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Nicaragua: Total Ban on Abortion Press Pack

PRESS RELEASE

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NICARAGUA: SHOCKING ABORTION BAN DENIES LIFE- SAVING TREATMENT TO GIRLS AND WOMEN INCEST AND RAPE VICTIMS COMPELLED TO HAVE BABIES

(Mexico City) Nicaragua's total ban on abortions is endangering the lives of girls and women, denying them life-saving treatment, preventing health professionals from practicing effective medicine and contributing to an increase in maternal deaths across the country, concluded Amnesty International in a new report today.

According to official figures, 33 girls and women have died in pregnancy this year as compared to 20 in the same period last year. Amnesty International believes these figures are only a minimum as the government itself has acknowledged that the number of maternal deaths is under-recorded.

The report "*The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized*" is the first Amnesty International study examining the human rights implications of the denial of abortion when the life or health of a woman or girl is at risk, including when she is a victim of rape or incest.

Nicaragua's revised Penal Code stipulates prison sentences for girls and women who seek an abortion and for health professionals who provide health services associated with abortion. Only 3% of the world's countries have such absolute bans in place.

The new Code introduces criminal sanctions for doctors and nurses who treat a pregnant woman or girl for illnesses such as cancer, malaria, HIV/AIDS or cardiac emergencies where such treatment is contraindicated in pregnancy and may cause injury to or death of the embryo or foetus.

It even goes as far as punishing girls and women who have suffered a miscarriage, as in many cases it is impossible to distinguish spontaneous from induced abortions.

This new law is in conflict with the Nicaraguan Obstetric Rules and Protocols issued by the Ministry of Health which mandate therapeutic abortions as clinical responses to specific cases. However, no

assurances have been given by the authorities that doctors will not be prosecuted if they respect these Rules.

“Nicaragua’s ban of therapeutic abortion is a disgrace. It is a human rights scandal that ridicules medical science and distorts the law into a weapon against the provision of essential medical care to pregnant girls and women,” said Kate Gilmore, Amnesty International’s Executive Deputy Secretary General at a press conference in Mexico City as she returned from a visit to Nicaragua.

“Nicaragua’s Penal Code is a callous and cynical artefact of the political wheeling and dealing that took place in the country’s 2006 elections. Today, however, it punishes women and girl children for seeking life saving medical treatment and doctors for providing it.”

In Nicaragua, the Amnesty International delegation met with human rights organizations, medical professionals, members of the national assembly and the Minister of Health. Despite repeated requests, the National Assembly’s Commission on Women and both President Ortega and his government’s Institute for Women refused to meet the organization to discuss the law’s impact on girl children, women and victims of rape and incest.

Amnesty International delegates met with young girls who, having been subjected to sexual violence at the hands of close family members or friends, were compelled to carry the resulting pregnancies to term –giving birth in many instances to their own brothers or sisters –because they were denied access to alternatives. It is deeply troubling that there was a recorded rise in pregnant teenagers committing suicide by consuming poison in 2008.

Obstetricians, gynaecologists and family doctors in Nicaragua told Amnesty International that under this Penal Code they can no longer legally provide effective medical treatment for life threatening diseases in pregnant women and girls because of the potential risk to the foetus.

One doctor told Amnesty International that she prays she will not receive a patient with an anencephalic pregnancy (a condition which means the foetus cannot survive) because of the prospect of telling the woman she will be compelled to carry the pregnancy to full term, despite its devastating physiological and psychological impact on the woman.

“There’s only one way to describe what we have seen in Nicaragua: sheer horror,” said Kate Gilmore. “Children are being compelled to bear children. Pregnant women are being denied essential including life saving medical care”

“What alternatives is this government offering a 10-year-old pregnant as a result of rape? And to a cancer sufferer who is denied life saving treatment just because she is pregnant, while she has other children waiting at home?” said Kate Gilmore.

“Girls pregnant as a result of incest had the courage to meet with us to speak out against the situation but President Ortega did not. It appears the Nicaraguan authorities could not stand up for the law, would not be accountable for the law nor commit themselves to its urgent repeal.”

Amnesty International is urging the Nicaraguan authorities to:

- Immediately repeal the law that bans all forms of abortion.
- Guarantee safe and accessible abortion services for rape victims and women whose lives or health would be at risk from the continuation of pregnancy.
- Protect the freedom of speech of those who speak out against the law and offer comprehensive support to the women and girls affected by the law.

Amnesty International is also calling on Nicaragua’s Supreme Court to issue a decision on the legality and constitutionality of the law as a matter of the utmost urgency.

NOTES TO EDITORS

The launch of the report *“The total abortion ban in Nicaragua: Women’s lives and health endangered, medical professionals criminalized”* is part of Amnesty International’s Demand Dignity campaign.

The campaign aims to end the human rights violations that drive and deepen global poverty. It will mobilise people all over the world to demand that governments, big corporations and others who have power listen to the voices of those living in poverty and recognise and protect their rights. For more information visit <http://demanddignity.amnesty.org/campaigns-en/>

NICARAGUA: TOTAL BAN ON ABORTION – TESTIMONIES

M. was 17 years old when she was brutally raped by a relative

...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 ...

...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 ...

...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 (legal) case fell apart, I was hysterical ...

... 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?”

The gynaecologist Dr “G” spoke of patient “A”, 28 years old and a mother of 4 children

... “A” was suffering from advanced cancer of the cervix, as well as being under 20 weeks pregnant. The treatment she required for the cancer was urgent and it was imperative that the treatment be started as soon as possible. Unfortunately, the correct, medically indicated treatment was incompatible with the pregnancy. “A” was advised of her options and informed that in order to have the best possible chance of survival she would require a termination of the pregnancy in order to begin the treatment ... she opted for life saving treatment, risking legal penalty, but being acutely aware of her obligations to her four children ...

The doctor attending “A” was acutely aware that the revised law in Nicaragua allows for no exceptions, was deeply concerned that this course of treatment would be in clear contravention of the Penal Code,

but assumed these risks to their career, reputation and liberty to provide the treatment “A” needed to maximize her chances of survival.

NICARAGUA: TOTAL BAN ON ABORTION LEGAL CONTEXT

PROVISIONS IN NICARAGUA’S REVISED PENAL CODE (LAW 641) THAT INTRODUCE A TOTAL BAN ON ABORTION

- 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.
- 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.”
- 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”.

Article 149 appears to criminalize conduct that might more appropriately be dealt with under laws covering medical negligence; for instance, a doctor or other medical staff who undertake medical interventions without adequate training or whose professional care causes injury or death to the foetus or woman.

VIOLATIONS OF INTERNATIONAL LAW

Nicaragua’s total ban on abortion has been found to violate Nicaragua’s obligations under international law, including:

- The United Nations’ Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or punishment.
- The United Nations’ International Covenant on Economic, Social and Cultural Rights.
- The United Nations’ International Covenant on Civil and Political Rights.
- The United Nations’ Convention on the Elimination of All Forms of Discrimination Against Women.

ENDs/

