cases of rape as a matter of public health and social justice, instead of the tendency towards a simple dichotomy between scientific arguments and moral conceptions.

²⁴ An absolute majority (a favorable vote of half plus one of the members of the Legislature) was required for the approval of the reforms to the Criminal code (Legislature, 2012, Art. 8).

8.3. Supporting Evidence

INTERVIEWS highlighted the importance of the supporting evidence, studies, and research to advance arguments in favor of decriminalizing abortion in cases of rape, as well as in other tangible results (journalistic reports, Justice Commission reports, and other official documents). The investigation *Stolen Lives*, the study on *Costs of Omission in Sexual and Reproductive Health in Ecuador*, and articles by Wambra and GK increased visibility of forced pregnancy and forced maternity resulting from sexual violence against girls in Ecuador. Moreover, social and academic research on sexual and reproductive health, abortion, and the roles of anti-rights groups has allowed academia to explore these issues in greater depth and served as resources during the advocacy process. The reports from United Nations Committees and Special Rapporteurs that included recommendations for the Ecuadorian State to decriminalize abortion in cases of rape were another outstanding achievement, as they were the result of evidence provided by civil society organizations. Moreover, these reports were and continue to be a call for international attention to the issue.

In addition, the judicial process in the Constitutional Court created significant sources of evidence in favor of decriminalizing abortion in cases of rape. First, there are the legal arguments set forth in the seven legal actions presented to the court, as well as the 77 amicus briefs in support of these actions, which express various points of view (medical, social, theological, ethical-philosophical, etc.) and legal arguments. These legal sources of information combine contributions from women's, feminist, and social organizations; unions; academia; journalists; human rights activists and defenders; and representatives of public institutions, both from Ecuador (local and national) and from other countries.

8.4. Increased Media Coverage in Favor of Decriminalization of Abortion in Rape Cases



DURING THE DEBATE on the reforms to the Criminal Code in 2019, decriminalization of abortion in cases of rape was among the most widely covered issues in the media. Coverage by the media was balanced and, in most cases, reflected a professional use of data and statistics, as well as more in-depth analysis of the problem of sexual violence and its effect on forced maternity, specifically highlighting the situation of girls. Additionally, the spokeswomen of women's organizations were considered qualified and expert sources of information on the topic, allotting them priority spaces in traditional and alternative media throughout the advocacy process – spaces that were previously reserved mainly for conservative spokeswomen. Collaboration with digital media, their social media exposure, and news production in turn affected the traditional media's coverage of the issue. Media coverage included both news articles and a significant presence of pro-decriminalization voices in editorial spaces. The media interest on the issue, in relation to political events, was maintained during 2020, until the Constitutional Court's ruling in 2021. In fact, international media ensured increased coverage of key milestones.

8.5. Progress Towards the Social Decriminalization of Abortion

AMONG THE MOST mentioned achievements was significant progress made towards the social decriminalization of abortion in cases of rape and the increase in pro-decriminalization public opinion among Ecuadorian society. Many indicated that before this process, abortion could not even be discussed publicly because it was a stigmatized and taboo subject. Moving abortion into the sphere of public and political debate is a significant step toward increased understanding. Now abortion can be openly debated and is not only a concern of women in the feminist movement in the country — it has become part of the conversation among many other sectors of Ecuadorian society. Furthermore, people emphasized the importance of the new and diverse voices speaking out in favor of decriminalizing abortion in cases of rape.

8.5.1. Progress in Social Decriminalization Among Members of Key Professional Guilds (Physicians, Lawyers, and Journalists)

Those interviewed also highlighted significant progress in reducing abortion stigma among the medical, legal, and journalist professions (actors that were identified as key allies in the advocacy

process in favor of SRR). Interviewees emphasized the importance of having directly addressed and countered the prevailing conservative currents in these professional associations.

