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Nicaragua: Constitutional Court must decide on legality of new abortion law

Amnesty International today expressed concern that the Nicaraguan Supreme Court continues to delay its judgment on the legality of new criminal laws on abortion which entered into force in 2008.

The Court was due to issue a judgment in May 2009 on the constitutionality of a complete ban on abortion, even when the life of the woman or girl is at risk and when the pregnancy is a result of rape or incest.

“As long as this total ban is in place, victims of rape and incest – some of them still children themselves – are compelled to bear children,” said Kerrie Howard. Pregnant women and girls are being denied life saving medical treatment and medical professionals are criminalized for doing their jobs.”

“The lives of many women and girls depend on the Court’s decision,” said Kerrie Howard

“We are very concerned at the lack of certainty and that the Court continues to delay its ruling.” Justice delayed is justice denied. Women are dying in Nicaragua because the Court has failed to uphold the human rights of women.

Since the ban was first put in place four United Nations treaty expert committees have informed the Nicaraguan government that such a ban places it in breach of its obligations to protect women and girl’s human rights.

According to official figures, 33 girls and women have died in pregnancy so far in 2009 as compared to 20 in the same period last year. Amnesty International believes these figures do not reflect the actual numbers as the government itself has acknowledged that the number of maternal deaths is under-recorded.

On 27 July 2009, Amnesty International published the study “The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized”, 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.

One of the calls Amnesty International made was to the Constitutional section of the Nicaraguan Supreme Court, urging it to issue a decision on the legality and constitutionality of the law as a matter of urgency and in accordance with the Court’s rules and procedures.

Background Information

Nicaragua’s revised Penal Code stipulates prison sentences of between one and two years for girls and

women who seek an abortion and between one and three years imprisonment for health professionals who provide health services associated with abortion. Only 3% of the world's countries have introduced such absolute bans.

Under the law even girls and women who have suffered a miscarriage may be prosecuted, as in many cases it is impossible to distinguish spontaneous from induced abortions. Over zealous prosecutors use the law to press charges against women who have suffered the physical and mental pain of having a miscarriage.

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. There are no exceptional circumstances provided for by the penal code.

During the mission to launch the report "The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized" (27 July 2009 Index number 43/004/2009) Amnesty International delegates met with girls as young as 12 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.

Obstetricians, gynaecologists and family doctors in Nicaragua told Amnesty International that under the new Penal Code they can no longer provide effective medical treatment for life threatening conditions in pregnant women and girls because of the potential risk to the foetus. The Penal Code introduces criminal sanctions for doctors and nurses who treat a pregnant woman or girl for illnesses such as cancer or cardiac emergencies where such treatment is contraindicated in pregnancy and may cause injury to or death of the embryo or foetus.