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Human Rights and Multi-level Governance**

AN INTERSECTIONAL FEMINIST APPROACH FOR THE
PROTECTION OF SEXUAL AND REPRODUCTIVE RIGHTS:
THE "MAREA VERDE" EXPERIENCE AND THE LEGALIZATION OF
ABORTION IN ECUADOR

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ABSTRACT

The struggle for sexual and reproductive rights has been one of the main pillars of the feminist movement globally. In some particular cases, this struggle has been adapted to the specific contexts of the territories where collective actions take place. Such is the case of Latin America, where feminist collectives have as one of their main demands the legalization and decriminalization of abortion. This struggle has been consolidated under what is known as the Marea Verde (Green Tide), a transnational movement that uses intersectional feminist principles to advance legal abortion in the region. One of the countries that has been influenced by the Marea Verde is Ecuador, where feminist collectives recently pushed for the legalization of abortion in cases of rape.

Key words

Marea Verde, abortion, SRHR, social movements, feminism, intersectionality,

Ecuador

DEDICATION

A mis compañeras y hermanas del pañuelo verde en América Latina y el mundo entero. Ustedes son la prueba viva de que las desigualdades e injusticias pueden ser combatidas con amor y solidaridad.

A todas las niñas, mujeres y personas gestantes que han sufrido las consecuencias de la ilegalidad y criminalización del aborto en Ecuador. Este trabajo les pertenece a ustedes y a sus historias.

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INTRODUCTION

In the last decade, access to legal, safe, and free abortion has become one of the main demands of feminist social movements in Latin America. Between green scarves, mass public demonstrations, appropriation of public media and active participation in political processes, the feminist movement Marea Verde has spread frenetically from the south of the continent to all its neighbouring countries. From Argentina to Ecuador, women, and people with the capacity to gestate have mobilized and raised their voices to demand the fundamental right to a dignified and accompanied abortion, which, when denied, has become the cause of the imprisonment and death of thousands of people in the region. Precisely, the struggle of victims and survivors inspired the research question of this paper: *How has the advancement of sexual and reproductive rights been influenced by social movements founded on intersectional feminist principles?* To attempt to answer this question, I focus particularly on the case of the Latin American feminist social movement of the Marea Verde and its struggle for the legalization of abortion. In the end, I analyse specifically how Ecuadorian feminist social movements influenced by the Marea Verde have carried out advocacy actions for the legalization of abortion in the country.

More concretely, through the study of various primary and secondary sources of information, as well as the recognition of empirical evidence presented by the organizations themselves, this work aims to show that reproductive rights have historically been viewed from a cis-hetero-normative and patriarchal lens, making it imperative to rethink them from an intersectional feminist perspective. This is the work that different feminist groups have been doing, especially in the last two decades, so it is important to study the influence of feminism on law-making processes and how these differ in the Latin American context. The most significant case of practical application of intersectional feminism through social

movements in this context is the aforementioned Marea Verde movement, which was born in Argentina and spread throughout Latin America. Fundamentally, this critical-theoretical analysis focuses on how the movement has reached Ecuador, where groups such as the *Surkuna Center for the Support and Protection of Human Rights* and *Las Comadres* have adopted the Argentinian model for their work not only in accompanying victims, but also as active political agents in the construction of public policies in favor of the decriminalization and legalization of abortion in the country.

In terms of structure, this paper is divided into three chapters that are relevant to understanding the importance of social movements as agents for the promotion of reproductive rights using an intersectional feminist perspective:

The first chapter provides an intersectional feminist approach to sexual and reproductive rights. For this purpose, it is divided into 3 sections. The first and second section present a comprehensive definition of SRHR, which is the result of the inclusion of women's rights within the human rights framework. These sections discuss some relevant instruments such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the action plans of World Conferences such as Teheran (1968), Cairo (1994) and Beijing (1995) which were influenced by the women's liberation movement. They also include an analysis of the right to a dignified and accompanied abortion. The third section discusses the path towards intersectional, indigenist and post-colonial feminism in Latin America. It discusses key concepts such as feminist geographies, community feminism and the connection between intersectionality and social justice.

The second chapter analyses the role of the feminist movement in the defense of SRHR. For this, it is divided into 3 sections. The first two sections employ social movement theories to analyse the configuration of feminism as a social movement and its role as an agent of political change. It looks at elements such as the collective historical memory, social

consciousness, collective actions, and the elements of politicization and formal representation. The third section focuses on the case of the *Marea Verde* in Latin America. It examines its history; symbolic and discursive elements; and objectives, demands and strategies. It also discusses how the movement became transnational based on the principles of solidarity and sorority.

Finally, the third chapter discusses the influence of the *Marea Verde* for the legalization of abortion in Ecuador. It is divided into four sections. The first section looks at the evolution of the legal framework for abortion at the national level. It focuses mainly on the reforms to the Penal Code. The second section analyses how the *Marea Verde* arrived in Ecuador through the establishment of the national campaign *Aborto Libre EC* in the framework of the Global Day of Action for Legal, Safe and Accessible Abortion (28S). It discusses the advocacy processes carried out by the campaign and discusses the case of two relevant organizations: *Surkuna* and *Las Comadres*. The third section refers to the reports presented by the *Marea Verde* to assess the impact of the illegality and criminalization of abortion in the country. The fourth section presents an analysis, critiques, and recommendations regarding the current law on abortion in cases where the pregnancy is the result of rape.

METHODOLOGY

1. Research methods

Given the theoretical nature of this thesis, I decided to use literature review and data gathering as the main research methods. For this purpose, I went through a considerable amount of primary and secondary sources to create the theoretical basis, present the main case study, and analyse a variety of national and international laws and policies.

The literature review of the theories and paradigms used in this work comes from various academic articles, journals and book chapters by authors who specialize in topics such as sexual and reproductive rights, intersectional feminism, post-colonialism, and social movements. The information related to the feminist social movement of the *Marea Verde* in Latin America and particularly in Ecuador comes from public domain documents written by the organizations and collectives themselves, as well as articles of analysis and press. Finally, all information related to the legal framework and figures was compiled from documents from various national and international organizations such as UN Women, Human Rights Watch, the State Attorney General's Office, the Public Defender's Office, and the Council of the Judiciary of Ecuador.

2. Ethical considerations

The causes, consequences and implications related to abortion and its criminalization are topics that should be treated with extreme attention and empathy. Although this thesis does not discuss individual cases, I have tried to make sure to use all appropriate measures to avoid possible occurrences of revictimization or violation of the privacy of people potentially linked to the issues discussed here. For this reason, all primary and secondary documents used for the theoretical analysis are freely accessible public material.

3. Limitations

There were two main limitations to the development of this thesis: constant changes in the abortion situation in Ecuador in the first semester of 2022, and linguistic and cultural problems in translation.

First, the research and analysis did not follow a linear path. This occurred because the time between the choice of the topic and the development of the first draft coincided with the months in which the Ecuadorian Assembly discussed the enactment of the new rape abortion law. In addition, during the first semester of the year different feminist organizations presented new diagnostic reports on the situation of victims and survivors of sexual violence and criminalization of abortion, so the figures had to be updated. In this sense, both the figures and the legal framework had to be modified on several occasions, which implied the need to modify the analysis as well.

Secondly, most of the sources used in the diagnosis and analysis of the topic are written in Spanish, which implied the need to translate them. Translation processes tend to be affected by the impossibility of finding equivalents to abstract socio-cultural concepts and wordplay pertaining to the original language. For this reason, it was necessary to include cultural and linguistic explanations to maintain the essence of terms and concepts that are key to the subject.

4. Positionality statement

In the spirit of self-reflexivity, I acknowledge that my positionality influenced every part of the development of this thesis dissertation: choice of the research topic, of the main theories and of the case study. However, I have taken every possible measure to base my analysis on data and theories, rather than assumptions.

As a woman born and raised in Ecuador, throughout my life I have witnessed the systemic gender violence that affects the effective implementation of sexual and reproductive

rights. Specifically, the choice to delve into the right to abortion responds to the fact that its legalization is currently a priority for Ecuadorian feminist collectives. Along these lines, I decided to share the cases of Surkuna and Las Comadres not only because they are pioneers in the struggle for the decriminalization of abortion but also because I have been part of both organizations myself.

Furthermore, since I moved abroad, I committed myself to focus my academic research on the experience of my country as much as possible. I chose to do so to honor my roots but also to disseminate and raise awareness of a reality that is hardly talked about in the European context.

As for the choice of theories used, I acquired a personal interest in feminist, intersectional and postcolonial studies during my undergraduate and master studies in International Relations and Human Rights.

AN INTERSECTIONAL FEMINIST APPROACH TO SEXUAL AND REPRODUCTIVE RIGHTS

1. A comprehensive definition of sexual and reproductive health and rights (SRHR)

Sexual and reproductive rights (SRHR) are human rights that focus on the autonomy and freedom of each individual and couple to make decisions related to their own reproduction and sexuality. To achieve the highest standards of integral health, such decisions must be free of violence, coercion, and discrimination (OHCHR, 2015, p.21). In addition, for SRHR to be effectively implemented, everyone must have access to adequate information, means and services.

Based on this definition, three key elements should be distinguished when discussing SRHR: sexual rights, reproductive rights, and sexual and reproductive health (OHCHR, 2015, p.22). On the one hand, sexual rights refer to the freedom of individuals to explore a sexual life free of violence and discrimination. This includes the right to express their sexual orientation and gender identity (UNFPA, 2019). In addition, in recent years, the feminist discussion of these rights has led to the inclusion of essential concepts such as comprehensive sexual education, pleasure and consent, which will be discussed later in this chapter. On the other hand, reproductive rights imply freedom of decision regarding the number of children and the space of time between pregnancies (CEDAW, 1979). In practical terms, everyone should have access to contraceptive methods and health services that provide care before, during and after pregnancy. From a feminist perspective with a gender approach, reproductive rights also include the decision not to have children, which implies the possibility of abortion if motherhood is not desired (Amnesty International, 2022). It should be noted that despite the substantial differences between both types of rights these are often discussed together, not only because they are complementary, but also because members of

the international community have not managed to reach a global agreement that focuses solely on sexual rights (UNFPA, 2019, pp. 17).

Complimentary, Sexual and Reproductive Health refers to all those services, facilities, goods, and methods that contribute to reproductive healthcare and sexual well-being (OHCHR, 2015, pp.24). This means that they are the practical component through which the aforementioned rights and freedoms are effectively applied. The World Health Organization (WHO, 2020) establishes five key components for understanding what sexual and reproductive health encompasses when seen from a positive and respectful approach: contraception and infertility services; maternal and new-born health; reduction and prevention of sexually transmitted diseases; promotion of comprehensive sexuality education; and elimination of unsafe abortion and postabortion care services. In addition to providing the necessary means for physical care, health systems must be designed to provide psychological and emotional support for all individuals involved. To this end, tools must be in place to protect against discrimination, gender-based violence (GBV), sexual coercion, restrictive laws, and inequities in access to health services.

1.1 Life course approach and cross-cutting principles in the SRHR framework

According to the Guttmacher-Lancet Commission on Sexual and Reproductive Health and Rights the tools used for the prevention of all types of violence and protection of SRHR are an essential part of a human rights framework with an intersectional gender approach (Starrs et al., 2018). Beyond tackling violence, a comprehensive health system must ensure the elimination of stigma and exclusion of groups that have been historically neglected, especially women and members of the LGBTIQ+ community. Originally, both groups were referred to as homogeneous entities, but gradually subgroups such as young girls, non-binary

people, people with functional diversity, people of colour (PoC), among others, have been differentiated (Sadinsky & Ahmed, 2021).

The intersectional analysis of these groups should include a life course framework that recognizes that people have different types of sexual and reproductive needs that change throughout their lives (UNFPA, 2019, p.12). This not only implies that there are SRHR that are particularly important at certain stages of life, but that the way in which those rights are applied have a direct impact on the outcomes and needs at later stages. An example of this is the teaching of comprehensive sexuality education (CSE) in childhood, which improves sexual and reproductive health outcomes and results in a reduction in the rates of STIs and unintended pregnancy in adolescence and adulthood (UNFPA, 2019, pp.14).

To achieve an effective application of the comprehensive life course approach to SRHR, the United Nations Population Fund (2019) proposes three cross-cutting principles with an intersectional gender approach: equity in access to health services, quality care, and accountability. First, the equity principle ensures that all individuals can access sexual and reproductive health services regardless of socioeconomic status, gender, sexual orientation, and ethnic self-determination. Second, the principle of quality ensures that health systems have facilities and commodities that are safe, efficient, accessible, and free from all types of structural discrimination. Finally, the principle of accountability ensures that healthcare providers and policymakers are inclusive and transparent in the implementation of SRHR.

2. Women's rights within the International Human Rights Framework: The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and beyond

The international framework of sexual and reproductive rights (SRHR) as we know it today is the result of a cooperative process of deconstruction of the patriarchal footprint embedded in Law (Bonaccorsi & Reybet, 2018). This process began in the mid-twentieth century when the international community took a first step towards the universalization of rights with the creation of the Universal Declaration of Human Rights (UDHR) in 1948. The conceptual shift that led to the recognition of human rights beyond the rights of man gave way to the creation of new protection mechanisms for certain categories of people who had hitherto been marginalized. In addition to women, the Modern Human Rights System began to validate the experiences of children, people in situations of human mobility, ethnic minorities, members of the LGBTIQ+ community, among others (Mármol & Molina, 2021).

In the specific case of women's rights, there are several regional and international instruments that have highlighted the importance of including the gender perspective in human rights issues (UNFPA, 2019). The most important of these instruments is the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). CEDAW was adopted in 1979 and expands on the Universal Declaration of Human Rights, having as its main objective "to operate as a transforming element of gender disparities insofar as the participating States undertake to grant equal treatment for men and women, to sanction any type of practice that perpetuates such inequality, and to promote affirmative action measures of a temporary nature for its transformation" (Bonaccorsi & Reybet, 2018). In this sense, the States that ratify the Convention have the legal obligation to eliminate all forms of discrimination against women and guarantee their full development so that they can exercise and enjoy their rights and fundamental freedoms (CEDAW, 1979). In

addition, they must allow the CEDAW Committee to review their efforts to implement the treaty through the submission of periodic reports.

When it comes to sexual and reproductive rights, the CEDAW makes no specific reference to the obligations of States with respect to this type of right. There are only three articles in the Convention that have a component focused on women's reproductive freedoms: Article 10 on the right to education, Article 12 on the right to health, and Article 16 on the right to a family (OHCHR, 2022). Article 10(h) specifies that the right to education should include "... access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning". Likewise, point 2 of Article 12 guarantees appropriate medical services in relation to pregnancy, childbirth, and the post-partum period. Finally, Article 16(e) guarantees the right to decide "...freely and responsibly on the number and spacing of children" (CEDAW, 1979).

