

AI Index: PRE 01/197/2009
15 May 2009

Nicaragua: Complete ban on abortion violates Torture Convention

Amnesty International today urged the Nicaraguan authorities to act upon the UN Committee against Torture call for Nicaragua to review its complete ban on abortion with a view to including exceptions to the total prohibition.

After reviewing the situation in Nicaragua against the obligations of the state under the Convention against Torture, the UN Committee concluded that the State Party should revise its legal framework in relation to abortion. The expert Committee observed that the complete ban gave them cause for profound concern, as it exposes women and girls to a constant threat of serious violations to their rights, particularly if continuation of the pregnancy posed a threat to their life, or for victims of rape.

“The Committee is sending a clear message to the Nicaraguan state: So long as the complete ban with no exceptions is in place, you will be in breach of your international legal obligations to protect human rights,” said Widney Brown, Senior Director, International Law and Policy at Amnesty International. “If this complete ban were to stay, women and girls would continue to be at risk of torture, cruel, inhuman and degrading treatment. Such inaction would show a cruel indifference to the physical pain, psychological anguish and lack of human dignity this law causes women and girls in Nicaragua to suffer by denying and thwarting their access to essential medical treatment during pregnancy.”

The criminal law imposes prison terms for doctors and women or girls for carrying out or seeking an abortion, regardless of the circumstances, such as if the life or health of the pregnant woman is at risk from continuation of the pregnancy.

“As noted by the Committee, the moment when doctors need to make vital decisions they are forced to violate their professional ethics, ignore best practice and protocols, placing the life and health of the patient at risk,” said Widney Brown. “Furthermore, rape victims who become pregnant as a result of the crime in Nicaragua are faced with an unconscionable choice: either continue the pregnancy to full term, regardless of the risks to her life, health or well-being or seek an unsafe backstreet abortion risking her life, health and possibly imprisonment. In a country where there are high rates of sexual abuse and at least 50% of rape victims are girls aged 18 or under, this is a particularly appalling situation.”

The complete ban has a chilling effect on the ability of doctors to respond quickly and decisively to women and girls suffering from complications during their pregnancy. The law denies pregnant women necessary medical care which in some cases would be life saving.

The UN Committee against Torture is the fourth UN treaty body to demand that the Nicaraguan government repeal the complete ban on abortion in all circumstances because this ban violates the rights of women and girls. The UN Human Rights Committee, the UN Committee on Economic, Social and Cultural Rights and the UN Committee on the Elimination of All forms of Discrimination Against Women have already highlighted to the Government of Nicaragua that this law breaches Nicaragua's international legal obligations and places the lives and health of women and girls in jeopardy.

Amnesty International considers that the full ban on abortion in Nicaragua – including in cases where a woman's health or life would be at risk if the pregnancy continues or where that pregnancy is a result of rape – is a violation of women's and girls' human rights, including the right not be subject to torture, cruel, inhuman and degrading treatment.

The organization is calling on the Nicaraguan authorities to repeal the full ban on abortions and ensure doctors are not prohibited from providing medically indicated treatment to women and girls in need.

Background information

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

The UN Committee against Torture is the expert body established by the UN Convention against Torture to monitor countries' compliance with that treaty. It is composed of 10 independent, impartial members who are elected by the states parties to the treaty. Governments must submit periodic reports to the Committee which in turn make recommendations to further the State party's implementation of the treaty.

Amnesty International briefed the Committee against Torture on the denial of access to essential medical services through legislation that imposes an absolute ban on the provision of abortion services and the criminalisation of abortion in Nicaragua. In addition, the organization attended the hearing in Geneva on 31 April and 1 May. Amnesty International also provided information to the Committee against Torture at this session regarding implementation of the Torture Convention by Israel.

For a copy of Amnesty International's submission to the Committee against Torture please see:
<http://www.amnesty.org/en/library/info/AMR43/005/2009/en>

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