

Amendments to the COIP (Organic Comprehensive Criminal Code) Regarding Non-punishable Abortion Rejected by Ecuador's National Assembly

By Cristina Valverde¹

On September 17, 2019; the amendment of art. 150 of the Criminal Code² regarding non-punishable abortion was considered by Ecuador's National Assembly.

Currently, the article provides that abortions are exempt from punishment in two cases:

1. If the abortion has been carried out to avoid a danger to the life or health of the pregnant woman and if this danger cannot be avoided by any other means.
2. If the pregnancy is the result of a rape in a woman with a mental disability.

The amendment bill proposed to include the following in the abortion article:

- "If the pregnancy is a consequence of a rape, incestuous rape and in the case established in article 164 of this Code" (Refers to the non-consensual insemination).
- "If the embryo or fetus suffers from an acquired congenital or genetic pathology incompatible with independent extra uterine life, in any case of a lethal nature".
- In the case of pregnancy resulting from rape, incest, or non-consensual insemination "it is necessary that the pregnancy does not exceed 14 weeks of gestation; no pre-existing judgment or resolution will be required, and the victim's statement before the medical staff will suffice. This statement will become *news criminis* to be investigated by the competent authorities.
- "In the event that the victim is a girl or teenager, authorization from her parents, curators or legal representatives will not be required."

In the debate regarding these amendments, both the groups that promoted the change of legislation and the media focused on abortion in case of rape. Citizens were not informed of the other causes such as non-consensual insemination or serious malformation of the unborn, in which no deadline was proposed, so the abortion could be carried out until the moment of delivery. The media also did not inform that

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² <http://www.funcionjudicial.gob.ec/index.php/es/normativa/codigo-organico-integral-penal.html>

in the case of minors, they would be enabled to abort without the consent of their parents. Many Assembly members were not clear about the scope of this reform and seeing that the debate was not treated with complete transparency and honesty, they abstained or voted against it.

On the other hand, a group of Assembly members demonstrated in favour of life, and in the importance of respecting art. 45 of the Ecuadorian Constitution where life protection is guaranteed from conception. They also insisted that abortion is not a human way out, and that stronger penalties should be proposed for rapists and comprehensive assistance to abused women and support for motherhood. For their part, the pro-life groups recalled that life is defended without exceptions, that these causes are discriminatory in putting the death penalty on an innocent human being due to having been conceived differently. They appealed to the Assembly members to concentrate on effective measures to eradicate sexual violence and help women and children.

All the above influenced so that at the time of the vote, these proposed amendments were not approved and thus the protection of the Right to Life, enshrined in art. 45 of the Constitution of Ecuador, was upheld.