Regarding Article 12 on the right to health, in 1999 the CEDAW Committee presented General Recommendation 24 in which it recognized for the first time that "access to health care, including reproductive health, is a basic right under the Convention" (CEDAW, 1999). In this document, the Committee discusses crucial issues that had not been mentioned before, such as the need to implement sexual and reproductive health services; the prevention of unwanted pregnancies in girls; and the imperative need of teaching sex education. In the context of this thesis, it is important to emphasize point 31(c) of the recommendation, which states that "...when possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion" (CEDAW, 1999).

Although both the Convention on the Elimination of All Forms of Discrimination against Women and Recommendation 24 have been important for the advancement of SRHR, these instruments are not sufficient for their effective application. From the feminist

perspective, the fundamental problem is not simply the fact that the Convention lays out a very basic and limited vision of what SRHR entail, but the lack of intersectionality and specificity throughout the document (Bonaccorsi & Reybet, 2018). The Convention contains no provisions that specifically address women's interactive identities, rendering issues such as racism, classism, and ethnocentrism invisible. In addition, the convention has also been criticized for "failing to address the specific needs of women in situations that do not reflect those of the standard Western lifestyle" (Bonaccorsi & Reybet, 2018). Hence the need to discuss the framework of women's rights beyond CEDAW.

2.1 From Teheran to Beijing and beyond: The role of the Women's Liberation

Movement in the recognition of Sexual and Reproductive Rights (SRHR)

As seen in the previous section, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is recognized as the main women's rights instrument in international legislation. Despite the progress that has been achieved thanks to its adoption, the Convention has proven to be insufficient and ineffective in terms of the protection of sexual and reproductive rights. For this reason, the international community came up with complementary instruments that establish specific guidelines for the advancement of these rights and freedoms. Said guidelines respond to the demands of various sectors of civil society, especially the feminist movement.

Throughout the different waves of feminism, what began as the Women's Liberation Movement became the main channel for the transmission of women's interests. From academia, politics and social collective action, the feminist movement created spaces for dialogue, interpellation, and proposals that facilitated the arrival of their demands at the heart of international conferences (Montaño, 2019). Following a timeline that goes back to the 1960s this subchapter resents the main milestones in the creation of international human

rights documents in the framework for the recognition of SRHR before and after CEDAW. It also shows how the inclusion of women's and diverse people's voices in decision-making processes opened the doors to the discussion of fundamental issues not only in terms of feminism, but also intersectionality.

Although CEDAW is generally recognized as the pioneering instrument in SRHR legislation, there is a previous document that influenced the content of the Convention itself: the Final Act of the Tehran Conference on Human Rights (OHCHR, 2015). The Act is the first document that formally recognized reproductive rights as human rights by stating that "...parents have a basic human right to decide freely and responsibly on the number and spacing of children and a right to adequate education and information in this respect" (UN General Assembly, 1968). In fact, six years after the Conference this exact point would be included in Article 16 of CEDAW.

Both the Tehran Conference (1968) and the CEDAW (1974) were marked by the emergence of the second wave of Western feminism. From the 1960s onwards, the feminist movement in the Global North not only denounced gender inequality but began to demand women's liberation in every sphere of their lives (Barber et al, 2013). Until the mid-1970s, international documents on SRHR focused primarily on the right to what was then called family planning which had a strong demographic component (Brown, 2008). Feminist advocates recognized that the so-called family planning justified the imposition of coercive birth control practices (Galeano, P. 2021). They claimed that issues such as the provision of contraceptive methods without adequate information or the practice of forced sterilizations were violations of the effective right to sexual and reproductive health. Moreover, they established that these violations affected mostly marginalized women in the Global South (Brown, 2008). This led feminist organizations to pressure the international community to

work on new agreements where human welfare would prevail over population growth policies.

These demands were then socialized in three International Summits focused on the promotion and protection of human rights (Bonaccorsi et al, 2018): the World Conference on Human Rights (Vienna, 1993), the Conference on Population and Development (Cairo, 1994), and the IV International Conference on Women (Beijing, 1995). The outcomes of these summits were materialized in the Platforms for Action that will be discussed below.

The first international summit that discussed SRHR was the World Conference on Human Rights held in Vienna in 1993. After eleven days of dialogue, the conference's main outcome was the Vienna Declaration and its Programme of Action. Regarding SRHR, section 3 of the Program of Action mentions the rights of women, emphasizing their right to adequate health care and sexual education (UN General Assembly, 1993). Moreover, the document showed full support to the creation of a new UN protection mechanism that is essential nowadays: the Special Rapporteur on violence against women (UN General Assembly, 1993). Both the Declaration and the Programme of Action affirmed the idea that there is a global consensus on what sexual and reproductive rights entail despite not explicitly giving them a name.

A year after Vienna, 179 governments and around 11,000 registered participants from UN specialized agencies and organizations, NGOs, IOs, the media and civil society reunited in the International Conference on Population and Development (ICPD) (UNFPA, 2020). The also called Cairo Conference resulted in a Program of Action that has been defined as the first global agreement that truly created a common language regarding SRHR (Starrs et al., 2018). Unlike the previously mentioned documents, this one openly defines the concept of reproductive rights and lists the essential elements for their effective protection. In addition to reproductive rights, the ICPD is fundamental because it defined sexual health as "the

enhancement of personal life and relationships" (OHCHR, 2015) despite not using the term sexual rights as such. Similarly, ICPD is recognized for changing the primary focus of family planning programs. Thanks to the pressure imposed by feminist organizations at the Conference, such programs shifted from seeking to reduce fertility and curb population growth to promoting individual choice regarding childbearing (Starrs et al., 2018).

Subsequently, the Fourth World Conference on Women was held in Beijing in 1995. This conference not only reaffirmed the importance of the guidelines established at the ICPD, but also expanded the analysis of rights beyond the Global North (Gebhard & Trimiño, 2012, pp.3). In terms of the SRHR framework, Beijing addressed fundamental concepts that had not been mentioned until then, such as consent and shared responsibility when engaging in sexual relations. For this to be effective, "the issue of birth control was raised independently of population policies and geostrategic interests" (Brown, 2008). In other words, contraceptives went from being seen as birth control tools to being seen as a fundamental complement to a full and complete sexual life.

From the three International Summits, there is a general notion that the Cairo Program of Action and the Beijing Platform for Action are the most relevant milestones in the inclusion of SRHR in the universal human rights framework (Gebhard & Trimiño, 2012, pp.7). These documents not only introduced a common language on such rights but were the basis for the creation of subsequent documents at the national, regional, and international levels (Starrs et al., 2018).

At the national level, the issues addressed by both Conferences are usually articulated in National Constitutions or Government Plans on sexual and reproductive rights (OHCHR, 2015). As we will see in the third chapter, this is the case of Ecuador and its 2008 Constitution which makes explicit reference to the State's duty to guarantee the SRH of the population at the constitutional level (ECLAC, 2021). At the regional level, Cairo and Beijing

were used as examples for the development of various regional consensuses that included the discussion of SRHR. An example of this are the three most important agreements reached in Latin America and the Caribbean: the Quito Consensus (2007), the Montevideo Consensus (2013), and the Santiago Commitment (2020). At the International level, both Programs of Action contribute to the achievement of the current 2030 Agenda for Sustainable Development (ECLAC, 2021). Especially regarding SDG 3 (healthy lives), SDG 4 (education), SDG 5 (gender equality, and SDG10 (reducing inequality).

Despite the great advances achieved with the addition of sexual and reproductive rights language in the Global Agenda, feminist collectives recognize two substantial flaws in the instruments mentioned so far. On one hand, both during the development and in the aftermath of the adoption of the Platforms for Action, the feminist advocates recognized that it was difficult to reach consensus on some essential elements of SRHR, especially abortion. This issue will be discussed in the next section of this subchapter. On the other hand, with the emergence of the so-called third wave of Western feminism at the end of the 20th century new types of feminism and feminist demands appeared. The lack of non-white and diverse women's experiences in the discussions about SRHR became one of the main criticisms on the implementation of Cairo and Beijing (Galeana, 2021). This point will be discussed in greater depth in the following subchapter on intersectional, postcolonial and indigenist feminism.

2.2 The recognition of the right to decide: access to a dignified and accompanied abortion

In the context of this thesis, abortion is understood as the voluntary termination of a pregnancy. According to the World Health Organization (2022), at least six out of ten unwanted abortions globally end in induced abortion. Despite being one of the most practiced medical procedures in the world, its legalization is still widely debated within the political

sphere (Starrs et al., 2018). At national, regional, and international levels, sexual and reproductive rights policies have failed to reach formal consensus on what abortion implies as a right of free choice.

While the idea that abortion is a human right has been building over the past three decades, socio-political, cultural, and religious factors have limited the possibility of its application and effectiveness (Amnesty International, 2020). This has caused abortions to become clandestine and life-threatening procedures for those who need them. According to the WHO (2022), 25 million unsafe abortions are performed each year around the world, causing approximately 39,000 deaths. According to the organization, 45% of these abortions are clandestine (WHO, 2022). This figure worsens drastically when speaking in regional rather than global terms, as 97% of such unsafe abortions occur in the countries of the so-called Global South (WHO, 2022).

Within the sexual and reproductive rights framework, abortion rights have been one of the most controversial issues. Although feminist pro-choice movements began to emerge in the 1930s and gained momentum in the 1960s, for decades their demands regarding abortion were ignored at the international level (LeGates, 2001). It was only in the late 1990s in Cairo and Beijing that the international community began to discuss the idea that there is an intrinsic link between abortion rights and the effective exercise of human rights (Starrs et al., 2018). According to feminist critics, the late inclusion of abortion rights on the global agenda responded to the idea that, unlike other SRHR, abortion should be an internal affair of each State. In some ways, confronting the idea that an abortion implied the potential murder of an "unborn" was too much for an international community that was heavily influenced by the Catholic Church (LeGates, 2001).

This last point can be exemplified by the consensus reached in Cairo in 1994, where abortion was defined for the first time as a public health problem. In the final document of the

ICPD (1994), States are called upon to make the practice of abortion a safe procedure, as long as this is not against the law (Starrs et al., 2018). From the feminist critique, there are two crucial problems with this consensus. On the one hand, it created a clear opposition between the sovereign right of States to enforce their laws versus the universal right of women to safe abortion (Montaño, 2019). The problem here is that for many States, especially in the global south, sovereignty has been understood as a safeguard to refrain from complying with international consensus. In this regard, the ICPD's recommendation allowed States to invoke customs, traditions, or religious considerations to avoid their obligations (Montaño, 2019).

This dichotomy between the unrestricted universality of human rights and cultural relativism was finally debated a year later in Beijing (1995). In this case, the platform for action "recognises ethnic, religious and cultural diversity, but also affirms that measures must be taken to eliminate prejudices and customary practices that favour sexual violence in all spheres" (Montaño, 2019). From a feminist perspective, this represented an important step forward because until then the issue of relativism had always appeared as an argument to restrict and, in no case, to expand women's rights (Mármol & Molina, 2021). An example of this was not only abortion, but also issues such as genital mutilation or child marriages.

The Beijing Platform is also known because it provided a space to discuss the issue of the criminalization of abortion. As a result, one of its final recommendations calls on governments to review legislation that criminalized women (Starrs et al., 2018). The formalization of this recommendation has been followed by significant changes in the last 20 years. For example, since 2013, several international actors have included the issue of abortion in their recommendations, especially at the regional level. Consensus documents such as the Montevideo Consensus in Latin America and the Maputo Plan of Action contain more progressive language calling for countries to "ensure access to safe abortions to the full extent of national laws and policies" (African Union, 2016). However, such recommendations

have not been able to effectively influence national legislation. So much so that Latin America and the Caribbean and Africa are recognized as the two regions with the most restrictive laws on abortion (WHO, 2022).

This situation raises a key question: Why have consensus failed to prevent the denial and criminalization of abortion? From a legal point of view, feminist collectives recognize that the problem with most of the instruments within the SRHR framework is that they are sources of soft law. This means that even though platforms for action, recommendations or general comments can have political weight, they are not legally binding (Gebhard & Trimiño, 2012). Besides from that, the few instruments that are legally binding like the CEDAW only establish rights related to safe abortion such as the right to life and health, but do not address the right to abortion itself (WHO, 2022). It is precisely for this reason that the applicability of international instruments, whether soft-law or hard-law, is often subject to interpretation within national jurisdictions. An example of this will be seen in chapter three regarding the case of Ecuador and its abortion legislation.

Considering the difficulty of reaching a truly effective and enforceable global consensus, the feminist movement focused on national campaigns. While the pro-choice movement continued and continues to exist as a collective force at the international level, it gradually started focusing on particular cases. This was especially the case in the countries of the Global South where, unlike in Western Europe and North America, abortion had not yet been legalized in the late 1990s and early 2000s (Brown, 2008). The most notable case is that of the so-called “Marea Verde”, a pro-choice movement that evolved in Argentina from the National Meetings of Women that took place multiple times since 1986 (Galeana, 2021).

As we will see in the second chapter, the National Campaign for the Right to Legal, Safe and Free Abortion that has spread throughout Latin America consolidated the idea that abortion should not only be legal and affordable, but also dignified and accompanied. In this

context, the concept of dignity refers to the provision of safe and adequate abortion services and spaces without class differentiation. It also implies the elimination of any kind of re-victimization of those who decide to have an abortion (Surkuna, 2021). This is linked to the idea of accompaniment, which refers to the possibility that those who have an abortion receive guidance and support throughout the process before, during and after the abortion (Rodríguez Falcón & Quijada Mata, 2022). Accompaniment should have a holistic approach that includes medical, psychological, and emotional aspects.

3. The body seen as a territory of conquest: the path towards intersectional, indigenist and post-colonial feminism in Latin America

In "Decolonising feminism", Curiel (2009) discusses the idea that mainstream feminism has been constructed in a linear and westernized way. The author criticises the assumption that feminism was born with the French Revolution, as it denies the history of women who confronted patriarchy in other parts of the world centuries before. Specifically, Curiel (2009) speaks of the *invisibilisation* of women's resistance in the processes of historical coloniality in the Global South. In a global context dominated by the West, hegemonic and white feminism has failed to represent the living experiences of non-European and non-US women. It has historically portrayed them as objects of discrimination rather than subjects of their own particular experiences (Parra, 2018).