8.6. Institutional Capacity Building

AN IMPORTANT achievement of this work was the strengthened capacities, both institutional and individual, of the women's movement and organizations in Ecuador. Several people mentioned the increase in visibility and prominence of the movement in political dialogue, as well as the movement's ability to establish and maintain alliances with authorities.

8.6.1. Ability to Adapt Advocacy to Different Levels of Government

This process entailed long-term work, focused on various government institutions, each with its own specific procedures and competencies. In this sense, women's and feminist organizations developed skills to quickly adapt their advocacy strategies in the legislative branch, towards the presidency, and in the Constitutional Court — thus achieving synergies and high-level institutional dialogues at all levels. An example of this was the submission of legal actions to Ecuador's Constitutional Court even before the criminal code reforms were voted on by the legislature, which then served to establish another front for the advocacy process. Another example was the advocacy efforts that took place during the discussion of the health code, when several feminist organizations provided technical suggestions to ensure that the language within the health code constituted an expansion of SRR.

8.7.

Decriminalization of Abortion in Cases of Rape in the Constitutional Court

THE CONSTITUTIONAL Court's ruling was a result of the advocacy process that exhausted three main channels (the legislative process, the presidential veto, and unconstitutionality legal actions). This achievement involved designing, implementing, and adapting strategies to all advocacy channels. One of the strategies involved providing evidence: the legal actions and amicus briefs contained many arguments from diverse sectors that joined the call to decriminalize abortion in cases of rape. All this contributed to the court's declaration of unconstitutionality of Article 150, paragraph 2 of the Criminal Code, which had allowed abortion in cases of rape only for women with mental disabilities. Thus, through ruling No. 34-19-IN/21 et al.²⁵, seven Constitutional Court judges voted in favor of decriminalizing abortion in cases of rape, with one concurrent²⁶ vote and two dissenting²⁷ opinions. Therefore, the ruling determined that depriving rape victims of their liberty to seek an abortion is not a proportional sanction and is therefore unconstitutional. It also ruled that all women victims of rape require the same protection as women with mental disabilities (No. 34-19-IN/21 et al., 2021, para. 174).

Following the Court's ruling, then-President-elect Guillermo Lasso, expressed his "total respect for the outcome," despite maintaining a personal position against it (Lasso, 2021).



25 The Constitutional Court focused on three arguments: 1. The forced maternity of rape victims violates their constitutional rights to physical, psychological, moral, and sexual integrity; 2. The criminal sanction imposed is not proportional; and 3. The exception for women with mental disabilities is contrary to the right to equality and non-discrimination (Constitutional Court, 2021).

26 According to the Constitutional Court's Rules for Substantiation of Judicial Proceedings: "Concurrent votes are those that show their agreement with the operative part of the draft judgment or opinion presented by the judge or substantive judge, but express discrepancy or present additional arguments regarding the legal grounds, without this implying disagreement with the decision" (Plenary of the Constitutional Court, 2015, Art.38).

27 According to the Constitutional Court's Rules for Substantiation of Judicial Proceedings: "Dissenting opinions are those that imply a disagreement on the merits of the decision." (Plenary of the Constitutional Court, 2015, Art.38).

LESSONS LEARNED

09

IT'S
LEGAL!



THE LESSONS learned presented below are based on the interviews conducted and consider the achievements and factors that facilitated and limited the advocacy process as a starting point to explain them.

9.1.

Achieving incremental changes to sexual and reproductive rights for women, adolescents, and girls in Ecuador requires a multidimensional, flexible, and long-term process that involves various organizations and key stakeholders.

THE COLLABORATIVE and coordinated work of women's and feminist organizations has resulted, over the years, in the expansion of SRR in both the legal framework and Ecuadorian public policy. These developments include the design and implementation of ENIPLA; the Organic Law for the Eradication of Violence against Women; the *Clinical Practice Guidelines for Therapeutic Abortion*; and most recently the decriminalization of abortion in cases of rape for all women in Ecuador. These experiences underscore the importance of working from multiple perspectives, with diverse actors, and in a sustained manner — strengthening organizations' and key stakeholders' capacity to adapt to the permanent social and political changes in favor of expanding the SRR recognized by the Ecuadorian legal framework. It is important to continue working together to increase the implementation of existing and recently expanded legal grounds for abortion by health institutions and professionals.