This sub-chapter discusses how traditional feminism has evolved into the idea of pluralised feminisms recognizing the importance of the concept of intersectionality and the inclusion of critical theories such as post-colonialism and *indigenism*. This conjunction of diverse thinking sets a precedent in the development of new feminist social movements that operate under principles such as communitarianism and “sororidad” (sisterhood). The subchapter also analyses reproductive and sexual rights from a non-Westernised feminist

perspective that shows the different ways in which the violation of these rights affects women and diverse¹ people in Latin America.

To begin with, it is essential to clarify the link that exist between three key concepts: intersectionalism, postcolonialism and indigenism. Intersectionality refers to "the phenomenon whereby each individual suffers oppression or privilege on the basis of their membership in multiple social categories" (Crenshaw, 1989). In simple terms, intersectionality recognises that everyone has diverse living experiences based on the multiple identity categories that define them. For example, an upper-middle class white woman does not experience the same kind of systemic violence than an impoverished black woman. This means that the life experiences of those who perceive themselves as women are impacted not only by their gender but also by issues like class; self-identification of racialised bodies; non-hetero-binary gender perception; generational temporality; geographical location and linguistic-cultural diversity.

In the Latin American context, the recognition of identity categories such as black, indigenous, *mestizo*, poor, rural, migrant, and lesbian was decisive for activists to move away from the trend of Westernised and heteropatriarchal feminism (Aguilar, 2019). It also opened the doors for the inclusion of new ways of thinking based on critical theories, such as postcolonialism and indigenism. Feminism seen from a postcolonial perspective seeks to understand the historical and social constructs of what it means to be, have, and inhabit feminised bodies in territories marked by processes of colonisation (Mármol & Molina, 2021). This implies understanding systems of domination as inherently patriarchal and capitalist structures that perceive women and their bodies as objects of exploitation. Postcolonial feminism is especially powerful in the Andean countries², where feminist activists claim that indigenous women are exposed to ancestral and systematic genocide daily

¹ Refers to people with diverse sexual characteristics, orientations, gender identities and expressions.

² Refers to Bolivia, Ecuador and Perú.

(Guzmán, 2019). Hence the idea of indigenous communitarian feminism, which will be discussed later on.

Within the framework of sexual and reproductive rights, the application of intersectional feminist perspectives with anti-colonial and indigenist principles allows for the recognition of the experiences of feminised bodies in the Global South. From this approach, critics argue that reproduction has been historically perceived as merely a matter of demographic control (Sadinsky & Ahmed, 2021). This means that bodies with reproductive capacity have been controlled either to increase population or to limit it. In turn, the recognition of reproduction as an inherent process of women implies that their sexual rights are not considered, as their autonomy and desires are not valued (Gargallo, 2014).

Understanding these systems of domination and control over women's bodies are precisely the basis of the collective desire that drives the feminist pro-choice movements we know today. For those fighting for the right to autonomy, mobilization begins in the streets and solidifies in the senates. This means that in order to achieve political goals, it is essential for women to assimilate as political subjects. Being a subject implies having a voice and moving away from the traditional conception that women exist to be objectified, used, and exploited.

3.1 Feminist geographies: understanding the reproductive body as the most intimate site for/of political struggle

While the violation of human rights is a global issue, the territories in which we exist influence how we experience it. The recognition of territoriality as a fundamental factor within systems of domination is the basis of what is defined as human geography. In academia, this discipline explores the relationship between the individual and the territory in two complementary ways. On the one hand, it studies human processes in the geographical

spaces they inhabit over time. On the other hand, it analyses how the spatial modifications caused by these human processes reflect their social structures and cultural inheritance.

Within the broad universe of human geography, there are multiple schools of thought focused on analysing diverse phenomena. In the context of this thesis, it is crucial to discuss the concept of feminist geography and its evolution towards post-colonialism. This type of geography emerges from Latin American critical thought and seeks to understand the correlation between the control of bodies and the domination of territories (Hernández et al., 2020). More specifically, the postcolonial component of feminist geography posits the idea that the reproductive body is the most intimate site for/of political struggle in territories marked by processes of colonisation (Erdman & Cook, 2008).

Based on this argument, the more progressive side of the Latin feminist movement coined the term “cuerpo-territorio” (body-territory). The union of both terms responds to a basic principle: women do not fight and live on the territory, but with the territory. By recognizing the space as a living force, feminists also think the body is often subject to control and constant violations because it is the first physical space we inhabit (Colectivo de Geografía Crítica del Ecuador, 2018). In fact, from a post-colonial perspective, the violence that ranges from the moralization of sexual and reproductive policies to femicide is comparable to the expropriation and exploitation of ancestral and sacred territories (Gargallo, 2014, 191).

Regarding the fights for sexual and reproductive rights, feminist geography considers the historical and spatial context in which different feminist collectives developed. As previously discussed, the construction of the SRHR framework at the international level responded to a series of demands from second and third wave Western feminism. While it is true that the inclusion of women's voices in the International Forums generated a precedent in

the understanding of SRHR as human rights, this precedent did not have the same level of reach and impact in all parts of the world.

This last point can be exemplified using the case of the situation of abortion rights in Europe as opposed to Latin America. If we focus on the simplest most up to date figures, the difference between the regions is critical. According to the Centre for Reproductive Rights (2022), of the 47 countries that make up Europe, 41 have legalized abortion on request or broad social grounds. This means that 95% of women in Europe have the right to access a voluntary abortion without restrictions in most cases. In contrast to the European case, of the 33 countries that make up South America, Central America, and the Caribbean, only 6 have legalized abortion on request. Of the remaining 27 countries, 6 prohibit abortion completely and the other 21 allow it only in specific cases such as rape or to save the life of the pregnant person. This means that in this region of the world, 97% of women live in countries with restrictive abortion laws (Center for Reproductive Rights, 2022).

In comparative terms, the figures show a reality that responds to the geopolitical conditioning of the aforementioned regions. These conditions are not only limited to a question of economic development, but also of socio-political wounds that have not been healed despite the passage of time (Belfrage, 2022). Without going too far back in the timeline of SRHR history, it is enough to think of the different processes that the feminist movement faced in the 1970s to understand why the progress of these rights has been so uneven.

While European feminists were presenting their demands in international forums that sought to shape the new post-war commitments, Latin feminists were risking their lives amid a wave of military dictatorships that swept the region. In Europe, the feminist movement emancipated women through sexual liberation, in Latin America it did so through social revolution. Moreover, even after the military juntas were overthrown, the region entered a

process of so-called democratization. This new era was dominated by neo-conservative discourses and economic policies that were little concerned with creating a true welfare state (Brown, 2008). In this context, the territories where women lived completely shaped their experience. As post-war Europe rebuilt its cities, it also rebuilt the foundations for policies based on cooperation and equity. On the other hand, dictatorial Latin America implemented regimes of territorial and bodily domination that were reflected in the militarization of cities and the rape/disappearance/murder of bodies considered subversive (Brown, 2008).

In addition to the socio-political situation experienced during the dictatorial era, there are other historical and cultural conditions that have an impact on the *body-territories* in Latin America. In particular, the lives of those who inhabit territories marked by processes of domination reflect a colonial heritage that has been impossible to erase (Gargallo, 2014, 48). On the one hand, the colonial caste system was eliminated but replaced by new structures of racial hierarchy in which non-white and non-mestizo bodies are seen as inferior. On the other hand, the processes of evangelization have a permanent imprint on societies that, despite presenting themselves as secular, dare not make decisions that threaten Catholic values. Thus, racialized bodies, servile bodies (women) and bodies that go against the norms of the morally acceptable (LGBTIQ+ community) have become a fundamental part of the Latin American feminist struggle (Zaragozin, 2020). As we will see later on, all *these body-territories* create and sustain social struggles through the collectivization of needs and community solidarity (Díaz Lozano and Feliz, 2020).

3.2 Beyond western feminism in the Abya Yala: “feminismo comunitario” and ancestral practices in case of pregnancy and abortion

As mentioned above, indigenous women and Latin American feminists coined the concept of the *cuero-territorio* to position themselves against corporal and territorial violence. The understanding of this inherently patriarchal and colonial double exploitation dynamic is the

conceptual basis of the so-called *feminismo comunitario* (communitarian feminism) that comes from the *Abya Yala* (Belfrage, 2022). The term *Abya Yala* translates to “mature land”, “living land” or “flourishing land” and is employed by native peoples to identify their territories, in opposition to the expression "America" (Porto-Gonçalves, 2016). For the many peoples and nationalities that inhabit the southern parts of the region, the idea of having their own chosen name is a revolutionary political act. By rejecting the name given during the colonization process, they reappropriate the territories that were taken and destroyed. In addition to reappropriating the usurped land, they regain power over their bodies and experiences.

After five centuries of colonial exploitation and plunder, critical thinking implies recognizing that even now indigenous peoples face a double post-colonization process (Jiménez, 2020). On the one hand, peoples and nationalities are seen as victims of renewed processes of dispossession and capitalist exploitation. Both their bodies and the territories they inhabit suffer the consequences of historical structural discrimination, especially sickness, poverty, and marginalization (Jiménez, 2020). On the other hand, they are seen as "agents, referents and promoters of practices, epistemologies, modes of organization and fights that defend life in the face of hegemonic patterns of power" (Paredes, 2017). Thus, ancestral practices and knowledge are experiences of vital importance for the strengthening and orientation of the struggles taking place in *Abya Yala*.

It is within this context that community feminism was born. This type of feminism understands the processes of exploitation and resistance of *Abya Yala* through the eyes of its women (Jiménez, 2020). From the point of view of communitarian feminism, recognizing the afore mentioned double post-colonization process is fundamental because it allows us to see both the consequences of the colonial patriarchal heritage and the opportunities to resist them. This critical recognition is part of what is called "depatriarchalization" (Paredes, 2017). This

term refers through a process through which people questions patriarchy, capitalism, and colonialism, denouncing that they leave deep imprints on collective and social bodies. Among other things, the feminist movement that follows communitarian principles questions compulsory heterosexuality, the rape of women as a machista practice, reproductive exploitation and the invisibilization of lesbians and trans women (Paredes, 2017).

Regarding the colonial patriarchal heritage within the SRHR framework, communitarian feminism introduces two fundamental concepts: colonial penetration and the entanglement of patriarchies. Colonial penetration refers to penetration as “the action of introducing one element into another” and colonial, as “the invasion and subsequent domination of a foreign territory starting with the territory of the body” (Cabnal, 2010, 10). This concept evokes two distinct senses. On the one hand, the forced introduction of the hegemonic Western model through the processes of colonization and evangelization, and on the other hand, coital penetration in the context of sexual violence. The last point does not infer that all sexual penetration is necessarily violent but recognizes that when desire and consent are not considered, bodily penetration is as cruel as territorial invasion (Cabnal, 2010, 12). In this context, perpetrators (usually men) invade and occupy women's bodies (feminized bodies) as production and extension of power over public space.

The concept of colonial penetration is extended when speaking of “*entronques patriarcales*” (patriarchal entanglement). In general terms, *entronque* means "relation of origin, correspondence or dependence of one thing with another" (RAE, n.d.) and patriarchy (in its literal sense) means “government of the fathers” referring to a type of social organization in which authority is exercised by men (Fontenla, 2008). Within communitarian feminism, the sum of both terms refers to the idea that the feminized women and bodies of Abya Ayala face not only one, but two types of patriarchy: the ancestral originary patriarchy and the colonial patriarchy (Paredes, 2017). The first type of patriarchy is related to

cosmogonic principles and values that are mixed with ethnic fundamentalisms and essentialism. The second is based on Western, capitalist, and hegemonic values.

Although both types of patriarchy are complementary and important in the feminist discussion, communitarian feminism emphasizes the discussion of ancestral patriarchy due to the little diffusion it has within traditional feminism. According to Cabnal (2010), "the oppression manifested against women within cultures and worldviews is something that must be questioned head-on and named as it is: misogyny, expressed and manifested in the most remote and current attitudes and daily practices". Specifically, Cabnal (2010) focuses her analysis on the ancestral cosmovision that exists on heteronormative duality/complementarity and the relationship between bodies and P Regarding SRHR, communitarian feminists recognize community and ancestral practices as means of resistance, where concepts such as accompaniment are fundamental when discussing issues such as abortion. He so-called *Pachamama* (Mother Earth).

For communitarian feminism the construction of ancestral sexual thought is based on a cosmogonic cis-heterosexual imaginary that over-regulates women's sexuality. While it is true that the concept of cis heterosexuality is not specific to the original peoples and nationalities, it has been culturally adapted to designate the cosmic duality that has existed for millennia. Designating a masculine or feminine gender to mountains, plants, water, animals, and human beings has an impact on the way men and women are perceived within indigenous communities. This is especially true when speaking of the Pachamama or Mother Earth, who is portrayed as a feminine force because of her reproductive capacity.

The important question here is to ask who fertilizes the Pachamama and what is the limit of her reproduction. As Gargallo (2014) states "it is one thing that Pachamama has the potential for our nourishment, creations and recreation, and another that it is the right and property of human beings to exploit it, buy it, sell it, alienate it or depredate it". The same

analogy can be applied when speaking of women and the bodies that have the capacity to gestate: one thing is that they have the capacity to reproduce and give birth, and another is that they have the obligation to do so. From an antipatriarchal and postcolonial feminist perspective, the manipulation of bodies and control over maternity is seen as a concrete form of symbolic violence and a patriarchal privilege that is justified with the excuse of cultural and ancestral beliefs.

The same is true of the idea of complementarity. Just as there is a duality between the feminine and the masculine, the Andean cosmovision affirms that both energies complement each other. The masculine energy is attributed the capacity to protect and provide while the feminine energy is given the gift of serving and healing. In this sense, women are in charge of social, biological, and cultural reproduction, while men are in charge of symbolic and material reproduction. Thus both, in a complementary manner, generate balance for the continuity of life in its relationship with nature (Cabnal, 2010. 8). From the feminist perspective, this idea is accompanied by a sexual hierarchy that makes complementarity a service that women owe to men. That is, a sacralized form of submission both in the private space (couple/family life) and in the public space (Gargallo, 2014, 81).

This division in terms of gender roles fits perfectly within the concept of “entronque patriarcal” (patriarchal entanglement) as it was not a consequence of colonization but existed before and was transformed with it. An example of how ancestral patriarchy operates can be seen in some native cultures that bury the placenta or umbilical cord of newborns to connect them with the earth (Gargallo, 2014, 81). If the remains come from a female newborn, it is common to bury them in the hearth or kitchen, so that they remain tied to the labors that the place embodies. If they come from a male newborn, they are buried in the courtyard or on the slopes of the roads to underline their right to mobility and public life. As for colonial/Western patriarchy, evangelization imported the idea that the divinity (God) is

represented as a male figure accompanied by a female figure of lower rank, a merciful woman and mother, who is also portrayed as an asexual virgin" (Gargallo, 2014, 73). The conjunction of both ideas reinforces gender roles in indigenous peoples and nationalities that strive to keep their traditions alive while adapting to colonial precepts to survive in westernized mestizo societies.

This critical analysis does not seek to invalidate the importance that the feminine/masculine symbolism represents in the Andean cosmovision. It simply seeks to recognize how such symbology has been altered through processes of historical domination in which the feminine has become synonymous of weakness and vulnerability (Gargallo, 2014, 92). It is precisely for that reason that communitarian feminists seek to reappropriate ancestral concepts and knowledge as a method of resistance. Hence the feminist idea that, if the body is a territory that can be exploited, it is also a territory that can be liberated. In the framework of sexual and reproductive rights, this resistance is configured through the recovery of memory and ancestral practices of accompaniment before, during and after (non) childbirth. These practices are carried out by midwives, who are indigenous and rural women who have been trained for generations to provide emotional support and containment during all processes linked to the reproduction of life (Jiménez, 2020, 92). Their work, despite being often invalidated by not being recognized as professional medicine, is fundamental to achieve reproductive justice, especially in areas where traditional medicine is not accessible or deficient (Flores, 2022).

In the specific context of the struggle for access to safe abortion, communitarian feminists recognize the value of midwives as "accomplices in one of the greatest acts of rebellion and autonomy: accompaniment" (Flores, 2022). Through ancestral procedures such as bathing with native plants, the *closing of the hips* and the use of medicinal herbs, midwives who support the right to decide, accompany women during the interruption of their

pregnancies. The process of *acompañamiento* (accompaniment) to get a dignified abortion involves physical and emotional support at each step of the process (Flores, 2022). This is especially important in contexts where abortion is criminalized, and the health and justice systems are inherently discriminatory (Belfrage, 2022, 19). Several feminist organizations that follow community principles have appropriated the idea of accompaniment not only to provide medical services, but also psychological and legal support. This will be further discussed in the third chapter of the thesis.

3.3 Intersectionality and social justice: reproductive rights seen as a gender, class, and race privilege

As discussed above, Latin American feminism recognizes that women and feminized bodies face more than one type of symbolic and structural violence. The application of concepts such as intersectionality and postcolonialism made it possible to recognize a type of domination that is not only patriarchal, but also racist and classist (Gargallo, 2014, 78). This means that the multiple identities of an individual make them vulnerable to a sum of violence that hinders the full development of a dignified life. From this perspective, feminist critics make a clear differentiation between privileged bodies and marginalized bodies. Beyond falling into the rhetoric of duality, this idea develops under the concept of *otherness*.

When refereeing to the "*other*" intersectional feminism asserts that there are substantial differences between bodies that fit the cis-hetero-white norm and those that do not (Parra, 2018). This means that the *other* is anyone who inhabits a racialized, non-binary body. In the Latin American or Abya Ayala context, the *others* are mainly native peoples, black people, and people with diverse sexual orientations and gender identities and expressions. In mestizo societies that are constantly exposed to social and cultural "whitening" processes, the *others* live in unfavourable life situations where their bodies are exploited, excluded, repressed and discriminated against (Bellucci, 2014, 366). In the particular case of feminized

bodies, when their diverse identities intersect, they are more vulnerable to physical, psychological, and emotional violence (Zaragozin, 2020). When speaking of sexual and reproductive rights, this vulnerability is especially reflected in cases of sexual violence and criminalization of abortion within inherently discriminatory medical and judicial systems.

This subchapter extends the experience of women in the indigenous communities of Abya Ayala, recognizing other racialized and diverse bodies that are also affected by the violation of sexual and reproductive rights. As with indigenous women, it is possible to explore the reality of black women and people who, regardless of their sex and gender identity, have the capacity to gestate. In the specific case of abortion, exploring the experiences of *others* allows us to recognize how, due to their marginalized condition, they are more exposed to clandestinity and criminalization. It also opens the door to deepen the inclusion of the concept of *gestating bodies* and its various synonyms, which are a fundamental part of the inclusive discursive language of the Latin American feminist movement.

3.2.1 Clandestine abortion and criminalization of marginalized bodies

Intersectional feminism recognizes that, just as it happens with gender categories, non-white racial identification can be used to classify people as disposable, stripping them of their human rights (Singh et al., 2018). In the particular case of Latin America and the Caribbean, both indigenous and black people are at a disadvantage when compared to the *mestizo* population. This disadvantage is caused by several factors such as geographic location and the socioeconomic conditions of each ethnic-racial group. The historical consequences created through the processes of colonization and slavery have underpinned the foundations of institutional systems that are inherently racist. These systems have marginalized indigenous and black people, who usually find themselves immersed in cycles of exploitation and poverty.

Generally speaking, impoverishment is reflected not only in people's private life, but also in the public spaces they inhabit (Taylor, 2022). Those who live in rural or peripheral areas, as is generally the case of indigenous communities, have less access to effective public services such as education or health. Likewise, institutionalized racism causes the penal and judicial systems to target people of colour. When addressing the issue of abortion these two points are the reason why clandestine and criminalized abortion has a disproportionate effect on ethnically and racially marginalized populations from lower socioeconomic backgrounds (Center for Reproductive Rights, 2020).

At the beginning of this chapter, the figures showed that clandestine and unsafe abortions are mostly practiced in countries of the Global South with very restrictive or even non-existent abortion laws (WHO,2021). The feminist critique recognizes that even in clandestine conditions, when an abortion is performed in dignified conditions, it is because the person has the necessary resources and contacts to access private doctors and hospitals. In this sense, abortion becomes a class privilege, since people living in poverty are either forced to continue with their pregnancies or have an abortion in deplorable conditions.

In cases where they decide to have an abortion, the options are limited. If the pregnancy is at a late stage where abortive pills (misoprostol) are not an option, pregnant people must undergo an abortion by dilation and curettage³. This is not uncommon due to late recognition of pregnancy symptoms or lack of financial means and resources (Singh et al., 2018). When they don't occur in clinics or private medical offices that operate illegally, these procedures are performed in what are referred to as *aborteros*. These places can be anything from a garage to somebody's living room. According to Belluci (2014) *aborteros* are usually "sordid places in fetid enclosures used as operating rooms, with a total lack of asepsis and without any emotional restraint." Hence, why so many women die during or after clandestine

³ Dilation and curettage (D&C) is a procedure to remove tissue from inside the uterus. Health care providers perform this procedure to clear the uterine lining after a miscarriage or abortion (WHO, 2021)

procedures, as they do not comply with adequate sanitary measures for their performance (WHO, 2021).

Mortality in abortion cases is also high when the pregnant person chooses to perform the procedure by themselves (Singh et al., 2018). Whether out of fear, embarrassment, or lack of money, it is common for abortions to be performed by making use of abortion pills (misoprostol) or extremely dangerous techniques. In cases where misoprostol is an option, the probability of death is very low as it is a relatively safe treatment the person follows the instructions properly (HRW,2021). Different is the case with techniques such as ingestion of caustic substances⁴ or insertion of foreign bodies (coat hangers) to remove the fetus from the uterus (HRW,2021). The use of unsafe methods causes deaths and morbidities that become the social and financial responsibility of the public health system, and the denial of women's human rights.

The problem of clandestinity demonstrates that the legal status of abortion has no effect on the likelihood that a person will seek an induced abortion but affects their access to safe procedures to do so (WHO, 2021). Moreover, clandestinity is directly linked to criminalization, which also has a differential impact in marginalized bodies living in countries with restrictive abortion laws. This means that in addition to not being able to access a dignified abortion because of its illegality, those who decide to do so run the risk of being imprisoned and prosecuted (Amnesty, 2018). Some justify this repressive measure by claiming that it is a "public health" measure. However, feminists recognized that in most cases this criminalization exacerbates underlying public health problems, because it makes risky behaviours clandestine and prevents the provision of effective health services (Amnesty, 2018).

⁴ "Caustic substances or chemicals are acidic or alkaline substances that are capable of damaging living tissue" (Mishra, 2022)

Besides from its legal impact, the criminalization of sexuality and reproduction perpetuates stigmatization, discrimination, and systemic violence over bodies. This problematic affects the lives of all people who have the need or desire to have an abortion, however, the levels of impact are more notorious in marginalized groups. In the case of Latin America, most of the women who are prosecuted are black, indigenous and impoverished. This can be identified by reviewing police records of people facing criminal proceedings due to abortions. An example is the case of Ecuador, where these records are dominated by surnames with indigenous and black roots (HRW, 2021). This last point will be discussed in greater depth in the third chapter, that makes a critical review of the abortion situation in Ecuador.

3.2.2 Introducing the concept of *pregnant person* and its synonyms

Throughout this chapter, various terms have been used to refer to people who have the capacity to become pregnant and have abortions. Replacing the word "woman" with terms such as "feminized body", "gestating body" or "pregnant person" implies a political act of reclaiming the existence of identities that do not fit into the cis-hetero binarism. The inclusion of the concept of gestating bodies is fundamental because it allows the inclusion of the life experiences of trans and non-binary people who have been historically discriminated and neglected.

It is important to notice that within traditional, westernized, and radical feminism there is resistance to the recognition of the rights of trans people (Torres, 2021). Hence, usually qualitative, and quantitative studies on certain topics linked to feminism do not present statistics on trans or non-binary bodies (Nichols, 2018). This is the reason why the use of inclusive language is specially used by alternative feminist movements that adopted intersectionality as the principle of their struggle, as is the case of most Latin American organizations.

For the movements that advocate for the recognition of diverse identities, the reason is clear: for judicial and political systems what is not explicitly named, does not exist. Hence, part of the movement in the region has initiated a campaign for the inclusion of these identities in existing legislation on sexual and reproductive rights (Torres, 2021). This is a claim to both national and international legal instruments, which created laws of protection directed only to women in their more traditional sex-generic denomination. The use of inclusive language opens the door to identifying the legal and political gaps that exist with respect to the experiences of these people in the context of abortion. This inclusion implies not only creating the conditions for them to access relevant public services, but also creating the precedents for their experiences to be valued (Starrs et al, 2018).

WOMEN'S MOVEMENTS' DEFENCE OF SRHRs: LA MAREA VERDE EXPERIENCE IN LATIN AMERICA

For decades, the feminist movement has been consolidating itself as one of the most important social forces in the world. The experiences of women and diverse people have always been present at the heart of revolutions and have succeeded to make their voices heard through collective and popular organization. This organization has been the means by which the silencing and invisibilization of the structures of domination and discrimination against diverse women have been exposed. From different spaces, the feminist movement has promoted structural changes based on the rejection of patriarchal norms and *machismo* (sexism). These systemic patterns of violence are present in all areas of public and private life, so there are some social collectives that focus on issues that require particular attention. This is the case of the struggle for sexual and reproductive rights, which is the central theme of this thesis. Similarly, the movement has had to evolve and adapt to diverse social contexts through the adoption of critical lines of thought as in the Latin American case.

As presented in the first chapter, the shift from traditional Western feminism to intersectional feminism opened the doors to see the situation of diverse women and their struggle from a more inclusive perspective. However, this new feminism that was born in the Global South faced challenges and limitations inherent to the historical contexts and latitudes in which it developed (Guevara, 2021). Hence, the Latin American feminist movement has been built as a social and political force totally different from that of the traditional feminist movement (Mcbride & Mazur, 2012, 657). While the fundamentals of the movement are essentially the same, intersectional feminism recognizes that the political actions of the traditional movement were designed to fit the ideas of democratization proper to the Global North. When talking about the institutionalization of feminist demands, this means that they cannot be effectively applied in non-hegemonic territories. That is, territories that have been

marked by violent systems of oppression such as colonization, military dictatorships, or authoritarian governments (Mcbride & Mazur, 2012, 657).

The use of critical lenses that recognized the flaws in the traditional feminist movement, opened the doors for the inclusion of postcolonial, indigenist and diverse ideas that pluralized the feminist revolution in Latin America. This means that the fight for the right to equity and social justice evolved and brought in the fight for the right to autonomy and freedom in all public and private spaces. This includes not only the lives of women, but also of diverse people who share experiences of marginalization and historical oppression (Mcbride & Mazur, 2012, 657). Hence the famous feminist slogan of the seventies that affirms that the personal is political, establishing that the feminist struggle occurs every day, is permanent and comes from the most intimate spaces of our individual lives (Schweizer, 2020). This slogan, popularized by Carol Hanisch (1970), speaks of the concept of politics not in the electoral sense, but in the sense of them constituting power structures. It implies the understanding that the problems that were believed to be personal are actually collective and therefore require collective solutions (Aránguez, 2019, 241). Thus, personal experiences of oppression are transformed into popular demands and organized actions, as we will see later.

This chapter is divided in three sections. The first part analyzes the configuration of the feminist movement through a general introduction to the theory of social movements. It presents essential elements for the construction of the movement, such collective historical memory, social conscience, and the mobilization of resources for collective actions. To complement this last point, this part of the chapter includes an analysis of the sociology of action and the Significance Quest Theory of Radicalization, which facilitates the identification of the different scales and types of collective actions used by social movements. Subsequently, the second part of the chapter focuses on understanding how the feminist movement can become an agent of political change to transform patriarchal norms. It presents

the various paths for the politicization of feminism; as well as the types of representativeness to which the movement can aspire and the obstacles it faces for them to be effective. Finally, the third part analyzes the case of the Marea Verde Movement and its role as protector and promoter of sexual and reproductive rights in Latin America. It specially focuses on the right to abortion and the norms that regulate the bodies of people with the capacity to gestate, limiting their autonomy and criminalizing their freedom of decision. This section builds the history of the movement, its symbolic and discursive elements; and the main objectives, demands, strategies and actions they use to meet their goals. To close this section, I analyze the concept of transnational social movement and how the Marea Verde fits into this category thanks to the creation of networks of solidarity and shared stories within the region.

The chapter gives us the opportunity to reflect on three key points. First, the transformative capacity of the feminist social movement and its incidence as a political agent for the promotion of structural changes. Second, the advances that have been achieved thanks to the inclusion of new theoretical lenses and specific actions whose principle is intersectionality and the recovery of historical memory. Third, the strength of solidarity networks and shared values that allow feminism to expand across borders and adapt to different contexts. Thus, thinking of the feminist movement as an entity of resistance, resilience, power, and solidarity highlights the feminist slogan that "...better times will come because we are building them" (Drazer, 2022).