Also, for future processes, interviewees recommend advocates consider the time required to collect data, conduct research, and raise awareness to ensure more significant results. Furthermore, this lesson speaks to the need for organizations to have a strategy that both guides the actions in the long term and allows for flexibility and adaptability so they can respond in an agile way to changing circumstances.

9.2.

Ensuring greater progress towards the legal and social decriminalization of abortion necessitates strategies adapted to different realities and in coordination with diverse organizations throughout the country.

WITHIN THE CONTEXT of this experience, women’s and feminist organizations did important work in different locations with the support of diverse people from different regions of the country. Public demonstrations were held in several cities around Ecuador, and both debates in the Justice Commission and the plenary of the Legislature included testimonies from people representing diverse groups of professionals, religious figures, cultural and regional stakeholders. Furthermore, some of the legal actions presented to the Constitutional Court came from local organizations outside of Quito. In light of these developments, this lesson emphasizes the need to continue strengthening the connections between local organizations outside of Quito and Quito-based organizations, as well as the presence and advocacy at the local and community level to achieve changes in public opinion and influence decision-makers with arguments tailored to different cities, provinces, and regions.

9.3.

Implementing an advocacy strategy among diverse organizations with different visions may result in disagreements, so those involved must be ready to navigate them with respect and basic agreements.

THIS LESSON arises from the complex nature of bringing together diverse organizations from the women’s and feminist movement to create a coordinated advocacy strategy that articulates different visions. This analysis has shown that despite the different visions of the strategy, synergies can be achieved and strengthened. Although it is understood that these differences are common within coalitions, the lesson is in the importance of pre-establishing minimum agreements and coordination mechanisms to help overcome disagreements. This is critical to ensure that efforts from different organizations complement one another and are not perceived as an external weakness or a division. Of all the information gathered in this analysis, perhaps the most difficult task is the implementation of clear and basic agreements that provide structure for an internal conflict-resolution process.

9.4.

Ensuring increased efficacy in legislative advocacy requires in-depth, dynamic, and ongoing political analysis.

THE LEGISLATIVE advocacy during this process involved an array of activities carried out by women’s organizations, including direct engagement and ongoing communications with legislators and legislative advisors, legislative mapping, and providing legal advice during key moments in the process. These tactics allowed the organizations to gain a deep understanding and ability to foresee situations in the political context that could influence (positively or negatively) their efforts to decriminalize abortion in cases of rape. This lesson emphasizes the need to know how to interpret the changing political situation and in turn anticipate how it could influence the interests of legislators, especially at the last minute. This lesson highlights the importance of going beyond mapping of legislators “for” and “against” the issue, to focus on research and monitoring of government programs, positions of the political party leaders, and possible interests at stake, among other factors.

9.5.

Having more pro-rights politicians in leadership in the Legislature involves increased political training and capacity building.

DURING THE DIFFERENT stages of the Criminal Code reform process, progress was made towards establishing political leadership that represents the interests of women. This was the result of numerous work meetings, workshops, and one-on-one meetings with legislators and advisors over the years in which presentations were made to share statistics, scientific facts, legal and public health arguments, and testimonies about the realities of women and girls who have become pregnant as a result of rape. Three recommendations were mentioned as part of this lesson regarding the work necessary to build capacity. The first recommendation is to establish partnerships between legislators and advisors with groups of allies in favor of the decriminalization of abortion. Another recommendation is to design capacity-building processes geared toward political negotiation tactics specifically tailored to women legislators to provide them with leadership tools. Finally, interviewees underscored the need for political training for the women's movement more broadly, so that more advocates and defenders of SRR could become political leaders who may one day reach the legislature, local government, or other political positions and have the opportunity to foster changes in legislation and policies favorable to sexual and reproductive rights.