1. The configuration of feminism as a social movement for the construction of feminist policies.

Contemporary social movement theory is embodied in the literature of authors such as Touraine, Tarrow and Tilly who focused on the study of what constitutes collective behaviour, the sociology of action and resource mobilization. Touraine (1984, 3) defines social movements as "...the organized collective behaviour of a class actor struggling against

its class adversary for the social direction of historicity in a given collectivity". In principle, the definition refers to the so-called class struggle. However, this conception has expanded to recognize that systems of domination go beyond the socioeconomic sphere. In simple terms, social movements are groups of individuals who share common aspirations and challenges focused on reclaiming what they feel has been taken away from them by dominant social forces. Following Touraine's definition, for a collective to be recognized as a social movement, it must be composed by three indispensable elements: the actor that constitutes it, the opposition it faces, and the system of action/historical oppression in which it develops.

In the case of the traditional feminist movement, its constituent elements are women as the main actor, patriarchy as the antagonist, patriarchy as the system of oppression, and the struggle against violence and *machismo* as the field of action. It is important to note that all these elements have evolved over time. Especially in terms of the actors, the inclusion of the intersectional perspective in feminism extended the concept of women by including diverse women and people as actors within the movement. In the case of abortion, this refers specifically to the case of lesbian women, transgender people and other identities that have the capacity to gestate. Moreover, the element of the field of action is related to the mobilization of social movements, which is the most symbolic collective action they perform. From a theoretical perspective, it is worth mentioning two paradigms that seek to explain where, how and why such mobilization originates. These paradigms are Sidney Tarrow's Political Opportunity Theory and Charles Tilly's Threat Theory.

On the one hand, the theory put forward by Tarrow in 1997 recognizes two dimensions of the political environment that favor the emergence of social collectives: electoral elections and conflict between elites or classes. The author recognizes that democratic processes create the necessary spaces for collectives to organize and demand changes to be applied to future political agendas. Likewise, conflicts between elites or classes

demonstrate their weaknesses, and give way to the possibility of attacking them from their own vulnerability. These opportunities are usually politically charged, and it is not uncommon for certain movements to link up with political parties that offer to fulfil their aspirations. This paradigm can be exemplified using the case of the feminist movement and its intersection with leftist political ideology. This of course does not mean that all members of the feminist movement identify themselves as supporters of the left, nor that all leftist progressive party leaders agree with the demands of the feminist struggle (Zignano, 2022). However, it is imperative to recognize that there are visions that intersect and complement each other, especially in Latin America.

In simple terms, Latin American feminisms highlight that, in addition to the struggle against class inequality, gender and ethnic-racial inequalities are also capitalist tools within a patriarchal and Westernized system. Unlike traditional feminism, which has more liberal overtones, intersectional feminism also seeks to understand the importance of the sexual division of labour and the negative impact of economic policies that are developed without a gender approach (Zignano, 2022). The relationship between the most progressive Latin American parties and the various feminist organizations in the region perfectly exemplifies Tarrow's theory. The parties include feminist demands as part of their electoral programs and open their doors so that members of the movement have access to participate in the elections. This occurs because both the party and the movement recognize the existence of a common antagonist: the capitalist system which is inherently patriarchal, and which is usually represented by right-wing political parties and movements. Thus, the alliance between the two implies an opportunity to fulfil their own and shared aspirations (Mcbride & Mazur, 2012, 663).

On the other hand, Tilly's Threat Theory (1978) focuses on the negative aspects of the political environment and social threats. The author studies economic tensions such as

austerity and structural adjustment programs, the deterioration of human and social rights, and State repression. This paradigm denotes the need for social movements to fight against the ills afflicting specific sectors of society. Like Tarrow, Tilly refers to the political environment as one of the key elements in explaining his theory. However, there is a substantial difference between how both authors define it on the basis of specific historical moments and socio-political characteristics. Tarrow's political environment creates opportunities for mobilization because it occurs in contexts of democratization where different political actors can work in a coordinated manner (Inclán, 2017). Tilly's political environment creates the need for mobilization because it occurs in authoritarian or dictatorial contexts where social groups are threatened. In a certain way, following Tilly's paradigm, mobilization occurs not only as a vindicatory act, but also as a means of collective survival.

In the case of the feminist movement, mobilization was born as a strategy of vindication from the widespread feeling that their basic human rights were being violated. For those who militate within the movement or identify with its ideals, there are multiple threats that put the human integrity of women and diverse people at risk because of their gender. At different moments in history and in different geographical latitudes, these threats have made their way into the public and private lives of women and feminized bodies. An example of this is the mobilization of the second wave of the Western feminist movement, which focused on female empowerment through sexual and reproductive rights (García-Bullé, 2022). Over the years, what began as a demand against forced birth control has expanded and adapted based on the realities experienced by people in different socio-cultural environments.

While all feminist movements that focus on the protection of sexual and reproductive rights recognize that bodily autonomy is the basic principle on which they operate, each identifies specific threats. For example, there are feminist collectives in African countries

such as Guinea and Somalia where more than 90% of women and girls are subjected to some form of genital mutilation or cutting (UNICEF, 2020). Likewise, other collectives operating under the slogan "Girls Not Brides" work especially in South Asia and West and Central Africa, where 46 and 41% of girls are forced into marriage (Plan International, 2019). Something similar happens with the global "Me too" movement, which focuses on mobilizing in support of victims and survivors of sexual violence. Finally, in the context of this thesis, feminist movements such as the *Marea Verde* in Latin America dedicate much of their efforts to the legalization and decriminalization of abortion.

Having presented both paradigms, it is worth mentioning that the ideas of Tarrow and Tilly constitute the conceptual basis of the traditional theory of social movements as they were perceived decades ago. This implies that these ideas had to be molded and evolve with the passage of time in recognition of the flaws and gaps in both paradigms (Chatillon & Taylor, 2021). One of these gaps is the lack of gender perspective present in the work of both authors. Despite this, the examples presented demonstrate that the different types of feminisms and the organizations that represent them fit adequately with the elements of classical Social Movement Theory. Of course, this does not imply that there are no other specific elements that motivate the mobilization of collectives, as will be seen below.

1.1 "Every woman finds something of her own history within the histories of other women": Collective historical memory and Class Consciousness

According to Camacho and Menjívar (2005), in addition to the subject, the antagonist and the field of action (mobilization), another key element in the conceptualization of social movements is the recognition of collective historical memory. The "memoria colectiva", as it is defined in Spanish, is recognized by the authors as an element that gives continuity and identity structure to the individual. This means that the members of the movement share collective memories that make them feel heirs to the struggles of their predecessors. In

addition, collective historical memory not only helps to recognize the wounds created in the past, but also constitutes the basis for healing them in the present and thus avoiding their repetition in the future. In the case of traditional feminism, the movement recognizes the violation of women's rights and freedoms since the beginning of history as we know it. In addition, it evaluates the systems of oppression within which this occurred, seeking to eradicate them for the generations to come.

An example of how collective historical memory operates is one of the most popular Latin American feminist slogan: "We are the granddaughters of the witches you could not burn". This slogan, which has become popular in recent years, refers to the period of the witch hunts during the Inquisition. This dark moment in history lasted three centuries, between 1450 and 1750, time during which thousands of women were persecuted, tortured, and executed in Europe and its colonized territories on accusations of witchcraft (Barba, 2022). By using this slogan, the movement seeks to give visibility to the so-called witches, who at that time were scientific pioneers in fields such as medicine and botany or simply did not want to get married and have babies. This is women who were outside the patriarchal norm, specially promoted by the Catholic Church (Carvajal, 2021). According to the movement, the demonization of women who have been portrayed in stories and legends as evil and horrible beings has taken on a new form today. Women continue to be persecuted, tortured, and murdered by new inquisitors that take the form of modern States that seek to control their bodies and the territories they inhabit.

This statement is especially important in Latin American feminism, which recognizes that witch hunts came to the territories of Abya Ayala during colonization. The inquisitors of that time came to the indigenous territories to rape and torture indigenous women to punish them for exercising the role of healers or for engaging in sexual behaviour considered

lascivious. For example, in *Brujas, Salvajes y Rebeldes* (2021), the authors analyse the historical memory of witch-hunting in Ecuadorian territory and conclude that:

"...the dispossession, persecution and discrimination of women, their bodies, their knowledge and their lands, persists through popular narratives and beliefs, but above all through institutional discourses promoted by churches, companies or state actors with deliberate interests, often linked to the extraction of resources and the appropriation of territories" (Vázquez et al., 2021, 15).

For this reason, the defense of indigenous women and their territories is a way of commemorating the ancestral lives that were lost during this period and also a way of protecting the destiny the indigenous lives who have not yet been born.

In the context of this thesis, the criminalization of women for abortions and obstetric complications is one of the new forms of witch-hunting today. Continuing with the example of Ecuador, according to Ana Cristina Vera (2021), people who have abortions in the country are persecuted and tortured when prosecuted for the crime of alleged murder. As in the case of witches centuries ago, pregnant people are forced to testify against themselves through the use of inhumane methods of torture. There are several records of cases in which, before being treated in emergency rooms, people in the process of abortion are forced to make statements and confessions to the police. Forced testimonials occur mainly in situations where people who abort are seriously ill and so the authorities can take advantage of their state of vulnerability. This occurs even in cases in which the persons did not know they were having an abortion. Similarly, it is known that extrajudicial punishments such as the systematic denial of medication necessary to manage pain are not uncommon (Vera, 2021, 167). Thus, those who choose or need to terminate their pregnancies are tortured psychologically by being forced to confess, emotionally by being revictimized, and physically by not receiving the necessary medical attention.

Vera (2021) also recognizes that this modern witch-hunting process is complemented by a highly stigmatizing media approach to people who have abortions. According to the lawyer and feminist activist of *Surkuna*, "...the news of fetuses found abandoned, (and) of women seen as murderers of their children and portrayed as evil, stigmatize them in the social and collective imaginary, generating legitimacy to any cruel and inhuman treatment against them" (2021, 169). Thus, stigmatization and judicial reasoning marked by gender stereotypes make all these processes similar to those faced by the so-called witches. During the Inquisition, the process of judging witches ended at the stake. Nowadays, the process of judging pregnant bodies ends in prison or in alternative penalties to prison such as work in children's centres that seek to help them develop their alleged "maternal instinct" (Vera, 2021, 171).

Collective historical memory is also associated with the so-called social conscience which is a key element in the formation of collective identities within social movements. This consciousness is born from individual reflection through which people recognize their own life situation and that of those around them within the social systems they inhabit. The recognition of potential injustices drives the emergence of human feelings such as personal frustration, empathy towards the other and collective rage. According to Scribano (2009), this exercise of (self)reflection is fundamental because "...sensations of individual discomfort/well-being are complemented and counterbalanced by perceptions of societal well-being/discomfort". This means that the individual, by recognizing the patterns of systemic violence around them, finds a safe space by identifying with others who are affected by the same social ills.

Social consciousness has been such a key part of the feminist movement that there is even a feminist methodology developed around the subject. The methodology called conscientization was born between the 1960s and 1970s in the United States, where women

gathered to share daily life experiences. Aránguez (2019) states that "...the result of these conversations is the formation of sexual class (and gender) consciousness that constitutes the germ of feminist collective action". These groups arose spontaneously among female friends in different spaces such as universities, unions, churches, and workplaces. Although all of them dealt with gender as a modular element of the conversation, each group focused on different particular topics. Some debated issues such as motherhood, lesbianism, or sexual pleasure. Others operated as containment spaces to provide emotional support to women going through complex life situations such as domestic violence or postpartum depression. These spaces where solidarity among women created support networks were the first explicit contact of women with feminism (Aránguez, 2019, 241). At the time, these groups were seen only as social gatherings between friends, but it was through them that key feminist concepts such as patriarchy, oppression, revolution, or emancipation began to be discussed.

The most representative theoretical reading regarding the method of feminist conscientization is found in *Towards a Feminist Theory of the State*, published by Catherine MacKinnon in 1995. In this text, the author states that conscientization is the process through which women become aware of their oppression as a problem that is structural and collective. For the author, awareness was the first step in initiating activist activities through which women freed themselves from imposed guilt. Activism also provided them with a space to reconcile with themselves in cases where they had blamed themselves for being victims of gender-based aggressions (MacKinnon, 1995). In a way, each woman finds something of her own story within the stories of other women and this gives them a sense of belonging that motivates them to fight. Today, so-called consciousness-raising groups continue to exist at the micro level in gatherings of women friends and at the macro level through feminist assemblies that go from the local to the global sphere.

Moreover, in an era in which social networks have become a means of transmitting ideas and knowledge, consciousness-raising has managed to internationalize, creating a solidarity that does not recognize borders (Aránguez, 2019, 241). Regarding the specific issue of raising awareness on sexual and reproductive rights, social networks have become a key accompaniment tool for victims and survivors. In the particular case of abortion, for example, feminist collectives that provide accompaniment use platforms such as Instagram or Telegram to support people who decide to have an abortion in places where the procedure is illegal and criminalized. These platforms provide a safe space for emotional support, dissemination of medical information and even legal advice in cases where it is necessary. Through these virtual spaces, those who have had an abortion have the possibility of connecting with other people who have gone through similar processes, which allows them to feel listened to and accompanied. These connections also help to eliminate the stigma that exists around abortion, which is fundamental for navigating the feelings of guilt that can arise after terminating a pregnancy. A specific example of this type of accompaniment will be presented in the third chapter of the thesis through the analysis of the Ecuadorian feminist collective *Las Comadres*.

1.2 Collective actions and the mobilisation of resources

Once a shared identity has been consolidated on the basis of collective historical memory and social awareness, individuals come together to create what is considered to be the act underlying the existence of social movements: collective action. In simple terms, collective action is the organized manifestation of the interaction between diverse social actors working voluntarily and in coordination to achieve a common goal (Funes & Monferrer, 2003). Unlike other types of coordinated groups, in social movements the objective usually has a great political charge that self-regulates the group, the defense of its interests and the proposal of the social change that it seeks to achieve. The various theories that exist on social movements

present different ideas regarding what collective action implies. However, they all accept the existence of two levels at which such action occurs: small-scale and large-scale.

According to Crossman (2020), small-scale collective actions are those that are carried out continuously and on a daily basis. They are always present in the various forms of association and communication that exist both within the movement and in its interactions with other actors. These types of actions seek to transform the immediate reality in which the members of the collective or the groups they represent live. On the other hand, the author states that large-scale actions take the form of bigger demonstrations such as strikes, protests, or rallies. These occur in a programmed manner and seek to create a media impact that attracts public attention to their cause. Generally speaking, any formally constituted social movement makes use of both types of levels to achieve its short- and long-term objectives. The complementarity of both allows social demands to be adequately transmitted and reach those who have the power to make substantial changes, as is the case of politicians.

For either level of action to be successful, it is essential that social movements have the necessary resources to carry out their planned actions. The idea of resource mobilization marked a break in traditional social movement theory that focused on understanding the psychological factors that led individuals to form a collective identity (Crossman, 2020). The passion that is woven within the members' identity, often seen as irrational, was considered the driving force that made movements successful in achieving their goals. However, sociologists such as McCarthy and Mayer (1977) argued that, although human emotions were a determining factor, they were not enough to generate effective changes. According to the authors, the effectiveness of the actions requires sufficient resources to carry them out. This argument refers not only to resources as material capital, but also to human and socio-organizational capital.

To understand the types of capital more clearly, it is helpful to use a practical example. In this case, the resources used by “*Las Sororas Violetas*”, a feminist university organization in Quito, Ecuador. When talking about material capital, social movements need to have tangible resources in order to mobilize. These include a budget, but also other things like a physical space in which to meet. In the case of *Sororas Violetas*, these spaces are provided by the university or partner institutions. In addition, they carry out self-managed fundraising activities such as selling symbols of the movement (handkerchiefs) or receive donations from the Student Federation and the Student Welfare Office. Human capital refers not only to the members of the movement but also to the people needed to lead and carry out the planned actions. The type of human resources that each movement needs depends on the type of organization and the specific activities carried out. Among other activities, the *Sororas Violetas* provide legal advice to victims of gender-based violence. This is possible thanks to members of the collective law students and graduates who offer their services free of charge on a voluntary basis. Finally, socio-organizational capital refers to the external collaboration networks to which the movement belongs. *Las Sororas Violetas* work in coordination with other collectives of the National Coalition of Women of Ecuador to disseminate official communications and organize demonstrations.

1.3 The sociology of action and the Significance Quest Theory of Radicalization

As presented earlier, there are two levels at which social movements develop their collective actions: small-scale and large-scale. Although both levels operate in a coordinated and complementary manner, this section focuses only on the large-scale level as it is the most evident level in the public sphere. In addition, the analysis of the types of popular mobilizations carried out by social movements helps to better understand not only how they are formed but also how they interact with the context in which they arise. In this sense,

although there is no general rule on how they should be organized; rallies, demonstrations and protests usually develop either in a non-violent or in a contentious way (Tarrow, 1997).

The how and why of both types of collective action can be better analyzed through Weber's Sociological Theory of Social Action and the Theory of the Search for Meaning studied by various authors, including Kruglansky and Bélanger. As a specific note, it is worth mentioning that that none of the aforementioned theories focuses specifically on popular social movements. However, some of the ideas they put forward can be applied in this case since they have as a common denominator the study of collective behavior, which is an indispensable element in collective action.

When it comes to definitions, it is fundamental to identify both types of collective action within the conceptualization of what is considered (or not) as a violent act. Whether in the form of protests, rallies, or any other type of large-scale organized event, what makes the difference between one type of collective action and the other is the mobilization tactics used. When mobilization is non-violent, the actions carried out are peaceful (Edwards, 2020). That is, they do not involve any type of act that may cause physical or material damage while they occur. On the contrary, when the mobilization is considered violent, the actions carried out have contentious features. In this context, the term contentious comes from the concept of contentious politics which refers to the use of disruptive techniques in order to generate change at the political level (Tarrow, 1997). Some synonyms that identify this type of action may be bellicose, belligerent, aggressive or contentious. These are usually reflected in events such as general strikes or demonstrations where protestors, opponents and material goods (i.e. infrastructure) are at risk of being damaged.

The key is to understand that these two types of collective action are not incompatible. In fact, it is not uncommon for social movements to make use of both or for one type of action to precede the other. In this regard, it is worthwhile questioning why some

movements employ violent tactics, while others prefer nonviolence to pursue similar objectives, or why they suddenly decide to change tactics. The answer perhaps lies in the fact that the choice of tactics is situational (Baser, 2022). That is, movements frame their mobilizations in the context in which they find themselves, considering the conditions, incentives, and possible risks they face (Edwards, 2020). This idea can be better explained through Weber's Theory of Social Action, which states that human beings adapt their actions according to social contexts and studies how these actions affect the behavior of others (Weber in Ospina, 2021).

In the context of social movements, Weber's theory can be applied at the macro and micro levels. At the macro level, the theory explains the formation of movements as such as it defines them as a group of people with similar behaviors and common beliefs (Weber in Ospina, 2021). In these cases, collectives are formed without leaving aside the individuality of the member but recognizing that their ideas and actions are in a certain way shaped by a common ideal. This implies that each member has his or her own thoughts and feelings, but that these in turn are part of a communitarian sentiment. At the micro level, the theory recognizes that for common ideals to materialize, the movement and its members must carry out actions that bring them closer to their objectives. In this case, although social movements usually present themselves as horizontal organizations, the existence of leaders or organizers of specific actions influences collective action (Weber in Ospina, 2021). Moreover, when the context allows it, actions are developed following a sort of domino effect in which the actions of one member or a group of members are replicated by others. In any case, social actions are reproduced on the basis of the interactions and environments in which they unfold (Priya, 2022).

When talking about the choice of violent or non-violent tactics, there are two types of social actions that can explain why movements decide to carry out one or the other: rational-

instrumental actions and affective actions. Within Weber's theory (Ospina, 2021), rational-instrumental actions are those that are considered to be the most efficient to achieve the desired objective. The movement recognizes that the current conditions and available resources are optimal enough to carry out the planned action. In this case, nonviolence is relatively seen as more effective and is more likely to work when citizens have strong incentives to mobilize without fear of facing any repression. On the other hand, affective action merges the means and ends of mobilization so that action becomes emotional and impulsive (Ospina, 2021). This means that actions are defined by the emotional reaction of an actor situated in a given set of circumstances (Priya, 2022). Unlike the first type, in this case contentious actions are seen as the only viable response in a context where demands are being actively ignored or there are high levels of repression.

Put practically, the theory of non-active violence is unfortunately not applicable to all types of collective action, because depending on the objectives and demands of the social movement, the protest could become controversial and be seen as a threat that deserves to be countered by the dominant actor (Baser, 2022). State repression linked to the use of police and military repression is a clear example of this. In itself, collective action can become contentious in the sense that social movements, not having the possibility of expressing their demands through institutionalized channels or peaceful tactics, find it necessary to radicalize their actions to communicate popular discontent (Tarrow 1997, 19). This last point is important because contentious actions are usually related to the idea of violent radicalization of social movements.

The movement's radicalization can be explained through what is called the Significance Quest Theory. In general terms, the theory recognizes three essential components for radicalization: the person's need to find individual meaning through belonging to a collective, the ideological narrative that legitimizes collective actions, and the

human network that operates in a coordinated and collective manner (Kruglanski, A. et al., 2019). This means that those who belong to a social collective do so because they identify with its values and consider that its objectives defend a just cause. The understanding that mobilization is a way of counteracting the systematic discrimination or abuse they have personally suffered helps them feel part of something bigger than themselves. In turn, this sense of identity creates a narrative that justifies the collective's action (even if it was violent), which is strengthened by having a network of people who are willing to act in a coordinated manner (Kruglanski, A. et al., 2019). In the context of social mobilizations, once peaceful collective action has been ignored and delegitimized, the natural outlet for collective frustration is violence (Vallejo, 2020). In these cases, violence is used as a means to counteract other types of physical or systemic violence and also to draw the attention of the political and media spheres.

Once all the possible theoretical lines regarding the collective actions of social movements have been set out, it is important to exemplify them in order to facilitate their understanding in practical terms. For this, I will discuss the case of the Latin American grassroots feminist movement *Ni Una Menos* (“Not one [woman] less”), focusing on the mobilizations it organized in Mexico City on March 8, 2021. As context, *Ni una menos* es una consigna que dio nombre a un movimiento feminista surgido en Argentina en 2015, cuya principal demanda es el fin de la violencia de género y los feminicidios. Since its creation the movement quickly spread to the rest of Latin America and beyond, where its actions have been replicated by dozens of feminist organizations. This means that both its agenda and actions are usually replicated by various social organizations at the international level. For this reason, *Ni Una Menos* is one of the most important and influential transnational feminist movements of the last decade. This transnationalization is evident in several of the movement's public manifestos where it is stated that:

"Hundreds of thousands of women throughout the country and in other countries, built together a plural, heterogeneous, networked movement, among organizations and groups, ideologies and beliefs, union, student, social and partisan groups. Our voices were woven into documents that were agreed upon in assemblies and political discussions that are woven through the daily practices of organization and resistance. We share a powerful vocation for transformation, we become powerful by mourning those who were murdered, raped, violated (...) We seek to expand rights and freedoms, and we recognize ourselves as strong, desiring, productive, creative." (Ni Una Menos, 2017)

One of the global actions promoted by *Ni Una Menos* is the popular demonstration that takes place every March 8 (hereafter 8M), within the historical framework of International Women's Day. Originally, 8M was intended as a date to celebrate women. Gradually, the term celebration was replaced by commemoration thinking of the symbolic significance of the events that took place in 1875 when several hundred women from a textile factory in New York who protested against wage inequality were repressed, raped, and murdered. Nowadays, besides being a commemorative date, 8M has become a symbol of resistance to the systemic violence that women continue to face every day. Based on this, feminist collectives such as *Ni Una Menos* regularly organize popular mobilizations to demand a fair and restorative law, claiming justice for those who are no longer here and, always committed to action to achieve the eradication of all types of violence against women and girls. In addition, the incidence of intersectional feminism in the region has called for the manifestation to recognize that gender violence is perpetuated through other systems of domination such as racism and capitalism. This is evidenced in the latest manifesto on 8M published by the main organizing body of *Ni Una Menos* where it reads that:

"We (the collectives) call ourselves to occupy all places, especially those that have been historically denied to us. To take them and transform them by joining together to raise the possibility of a life that overcomes the capitalist and patriarchal debacle to which they

(men) want to keep us subject. We have raised an emancipatory process that has a cross-border character, of which this 8M will be a milestone of utmost importance. And we also know that it will not be the only one: we will continue weaving and convening to build the life we want and dream of living.

(...) We join the multiple calls that arise from women, lesbians, trans, transvestites, peasants, indigenous, students, workers, Afro-descendants so that this March 8 we mobilize, subvert, and build common strategies to continue feeding the feminist rebellion that has opened and that rises around the world against domination, exploitation, occupation, and dispossession. To demand and build a life that can be lived." (Ni Una Menos, 2020).

In the particular case of the 8M that took place in Mexico City in 2021, *Ni Una Menos* originally made an invitation to march peacefully. The march, which took place under the slogan "8M: we stop, we march, and we organize", was attended by more than 200,000 participants (Castellanos, 2021). During the mobilization day, different types of peaceful social actions such as artistic presentations or the construction of commemorative altars for the disappeared and murdered women took place (Castellanos, 2021). Likewise, there was evidence of collective actions considered contentious, such as the vandalization of monuments and buildings where government entities operate or the direct attack between demonstrators and members of the Mexican national police (Article 19, 2022). This conflict, in which the presence of Molotov cocktails, tear gas and other non-lethal police weapons was identified, left at least 81 people seriously injured.

According to the most conservative sectors of Mexican society, the violent actions carried out by the feminist movement discredit the ideals for which it fights (Article 19, 2022). This discourse, however, does not recognize the potential motivations for which an initially peaceful mobilization can turn violent. In the case of Mexico City, the context in which the mobilization took place was marked by feelings of impotence and collective rage that increased with the presence of thousands of police that were deployed to "accompany"

the mobilization. In a country where approximately 10 women were murdered daily and more than 16 thousand cases of rape were registered in a year, the protesters wondered how the government had the capacity to use its defense system to control a peaceful mobilization but not to protect them (Castellanos, 2021). For the protesters, the idea that a monument or a wall is worth more than the lives of their partners, sisters, mothers, friends, or daughters was (is) simply out of the question.

The radicalization of the collective actions of the feminist movement in contexts such as 8M responds to "... feelings of rage, rebellion and dignity that feed forms of autonomy, insubordination and revolt in different parts of the world" (Ni Una Menos, 2018). In this particular context, rage is a natural response to popular discontent with the oppression experienced by women and diverse people who are part of the feminist struggle (Lorde, 1983). This anger is also filled with a deep emotional charge: the pain of powerlessness, the pain of injustice, the pain of grieving the lost lives. From the intersectional feminist perspective, the ability to channel individual rage through collective actions is a vindictory act for women, who have historically learned that they must control their emotions and be silent in the face of the evils that afflict them (Bolla, 2018). Hence some of the most important feminist slogans of the last decade such as "Never again will they have the comfort of our silence⁵" or "we (are) violent? Violent are those who rape, kill, and makes us disappear⁶". This obviously does not imply that all social actions carried out by *Ni Una Menos* or any other feminist movement are always contentious, but it recognizes that it is possible for organizations to reach that point if non-violent methods are ignored or discredited.

⁵ From the original Spanish: "Nunca más tendrán la comodidad de nuestro silencio"

⁶ From the original Spanish: "Violentas nosotras? ¿Violenta yo? Violento es el que viola, mata y desaparece"

2. The feminist movement as an agent of political change

The way in which the feminist movement is constituted, provides it with the tools and means to be an active agent in the political sphere. However, the politicization of the movement does not imply classifying it as a political party or any other kind of formal political structure. Rather, it means to acknowledge it as a collective organization whose motivations and actions are inherently political. Here, “political” is understood as

“...any act that produces an effect in the world and is oriented to the collective emancipation of people; (political) is the possibility of not being slaves of the master, of the boss, of the capitalist, of the military, of the bureaucrat, of the market.... Or also -positively said-, political is the collective construction of freedom” (Tatián, 2006)

With this idea in mind, this section focuses on examining how the Latin American feminist movement has created different strategies to achieve the recognition of rights and their effective materialization in both the public and private spheres. These strategies are aimed at influencing the creation and modification of public policies to eradicate the prevailing patriarchal perspective in the being and actions of the States (Jimenez et al., 2021).

To reach this point, it is necessary to analyse both the motivations and the routes of action taken by Latin American feminist movements to achieve their objectives. Likewise, it should be kept in mind that there are problems and limitations that hinder their political action. As stated by Jiménez et al. (2021) it is essential to recognize "...the degrees of progress (of the feminist movement) especially in terms of visibility and institutionalization, but there is still a long way to go to implement public policies that eliminate the real inequality of women and promote their emancipation in an effective way". As we will see below, this is due to a variety of reasons, including a lack of political will and state capacities based on gender prejudices and stereotypes.