9.6.

Reaching diverse audiences with effective messaging capable of changing opinions requires a diversity of spokespeople.

THIS LESSON learned speaks to the relevance of having spokespeople from different sectors of society (medical professionals, expert lawyers, journalists, religious leaders, representatives of children's, Indigenous and trade union organizations, among others) who can help to develop messages adapted and directed to a variety of audiences. This allowed women's and feminist organizations to influence public opinion and, as a result, create changes in individual and collective positions in favor of decriminalizing abortion in cases of rape. This lesson emphasizes the importance of analyzing the audience, as well as the territorial and cultural contexts when defining spokespeople who will develop and adapt communications messages. Moreover, it highlights the need to include influential spokespeople who are not members of the women's movement – but rather allies, such as actors and actresses, religious or political figures, journalists, among others.

9.7.

Making progress towards the social decriminalization of abortion in cases of rape requires ongoing, comprehensive, evidence-based, and data-driven communication strategies.

AN EXAMPLE of this is the impact of the communication campaigns mentioned previously: *Déjame Decidir/Aborto por Violación*, *Gafas para ver la Realidad*, *Aborto Libre Ecuador*, and *Niñas No Madres*, which used evidence, data, investigations, and real testimonies to ensure the attention of different audiences was focused on the importance of decriminalizing abortion in cases of rape. For this reason, both constancy and consistency in the communications work were considered fundamental. This lesson also highlights the need to ensure greater sustainability for communication products (campaigns, publications, journalistic reports, among others). Interviewees also emphasized the need to continue using strategies such as opinion polling, using hopeful messaging, and being creative when designing tools to raise awareness among legislators and decision-makers.

9.8.

Achieving reforms that expand sexual and reproductive rights requires employing simultaneous advocacy tactics that exhaust all available legal mechanisms.

THE ADVOCACY process for the decriminalization of abortion in cases of rape involved implementing parallel strategies with several government agencies each with their own dynamics, language, and procedures and applying diverse tools for social participation. In this sense, women's and feminist organizations had to develop different actions depending on the governmental entity they were approaching. This advocacy process began with the presentation of legal arguments to the criminal code reform bill and continued with presentations before the Justice Commission of the legislature and speaking at two debates in the Plenary. Advocates also applied advocacy strategies with the executive branch in the context of the presidential veto of the criminal code reforms. Finally, and simultaneously, they filed several claims of unconstitutionality and gathered 77 amicus briefs on behalf of various parties to the Constitutional Court. This way of working ensured that advocacy efforts did not dead end — rather, they continued until the decriminalization of abortion in cases of rape was achieved through a ruling by the Constitutional Court.

THE FUTURE OF ABORTION ADVOCACY



10

**IT'S
LEGAL!**

THE MOST important milestone in this advocacy process was the Constitutional Court ruling ensuring access to abortion for all people who are victims of rape. The Court also concluded that the protection of life from conception, as stated in the Ecuadorian Constitution, is not an absolute right, but rather must be analyzed alongside the violation of women's rights, not only through rape, but also through forced maternity (No. 34-19-IN/21 et al., 2021, para. 122).

Having achieved the decriminalization of abortion in cases of rape, there are still several pending issues to guarantee access to these expanded rights for women and girls in Ecuador. On the one hand, there is the challenge of implementing what was approved by the Constitutional Court (El Comercio, 2021), which implies "immediate, safe

and dignified medical, psychological, legal and social services for women victims of rape" (No. 34-19-IN/21 et al., 2021, paragraph 194.d). Meanwhile, advocates still need to push for the implementation and enforcement of the other existing grounds for legal abortion, such as therapeutic abortion, which allows abortion to preserve the life and health of the pregnant person, as well as to update and analyze the current Clinical Practice Guidelines on abortion. Both challenges require advocacy and awareness-raising to overcome obstacles such as conscientious objection among health professionals. Finally, one of the biggest pending challenges for women's and feminist organizations in Ecuador is to achieve total decriminalization that guarantees legal, safe, and free abortion for all, in all cases, ensuring every person can make their own decisions about their body.