2.1 Dimensions and paths for the politicization of feminism

Historically, feminism has contributed to the transformation of patriarchal norms in all latitudes of the world. In diverse contexts and from different parts, the organizations that represent the movement carry out essential actions so that these transformations are directed towards the construction of just and equitable societies (Guevara, 2021). To generate systemic and structural change, activists occupy public spaces, pressure governments, create strategic alliances with diverse actors and appeal to international systems to achieve the desired political and legal changes (Jiménez et al., 2021,7). According to Astelarra (1981), there are two dimensions of patriarchal society in which organizations channel their hopes and efforts: the public dimension and the private dimension. Simultaneously, there are two main paths through which they organize their actions to generate change in these dimensions: the promotion of political/legal changes and the renegotiation of gender roles within society (Jiménez et al., 2021).

On the one hand, the public dimension refers to social institutions and political decision-making spaces. In this case, institutions are understood as the sociocultural values under which human collectives operate. As explained by Jiménez et al. (2021) feminist movements transform this dimension through the promotion of legal and/or political changes. They do so in order to institute new normative orders, and thus provide incentives or disincentives for attitudinal and behavioral change. On the other hand, the private dimension has a rather subjective nuance and refers to interpersonal relationships. It is also concerned with the ways in which these relationships are expressed on the basis of the possible dynamics of power and domination that may exist between and within human groups. In particular, the author defines the family as a private space of primary interest to feminism. The way to transform this sphere is the renegotiation of the gender roles and relations that sustain *machista* (sexist) systems.

More specifically, the feminist movement seeks legal and policy changes in relation to a wide range of issues at every level of women's social life. Examples include seeking legislative reforms to eradicate gender-based violence (GBV); increasing women's representation in government; the inclusion of anti-discrimination norms in labor reforms; and, of course, respect for sexual and reproductive rights. The pressure to generate legal changes that address gender-based violence from a critical perspective is crucial for two reasons (Ojeda, 2021). First, because it challenges the gender norms that are institutionalized in the judicial and political systems through the creation of affirmative action mechanisms. Secondly, because by deinstitutionalizing such violence, people whose rights have been infringed have the possibility of accessing support and reparation mechanisms (Jiménez et al., 2021).

Likewise, the movement renegotiates gender norms by explicitly questioning the behavior and gender expectations that perpetuate male violence (Jiménez et al., 2021). These questionings are accompanied by potential strategies to rethink and reinstate new behaviors and human relations where issues such as body positivity or the de-stigmatization of sexual and reproductive freedom are promoted. The renegotiation of norms is essential because it operates from the very heart of the movement, instigating emancipatory changes in the members of social collectives themselves. This in turn generates a sort of domino effect in which human solidarity allows them to empathize with the sufferings of others and also to share possible solutions to improve their life situations. In the case of the feminist movement, solidarity has been fundamental in transmitting essential information and solidifying common principles and demands that seek to change the norms and behaviors that jeopardize women's lives.

Regarding the specific strategies and tactics of each dimension, Jiménez et al. (2021, 6) propose a diagram that shows the points of divergence and intersection between the public

and the private spheres. According to the authors, regardless of the priorities of each social organization, both dimensions are intrinsically related. This means that advances or setbacks in one have an impact on the other. Hence, the strategies used by the movements are developed in a coordinated manner and in consideration of the different levels of impact they may have. Thus, there are some strategies specific to each dimension, but also some that are used in both cases. For example, the main strategies that social movements use to achieve political and legal reforms are lobbying governments, alignment with political parties and appeals to national and international courts. In contrast, the strategies used for the renegotiation of norms are primarily the dissemination of information and the provision of assistance services such as accompaniment and emotional support. On the other hand, those movements that work in both dimensions have strategies like the use of public media to disseminate information and raise awareness; the occupation of public spaces (performance or protest), and the creation of international alliances and networks.

2.2 Types of representativeness and obstacles to the effective implementation of policy actions

Whether in the public or private dimension, feminist social movements face constant challenges to achieve structural change through either path. In any case, the materialization of political actions into political results is not possible if the demands of the movements are not channeled through the institutions that have the power to effect the changes they seek to achieve. This is especially related to the juridical-legal dimension of the movement's politicization since laws are the only practical tools capable of advancing substantial reforms. This section discusses important issues regarding the conditions associated with the movement's ability to obtain a response to its demands and achieve its goals. Specifically, it discusses the types of representation that the feminist movement must seek to access in order to achieve positive outcomes: descriptive representation and substantive representation.

Moreover, the last part of this section presents the potential obstacles and limitations to achieving these levels of representation in the context of feminist demands and political actions.

In *Women's Policy Agencies and State Feminism*, McBride & Mazur (2012) rely on Gamson's theory of outcome, consequence, or impact indicators of social movements to study what they call State feminism. Gamson's theory evaluates the success or failure of movements not only by considering their internal organization or mobilization capacity, but also their relationship with the social environment (2003). State feminism is a stream of research that addresses "...how and under what conditions state structures adopt gender equality perspectives and feminist policies, in linkage with the women's movement" (Lopreite & Rodriguez, 2021, 287). The conjunction of both concepts facilitates the creation of a theoretical framework to understand how the feminist movement operates in the processes of democratization and the search for justice. This theoretical framework recognizes the imperative of effective representativeness as a means of channeling demands. According to McBride & Mazur (2021), this representativeness can be either procedural or substantive.

On the one hand, procedural representativeness refers to the direct and formal presence of social movements in public decision-making spheres. This means that at least one member or representative of the movement is elected or appointed to play a role in the government and/or its different institutions. In this case, the term procedural refers to the direct participation of the movement in the governmental processing of demands, i.e. "how" issues are selected and decisions are made. In the case of the feminist movement, this type of representativeness is uncommon because the movement does not seek to establish itself as a political party, a union, or a political organization (Ojeda, 2021).

For this reason, if the collective wants to have some kind of direct participation in the decision-making processes, its best option is to align with an established political party in

order to participate in the electoral process. The movements are particularly interested in having seats in Parliament or the Assembly, as these are the most appropriate spaces for presenting, debating and approving bills. Likewise, this kind of representation is possible if a political figure identifies with the movement and, therefore, seeks to channel its demands by including them in their own political campaigns. According to Sutton and Borland (2015, 203) the increased presence of female legislators helps create a political environment that is more sensitive to problems affecting women, which, in turn, has proved fertile ground for the reform sexual and reproductive rights.

On the other hand, substantial representativeness refers to the inclusion of the movement's objectives in political agendas. The primary difference between the procedural and substantive representativeness is that in the last, the movement does not have the right to vote or veto. This means that the movements manage to push their demands within the decision-making processes so that people in charge can create or adopt public policies in response to the claims put forward by the movement. In turn, this type of representativeness or influence can occur in two different ways: proactive or reactive (López, 2012).

When representativeness is proactive, it is because it implies the introduction of new advantages for the movement. That is, when the movement implement actions to promote the creation of policies designed to satisfy their specific demands. Conversely, when representativeness is reactive, it implies that the movement organize actions to prevent the introduction of "new disadvantages" that could affect the movement (López, 2012). The prevention is achieved by protesting against public policies that could be harmful. An example of both kind of representations is the response of the Ecuadorian feminist movement to the latest bill to decriminalize abortion in cases of rape. As we will see in the third chapter, the movement pushed for the approval of the law (proactive) but demanded changes in

certain specific points that were contradictory (reactive) like the limitation on the number of legal weeks to access an abortion.

In evaluating the impact of the two types of representativeness, McBride & Mazur (2012, 663) concluded that the best results are obtained when there is a dual response to the demands of the collectives. This means that demands are channeled through both procedural access and substantive policy. In this case, duality operates in a complementary manner, since the best way to formulate, reformulate and implement policies is through direct advocacy in decision-making processes. However, there are several problems that hinder the representativeness of movements in any of their forms. In the case of the feminist movement, various authors coincided in the identification of two main obstacles for their effective representation: the lack of a sufficiently politicized organizational structure and the difficulty to establish honest coalitions between the movement and the political parties.

In the first place, Astelarra (1981) states that there is an essential problem in terms of the organizational structure of the movement. As mentioned earlier, the feminist movement does not present itself as a form of political organization with a stable structure. This is due to the principles of collectivism and coordination inherent in social movements. On the one hand, the author recognizes that the movement is made up of a large number of groups united by their common interest in rejecting patriarchal society and the alienation of women within it. However, this does not imply that these groups do not have differences, both in their own conception of what feminism should be, as well as regarding to other political, cultural, or social issues. This makes it difficult to create a single political agenda that embraces multiple issues. On the other hand, she recognizes that the movement seeks to avoid introducing notions of hierarchy or power among the groups, since the difference between the leaders and the grassroots could be harmful to the proper functioning of the movement. Hence the idea of coordination rather than structured organization, which arises to avoid the bureaucratization

of the movement and to guarantee the equal linkage of the different groups that conform it. However, the lack of a sufficiently politicized organizational structure hinders the feminist movement's access to electoral processes.

Hence, the most common and easiest channel of representation is usually the alignment of the collective with a political party that shares its values. However, according to Bellucci (2014, 344) the dynamics of coalitions between political parties and the movement is always more complex than it appears. The author points that representativeness is not solved just by installing names of consecrated figures of the movement on the lists during political campaigns as this may be a simple political strategy to gain the sympathy of the movement and its adherents. If the principles of the political party are not sufficiently aligned with those of the movement and if no real participation of feminists is allowed at the debate tables, real representativeness is impossible to achieve (Mcbride & Mazur, 2012, 664). As Ojeda (2021) states, this responds to masculinized power structures and the lack of leadership of women and diverse people in all political party structures.

3. “Marea Verde”: the feminist movement in favor of the legalization and decriminalization of abortion in Latin America

The right to bodily autonomy within the framework of sexual and reproductive rights is one of the essential historical demands of feminism. In Latin America and the Caribbean, different kinds of feminist movements have raised the demand for the right to decide over one's own body not only as a public health issue but also as a matter of social justice and as a fundamental human right. However, the interventionism of religious institutions and the conservative values that are deeply rooted in Latin American societies has limited the right to freedom and individual integrity in such a way that it has even led some governments to criminalize and penalize those who seek access to processes considered unnatural, as in the case of abortion.

Today, having an abortion in Latin America and the Caribbean still implies facing a process of revictimization laden with stigma, fears, and obstacles. Limitation of basic human rights due to unsubstantiated moral justifications threatens the health, integral wellbeing, and life of those who seek access to this right. As briefly mentioned in the first chapter, most countries in the region have strict and restrictive abortion laws. According to the latest report of the Centre for Reproductive Rights (2022) abortion in the region is only legal or decriminalized in Colombia, Argentina, Mexico, Uruguay, Cuba and Guyana and it is prohibited without exception in El Salvador, Honduras, Nicaragua, Haiti, and the Dominican Republic. In the remaining countries (Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Panama, Paraguay, Peru, Venezuela, and other countries in the Caribbean) there are varied regulations, which allow abortion under certain conditions, such as to save the woman's life when it is in danger, for health reasons or if the pregnancy is the result of rape.

Intersectional feminism argues that the legal battles over the criminalization or legalization of abortion in the different countries of the region fail to recognize the contexts of poverty, marginalization and inequality that are so common in the region. While it is true that recent human rights reports shows that the conditions of women and diverse people in Latin America have changed significantly in recent decades, the asymmetries, oppressions and discriminations that have historically governed their lives are still aggravated in multi-diverse contexts (Starrs et al., 2018). Proof of these are the figures on indigenous, black, and impoverished people who are those who suffer most from the consequences of unsafe abortions in both the medical and legal spheres (WHO,2022). This reaffirms the idea that abortion, in addition to being a public health issue, is a problem of social justice.

The principle of intersectionality, which makes it possible to recognize the multiple levels of structural violence faced by women, is the reason why in Latin America there are

many types of feminisms and organizations that represent them. The plurality of collectives has varied tendencies within the feminist social movement, different postulates aligned to diverse political thinking and different approaches to socio-cultural critique. Furthermore, although all collectives share ideals and have common goals, there are usually particular struggles on which they focus. An example of this is the case of collectives that operate under the slogan *Ni Una Menos* and have as their main demand the eradication of gender-based violence in order to prevent the increase in femicides. The same happens with organizations that align themselves with the fight for "Legal, Safe and Free Abortion" demanding the legal and accompanied interruption of unwanted pregnancies.

It is precisely in the context of "Legal, Safe and Free Abortion" that la Marea Verde was born. The feminist movement originated in Argentina through various events that occurred between the 1980s and the early 2000s and spread throughout Latin America during the last decade. As stated by María Florencia Alcaraz (2019), author of the book "¡Que Sea ley!" (Let it be law!), the Marea Verde is an intergenerational feminist grassroots movement that is constantly evolving at the local and global level. This means that there is an experience of transversality, of articulation with unions, social movements, and human rights not only in Argentina, but throughout the region. As we will see below, the Marea Verde has progressively expanded in recent years, under the principle that abortion must be decriminalized and legalized so that people who decide to interrupt their pregnancy have the right to do so in a safe and dignified way anywhere in the world (ALA, 2020).

Feminist activism is the result of a subjective process, and each generation produces its new demands and gives new meanings to previous ones. While legal abortion is one of the pioneering historical demands of traditional feminism in the 1960s and 1970s, Latin American feminism through the Marea Verde has expanded its struggle under a postcolonial and intersectional perspective. Thus, activists and those who identify with the principles of

the *Marea Verde* have a discursive approach characterized by an anti-patriarchal approach and a radical anti-capitalist claim. The intersectional approach allows them to address the issue of sexual and reproductive rights in a critical way in which the analysis only makes sense if it is framed in the social and political context of the countries where the movement operates.

Accordingly, the *Marea Verde* expresses the legitimate aspiration of an exercise of sexuality and reproduction without consequences on the physical integrity of women and diverse people. It also denounces that the prohibition of terminating unwanted pregnancies is an antidemocratic policy that places women and pregnant people as second-class citizens. Consequently, the movement seeks to eradicate all forms of patriarchal violence that limit bodily autonomy (Lamas, 2022, 445). Thus, through different collective actions the *Marea Verde* materializes the feminist slogan that the personal is political, promoting the mobilization of groups and individuals as political subjects aimed at the same cause.