Photo: Aimee Maron

BIBLIOGRAPHY

- 24 Ecuador. (July 26, 2018). *#DéjameDecidir: nueva iniciativa para legalizar el aborto por violación*. 24 Ecuador. <http://www.24ecuador.com/nacional/dejamedecidir-nueva-iniciativa-para-legalizar-el-aborto-por-violacion/27688-noticias>
- Aborto Libre Ec. (September 28, 2020). *#SeguimosHaciendo-Historia*. Facebook. <https://www.facebook.com/AbortoLibreEC/>
- Aborto Libre Ec. (s.f.). *Información*. Facebook. <https://www.facebook.com/AbortoLibreEC/>
- Acosta, A. y Aguilar, L. (March 6, 2018). *Las niñas invisibles de Ecuador*. Wambra. <https://wambra.ec/las-ninas-invisibles-ecuador/>
- Asamblea Constituyente del Ecuador. (2008). *Constitución de la República del Ecuador*. Registro Oficial.
- Asamblea Nacional del Ecuador. (2014). *Código Orgánico Integral Penal*. Registro Oficial.
- Asamblea Nacional del Ecuador. (2018). *Ley Orgánica Integral para Prevenir y Erradicar la Violencia Contra las Mujeres*. Registro Oficial.
- Carrión Intriago, F., Burbano Villarreal, H., Avila Benavidez, D., & Cabrera, X. D. (2021). *Demanda de Inconstitucionalidad*. Quito. Retrieved from http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J3NvcnRlbycsiHV1aW-Q6J2MyOTY2NmUxLWVlZmQtNGZlZC1hMDkwLWE4M2lyO-ThiZmFiNC5wZGYnfQ
- CEDATOS. (2019). *BOLETÍN Estudio al 30 de junio de 2019*. CEDATOS.
- CEDATOS. (2020, mayo 23). *LA POBLACIÓN EVALÚA LA GESTIÓN DE LOS TRES AÑOS DE GOBIERNO DEL PRESIDENTE LENÍN MORENO*. CEDATOS. <https://cedatos.com.ec/blog/2020/05/23/la-poblacion-evalua-la-gestion-de-los-tres-anos-de-gobierno-del-presidente-lenin-moreno/>
- Coalición Nacional de Mujeres del Ecuador. (January 23, 2018). *Boletín de prensa*. Coalición Nacional de Mujeres del Ecuador. http://docs.wixstatic.com/ugd/273e4d_ba2d3e8c0e794a538581524cfd1dec854.pdf
- Comisión Especializada Permanente de Justicia y Estructura del Estado. (2018). *Informe para Primer Debate del Proyecto de Ley Orgánica Reformatoria del Código Orgánico Integral Penal*. Asamblea Nacional.
- Comité contra la Tortura. (2017). *Observaciones finales sobre el séptimo informe periódico del Ecuador*. United Nations.
- Comité de Derechos Económicos, Sociales y Culturales. (2019). *Observaciones finales sobre el cuarto informe periódico del Ecuador*. United Nations.
- Comité de Derechos Humanos. (2016). *Observaciones finales sobre el sexto informe periódico del Ecuador*. United Nations.
- Comité de los Derechos del Niño. (2017). *Observaciones finales sobre los informes periódicos quinto y sexto combinados del Ecuador*. ONU.
- Comité para la Eliminación de la Discriminación contra la Mujer. (2015). *Observaciones finales sobre los informes periódicos octavo y noveno combinados del Ecuador*. United Nations.
- Coordinación General de Planificación y Gestión Estratégica. (2015). *Proyecto "Plan Nacional de Fortalecimiento de la Familia"*. Presidencia de la República del Ecuador.
- Corte Constitucional. (November 27, 2019). *Dictamen relativo a las cuatro objeciones presidenciales en torno al proyecto de Ley Reformatoria al CRIMINAL CODE*. Corte Constitucional del Ecuador. <https://www.corteconstitucional.gob.ec/index.php/boletines-de-prensa/item/351-dictamen-relativo-a-las-cuatro-objeciones-presidenciales-en-torno-al-proyecto-de-ley-reformatoria-al-coip.html>
- El Comercio. (December 9, 2019). *Relatora especial de la ONU sobre la violencia contra la mujer pide a Ecuador despenalizar el aborto*. El Comercio. <https://www.elcomercio.com/actualidad/relatora-onu-aborto-legal-ecuador.html>
- El Comercio. (September 17, 2019). *La Asamblea de Ecuador negó la despenalización del aborto para víctimas de violación en Código Penal*. El Comercio. <https://www.elcomercio.com/actualidad/asamblea-ecuador-despenalizacion-aborto-violacion.html>
- El Comercio. (May 11, 2021). *Protocolo para acceder al aborto se enfoca en tres temas*. Obtenido de El Comercio: <https://www.elcomercio.com/sociedad-2/protocolo-aborto-violacion-menores-ley.html>
- El Universo. (May 29, 2019). *Organizaciones demandan al Estado por caso "Norma"*. El Universo. <https://www.eluniverso.com/noticias/2019/05/29/nota/7351994/organizaciones-demandan-estado-caso-norma>
- El Universo. (September 26, 2019). *Relator de la ONU lamenta no despenalización de aborto por violación en Ecuador y recomienda veto*. El Universo. <https://www.eluniverso.com/noticias/2019/09/26/nota/7535791/relator-onu-lamenta-no-despenalizacion-aborto-violacion-recomienda>
- Equipo de investigación Wambra. (s.f.). *Chequeando a la Asambleísta Viviana Bonilla*. Wambra. <https://wambra.ec/chequeando-a-la-asambleista-viviana-bonilla-intervencion-sobre-aborto/>
- Ernest, M., Gómez de la Torre, V., y Obando, K. (July 30, 2019). *Acción por incumplimiento*. Portal de la Corte Constitucional. http://doc.corteconstitucional.gob.ec:8080/alfresco/d/d/workspace/SpacesStore/4cd4e25c-be67-403c-8c4f-d18b3e2d-3dd2/demanda_0038-19-an.pdf?guest=true
- Espinosa, L., Bonilla, S., Vera, A., Gómez, A., Idrovo, V., y López, R. (2020, noviembre 10). *Demanda de inconstitucionalidad de la disposición que resulta de la frase "en una mujer que padezca de discapacidad mental" contenida en el numeral 2 del artículo 150 del COIP*. Portal de la Corte Constitucional. http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J3NvcnRlbycsiHV1aWQ6JzA4ODI1ZjVklTRjY-jMtNDI4ZC05M2YxLWE5NjkwYWYwZjZlWlZi5wZGYnfQ
- Fundación Desafío, Mujeres con Vozs, Coalición Nacional de Mujeres, y Frente Ecuatoriano para la Defensa de Derechos Sexuales. (July 31, 2019). *Tuitazo*. Fundación Desafío. <https://www.fundaciondesafio-ec.org/apv?pgid=kfppsp1sz-2bb709a7-72b3-4c11-b65c-7fcc7c2e456b>
- Fundación Desafío. (January 3, 2019). *Asamblea Nacional del Ecuador es urgente despenalizar #AbortoPorViolación #DéjameDecidir*. Facebook. <https://www.facebook.com/fundaciondesafio/posts/2204542886430638>
- GK. (March 1, 2018). *Las cifras de la violencia contra las niñas en América Latina*. GK. <https://gk.city/2018/03/01/violencia-contra-ninas-america-latina/>

- GK. (August 19, 2019). *¿Por qué se está demandando a los tres estados en el Comité de Derechos Humanos?* GK. <https://gk.city/2019/08/19/demanda-civil-a-tres-estados/>
- Gómez de la Torre, V., Castello, P., & Cevallos, M. R. (2016). *Vidas Robadas: Entre la omisión y la premeditación. Situación de la maternidad forzada en niñas del Ecuador*. Fundación Desafío. <http://repositorio.dpe.gob.ec/handle/39000/2410>
- Lasso, G. (April 28, 2021). Un Ecuador que respeta los valores democráticos y republicanos. Obtenido de Twitter: https://twitter.com/LassoGuillermo/status/1387539273096773633/photo/1?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1387539273096773633%7Ctwgr%5E%7Ctwcon%5E%1&ref_url=https%3A%2F%2Fwww.elcomercio.com%2Factualidad%2Fpolitica%2Flasso-decision-corte
- La Barra Espaciadora. (October 1, 2018). *La marea verde es presente y es futuro*. La Barra Espaciadora. <https://www.labarraespaciadora.com/ddhh/aborto-marea-verde/>
- La Ince. (n.d.). *YoSoy65.com*. La Ince. <https://laince.com/yosoy65/>
- La Ince. (s.f.). *Kit de Prensa. #gafasparaverlarealidad*. Consultado el 8 de noviembre de 2020 en <https://causas.laince.com/gafas/>
- La República. (September 17, 2019). Arzobispo de Quito pide a los legisladores «no manchar sus manos de sangre». La República. <https://www.larepublica.ec/blog/2019/09/17/arzobispo-quito-pide-legisladores-manchar-manos-sangre>
- Martínez Alvarado, L. (2021). Acción de inconstitucionalidad de ley. Quito. Obtenido de http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNblDGE6J3NvcnRlbycsIHV1aWQ6JzY5N2QzYThLWJkMDYtNGUxMihMDkILWU2OWZ-jYTgWYtdkOS5wZGYnfQ
- Martínez Osorio, M. (May 15, 2017). “¿Con mis hijos no te metas: no a la ideología de género!” Dejusticia. <https://www.dejusticia.org/con-mis-hijos-no-te-metas-no-a-la-ideologia-de-genero>
- Ministerio de Salud Pública, Secretaría Nacional de Planificación y Desarrollo, Fondo de Población de las Naciones Unidas, & SENDAS. (2017). *Costos de Omisión en Salud Sexual y Reproductiva en Ecuador*. Sendas. <http://sendas.org.ec/documentos/informe002.pdf>
- Ministerio de Salud Pública. (2015). *Guía de Práctica Clínica para la Atención del Aborto Terapéutico*. Ministerio de Salud Pública. <https://www.salud.gob.ec/wp-content/uploads/2016/09/Aborto-terap%C3%A9utico.pdf>
- Miño Buitrón, M. D., Sánchez Sevilla, D. A., Marroquín Ruiz, M. P., Rodríguez Ramos, M. D., Palacios Ordóñez, I. M., Cabrera Triviño, A. A., Banegas Cedillo, M. (2021). Demanda de inconstitucionalidad. Quito. Retrieved from http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNblDGE6J3NvcnRlbycsIHV1aWQ6J2JjY2Y4YzZmLTY2Y2QtNDJjZS1iNzFILTAM3MjBmYzZhMTM4My5wZGYnfQ
- Morán, S. (May 10, 2021). Burocracia, objeción de conciencia, secreto profesional: otros retos tras el fallo a favor del aborto por violación. Obtenido de Plan V: https://www.planv.com.ec/historias/sociedad/burocracia-objecion-conciencia-secreto-profesional-otros-retos-tras-el-fallo?fbclid=IwAR1SKNBylQV-cUwlv-pU5eJjuKj6cuStgedkO8b2w_wotZ0brlBM1nw2OgAE
- Moreno, L. (2019). *Objeción parcial por razones de inconstitucionalidad*. Presidencia de la República. https://drive.google.com/drive/u/1/folders/1FLJDIzTuR3I8WVvWvOzx_OOpT10t_5wb8
- NiñasNoMadres. (2020). *NiñasNoMadres*. <https://www.ninasnomadres.org>
- Nro. 34-19-IN/21 y acumulados, Nro. 34-19-IN y acumulados (Corte Constitucional 28 de abril de 2021).
- Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (ACNUDH). (September 16, 2019). *Experto ONU sobre el derecho a la salud física y mental visita Ecuador*. Oficina del Alto Comisionado de las Naciones Unidas. <https://acnudh.org/experto-onu-sobre-el-derecho-a-la-salud-fisica-y-mental-visita-ecuador>
- Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (ACNUDH). (November 27, 2019). *Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias*. <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=25355&LangID=S>
- Ospina Peralta, P., Idrobo, M., & Ospina, A. T. (2019). *¿Por qué luchar? Motivaciones, organización y estrategias de la militancia juvenil radical en el Siglo XXI*. Universidad Andina Simón Bolívar.
- Pazmiño Granizo, E. (July 06, 2016). *Proyecto de Ley Orgánica Reformatoria al Código Orgánico Integral Penal*. Asamblea Nacional. <http://ppless.asambleanacional.gob.ec/alfresco/d/d/workspace/SpacesStore/3d612ace-b0ee-4b3a-b08e14b3786c1029/Proyecto%20de%20Ley%20Orgnica%20Reformatoria%20al%20Cdigo%20Orgnico%20Integral%20Penal%20Tr.%20254244.pdf>
- Pleno de la Corte Constitucional. (2015). Reglamento de Sustanciación de Procesos de Competencia de la Corte Constitucional. Quito: Registro Oficial Suplemento 613 de 22-oct.-2015.
- Ponce, I. (January 13, 2019). De qué lado estará la Asamblea. GK. <https://gk.city/2019/01/13/despenalizar-aborto-violacion-ecuador/>
- Ponce, I. (September 11, 2019). *Por convicción o cálculo político, más asambleístas apoyan el aborto por violación*. GK. <https://gk.city/2019/09/11/despenalizacion-aborto-violacion-ecuador/>
- Ponce, I. y Borja, S. (August 04, 2019). *Nebot y Lasso dan libertad a sus bloques legislativos para votar a conciencia sobre el aborto por violación*. GK. <https://gk.city/2019/08/04/nebot-aborto-violacion-lasso/>
- Presidencia de la República. (s.f.). *Legisladoras pro aborto traicionaron la confianza política de Alianza PAIS*. Presidencia de la República del Ecuador. <https://www.presidencia.gob.ec/legisladoras-pro-aborto-traicionaron-la-confianza-politica-de-alianza-pais>
- Redacción Wambra. (May 24, 2017). *Chao Plan Familia y por qué no repetir una política retrógrada*. Wambra.
- Secretaría de Derechos Humanos. (2019). *Convocatoria a Espacio de Reflexión*. Secretaría de Derechos Humanos.
- Soliz Carrión, N. M., Romero Larco, J. M., Salazar Páramo, M. D. (2020). Acción de Inconstitucionalidad. Quito. Obtenido de http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNblDGE6J3NvcnRlbycsIHV1aWQ6JzNkM2YxZTE2LWNm-NzMtNDQxZS05NTc0LWFmYzkyOYtkZDFkYS5wZGYnfQ
- Vistazo. (January 13, 2020). *Gobierno reduce presupuesto para atención a víctimas de violencia de género*. Vistazo. <https://www.vistazo.com/seccion/pais/actualidad-nacional/gobierno-reduce-presupuesto-para-atencion-victimas-de-violencia-de>
- Wambra. (s.f.). *Ser Niña: Las cifras del abuso*. Wambra. Consulted September 11, 2020: <https://wambra.ec/nina-las-cifras-del-abuso>