Moreover, The *Marea Verde*'s cause has managed to cross borders thanks to the principles of solidarity and sorority which are rooted in the spirit of the movement. Hence the idea that the movement is a sort of wave or tide that grows, expands, and floods all spaces, consolidating itself within societies, in order to change their institutional physiognomy. Based on the above mentioned, this subchapter will delve into the history of the emergence of the *Marea Verde* as an intersectional feminist movement. To this end, it presents its main demands and objectives regarding the legalization and decriminalization of abortion, as well as the symbolism it uses to reinforce its discursive capability. Finally, it analyses the transnationalization of the movement throughout Latin America, focusing on the successes of the movement. All with the aim of creating a contextual basis for the next chapter, which addresses the case of Ecuador and the influence of the *Marea Verde* on local organizations working for the legalization and decriminalization of abortion.

3.1 A historical movement: an evolution from the National Campaign for the Right to Legal, Safe and Free Abortion to the Marea Verde

For decades feminist movements have created plural spaces to debate the right of abortion and the consequences of its legal status for the lives and health of pregnant people. In the Latin American context, the annual *Encuentro Nacional de Mujeres* or National Women's Meeting (hereafter, Encuentro/s) is the historical foundation from which emerged many of the strategies, arguments, and organizations for abortion rights in the region (Sutton and Borland, 2013, 195). The Encuentro, which originated in Argentina in 1986 and has been held annually for thirty-six years, is a platform for intersectional feminist reflection that marked a turning point in the struggle for sexual and reproductive rights. These meetings gave rise to the National Campaign for the Right to Legal, Safe and Free Abortion in 2005 as a broad and diverse federal alliance in favor of reproductive rights. Subsequently, the National Campaign was the inspiration for the birth of multiple national organizations that spread throughout the continent under the same premise: to make legal abortion a reality for all. This transnationalization of objectives and demands born in Argentina and shared by the other countries of the region is what is now known as the *Marea Verde* (ALA, 2020).

As for their history, the Encuentros were born in Argentina in the context of democratic restoration and renewed feminist activism after a period of brutal military dictatorship that lasted seven years between 1976 and 1983 (Sutton and Borland, 2013, 196). Since its very conception, these spaces for the dissemination of ideas and exchange of experiences were organized under the principle of autonomy. In this case, autonomy is evident through the organization model of the Encuentros which were always *autoconvocados*, i.e., "self-organized" or "self-convened". This means that all activities were to be organized solely by women without direction or control by external social and political actors, such as political parties or the government. According to Sutton and Borland (2013,

196), the Encuentros began with about one thousand participants and have steadily grown in size and expanded to represent a wide range of groups and perspectives. Recent Encuentros have brought together as many as thirty thousand women from all walks of life, both individuals and members of organizations, including feminist collectives, indigenous groups, trade unions, political parties, neighbourhood assemblies, student associations, among many others. In this sense, Belluci (2014, 271) claims that these events are of great magnitude not only in terms of the number of participants, but also in terms of the heterogeneity of their composition.

It is worth noting that the founders of the Argentine Encuentros were inspired by the organization of other international women's events that took place around the same time. Especially the forum of non-governmental organizations that closed the United Nations Decade on Women (Nairobi, 1985) and the Latin American and Caribbean Feminist *Encuentros* established in 1981 (Sutton & Borland, 2013, 196). These spaces inspired the structuring of the Encuentros around thematic discussion forums that were called *talleres* (workshops). In the setting of the Encuentros, a workshop is a space for debate focused on a specific topic ranging from economics to reproductive rights, world politics, sexuality, violence, media and other issues relevant to women's lives. In the words of Florencia Minici (2018, 48) these spaces are an articulation of experiences among which are mixed struggles for human, civil and sexual rights, along with a series of democratic assembly practices of great plurality.

In *Historia de una desobediencia: Aborto y feminismo*⁷, Bellucci (2014) provides a critical review of the evolution of the Encuentros considering the change in the workshops' frames and themes over time. The author notes that the first workshops in 1986 and 1987 had a more formal approach, which implied being careful when dealing with topics still

⁷ In English: A History of Disobedience: Abortion and Feminism

considered uncomfortable or issues that turned towards greater radicality, such as abortion. Hence, these issues began to be discussed in unplanned workshops known as *talleres alternativos* (alternative workshops), which had no impact on the final conclusions that were formally published at the end of the Encuentros. This was somewhat changed at the third meeting in Mendoza in 1988, when the issue of voluntary interruption of pregnancy began to be mentioned in other formal workshops, despite not having a dedicated space specifically focused on it. During the debates, the activists raised two fundamental demands. First, the demand for safe contraception whose distribution would be public and free of charge. Secondly, the need to decriminalize abortion without the need to allege causes.

In the conclusions of the 1988 Encuentro, the organizers formally presented the creation of the first Argentine group focused specifically on the issue of abortion rights: the Comisión por el Derecho al Aborto (Commission for the Right to Abortion). Another significant outcome of the Third Meeting is the launch of the main slogan of the pro-choice movement: "Contraceptivos no to abort, legal abortion no to die" (Belluci, 274). These words, which resonate throughout the region to this day, were used for the first time by the participants of the 1988 Encuentro and became the neatest summary of the movement's demands. Moreover, the mention of the slogan is important, as slogans are an essential element of social movements that serve to convey their demands both in the streets during protests and in more formal documents for the dissemination of ideas.

Despite having maintained continuity, the slogan mentioned above underwent several modifications between 1988 and 2005. According to Sutton and Borland (2013, 222) these modifications have served to add nuance, to emphasize, or to communicate particular aspects not previously conveyed. In turn, these aspects respond to the evolution of the contexts and needs identified by the movement. For example, the first change made to the slogan in 1998 included the idea of free contraception as well as free abortion: "*Anticonceptivos gratuitos*

para no abortar, aborto legal y gratuito para no morir" (Free contraceptives to stop abortion; free and legal abortion to prevent death). Inclusion of the concept of gratuity highlighted the conditions of economically marginalized women and the class disparities shaping the causes, conditions, and effects of illegal abortion (Sutton and Borland, 2013, 216). Subsequently, with the approval of the (Argentinian) National Law 25673 on Sexual Health and Responsible Procreation, which aims to increase access to information and promote women's decision making the slogan began to appear preceded regularly by "*...educación sexual para decidir*" (sex education to decide). It is since then that the slogan "Sex education to decide, contraceptives not to abort and safe, legal and free abortion not to die" was established (Sutton & Borland, 2013, 221).

Continuing with the evolution of the Encuentros, since the creation of the Commission for the Right to Abortion and the inclusion of the topic of abortion in the 1988, the interest in discussing the problem of its legalization and decriminalization increased over the years. In particular, the V Meeting of 1990 marked a historic moment in the history of the Marea Verde, since participants decided to establish September 28th as the Day for the decriminalization of abortion (Lamas, 2022, 434). This commemorative date was approved through the Declaration of San Bernardo as the result of the cooperative work of several women from different countries such as Bolivia, Brazil, Chile, El Salvador, Mexico, Paraguay, Peru who collaborated in the abortion workshops organized that year. The chosen date was proposed by the Brazilian delegation "...with the aim of commemorating September 28, 1888, when Brazil declared The Freedom of Wombs Law, ensuring freedom for all children born of slave women" (CNDH, 2022). For Latin American feminists, the choice of this historic date represented a symbol that was framed within a struggle that was not only anti-patriarchal, but also anti-colonial, anti-racist and anti-capitalist: "Freedom of wombs.

Freedom of slaves. Legalization of abortion. Freedom of women to decide" (Bellucci, 2014, 275).

More than twenty years after the V Encuentro, September 28 or 28S, has consolidated as a commemorative date globally. So much so that it is currently identified with the name of Global Day of Action for Access to Safe and Legal Abortion. Moreover, the establishment of this date marked a turning point in the history of Latin American feminism because, in order to promote it, feminist organizations made the first transnational calls for mobilizations, proposing short- and long-term actions. Both the creation of Commissions for the right to abortion in each country and the Creation of the Latin American and Caribbean Coordination for the mobilization for the 28S proposed at that time constituted great advances for what is now the Marea Verde. (Bellucci, 2014, 275).

The institutionalization of 28S in 1990 also opened the way for feminist collectives to have a renewed space in which to present new claims on abortion. According to Bellucci (2014, 328) in the successive Encuentros between 1991 and 1997 the demand for abortion had greater consensus and its treatment was able to crosscut its discussion along with other relevant issues. This also occurred thanks to the growing popularity of reproductive rights workshops in the early 1990s, when global reproductive rights movements started to gain ground especially after the 1994 Cairo and 1995 Beijing United Nations conferences (Sutton and Borland, 2013, 210). As seen in the first chapter, both conferences set international precedents by including the language of sexual and reproductive rights within the human rights framework. This inclusion represented an important starting point not only because it made previously unaddressed issues visible, but also because it entailed the establishment of new State responsibilities.

The Encuentro of 1997 was especially important because in this year feminist collectives introduced a new concept that had not been established until then: non-

reproductive rights. At the closing event of the Encuentro, collectives showed up with banners stating that building a life project with dignity begins with deciding if and when they want to have children (Bellucci, 2014, 328). The concept of non-reproduction implied that women "...recover their bodies, a body that under the mandate of compulsory motherhood was a body for others, subjected to patriarchal domination, constituted (and still constitutes) a fundamental and strategic step for the conquest of women's autonomy, self-determination and freedom" (Brown, 2008). Thus, the struggle for abortion also entailed the revaluation of sexuality as an integral part of life that does not necessarily involve reproduction as the ultimate goal (Lamas, 2022, 447).

By the end of the 1990s, the Encuentros had managed to institutionalize the right to abortion as a central issue in the feminist agenda. They had also managed to ensure that the voluntary interruption of abortion was seen from a perspective not only of public health, but also of social justice and individual autonomy. On this basis, the Encuentros that took place in the first decade of the 2000s evolved with the inclusion of new perspectives founded on the principle of intersectionality. This meant that, with the arrival of the new century, a new kind of feminism also arrived, bringing with it the idea that "...to consolidate a democratic social life, women of all classes, races and ethnicities, of all ages, of all cultures, with different religions and diverse sexual orientations, must be able to control their bodies and make decisions that must be supported by a secular state" (Lamas, 2020).

The first significant turning point of the 2000s occurred during the Encuentro held in Rosario in 2003. Unlike all previous Encuentros, this one included formal workshops on Strategies for Access to Legal, Safe, and Free Abortion. This was the first time that the issue of abortion was dealt with in the main agenda and not as part of the alternative workshops (Bellucci, 2014, 339). In addition, this year was important for the consolidation of the current Marea Verde for three main reasons. Firstly, it was during this year's Encuentro that the

language around abortion evolved and incorporated variations of the phrase "legal, safe, and free" (Sutton and Borland, 2013, 222). As previously noted in this section, these variations would change the movement's traditional slogan, by including a more intersectional perspective. Second, during the closing march of the Encuentro participants used green ribbons for the first time in (Bellucci, 2014, 340). These symbolic elements would later become the green handkerchiefs we now know. Third, activists that year convened a special assembly on abortion building toward the 2005 launch of the National Campaign for the Right to Legal, Safe, and Free Abortion that is the foundation of the Movement.

The National Campaign for the Right to Legal, Safe, and Free Abortion is the result of the coordinated work of diverse organizations, collectives, and individuals at the 2003 and 2004 Encuentros. Founded by important figures in the sphere of Latin American feminism such as Martha Rosenberg and Dora Coledesky⁸, the Campaign was presented for the first time on May 28, 2005 as a multilevel alliance that articulates common actions in pursuit of the legalization of abortion in Argentina (Dinerstein, 2021). Driven by different feminist groups within the women's movement, as well as women belonging to diverse political and social movements, the Campaign had 70 member organizations at the time of its creation. Nowadays, the Campaign has 305 groups, organizations and personalities linked to human rights organizations, academics and scientists, health workers, trade unions and diverse social and cultural movements, among them student associations, organizations of unemployed people, social communicators, etc. (ALA, 2020).

In Dinerstein's (2021) view, the multiplicity and plurality of the Campaign is the greatest victory of the Latin American feminist fight given its proximity to marginalized groups, especially indigenous peoples, and nationalities, as well as to the LGBTIQ+

⁸ Rosenberg is a psychoanalyst and lifelong feminist activist. Coledesky was a lawyer, feminist activist, worker and trade unionist. Both were pioneers in the creation of abortion commissions and campaigns. Subsequently, they collaborated in the drafting and promotion of the different bills presented to Congress for the decriminalization of abortion in Argentina (Bellucci, 2014).

movement. Aware of the colonial past intrinsically embedded in health, education, and justice systems, activists posited that clandestine abortion is a capitalist expression of exploitation and oppression. This is why, the inclusion of marginalized bodies was central to the constitution of the Campaign (Bellucci, 2014, 328). Thus, the insistence on an intersectional analysis when addressing sexual and reproductive rights helped to achieve the "social" decriminalization of abortion. This in turn opened the doors so that not only women but all persons with the capacity to gestate are included and protected under the normative changes that were sought to be achieved (Dinerstein, 2021).

As for the collective actions of the Campaign, one of the first public actions organized in 2005 consisted in the collection of 100,000 signatures that were delivered to national deputies on November 25, in commemoration of the International Day for the Elimination of Violence against Women. From the beginning, this action sought to send a very clear message to the State: women and diverse bodies were organized and would not rest until the State system and the regulations that govern it committed to respect their sexual and reproductive rights. Since this first collection of signatures, there have been countless mass collective actions such as vigils or "pañuelazos"⁹ in the framework of 28S. These first actions had so much resonance that they were followed and replicated at regional and international level through demonstrations, sit-ins, and marches where the green handkerchief and the slogan "Sex education to decide, contraceptives not to abort, legal abortion not to die" are the protagonists. As we will see below, these transnational solidarity demonstrations, which have gradually transformed into consolidated national projects, are the basis of the Marea Verde in Latin America and the Caribbean.

Over the years, the Campaign was gradually consolidated in a somewhat more official way by drafting and advocating for bills to decriminalize abortion. The moment when the

⁹ It refers to the massive use of green "pañuelos" (handkerchiefs) during large-scale public demonstrations.

movement gained the most visibility was in the summer of 2018 when, in Argentina, the Chamber of Deputies discussed and approved an initiative to decriminalize the procedure up to 12 weeks of gestation. That same initiative was later rejected by the Senate by just seven votes (Fuente, 2020). When this occurred, collective anger and grief swept the streets. However, these sentiments only further motivated the Campaign, which introduced a new bill for voluntary termination of pregnancy in 2019. This would be the seventh in the Campaign's history.

A year later, on December 10, 2020, the Argentine Chamber of Deputies once again approved the bill sent by President Fernandez in collaboration with feminist organizations. Subsequently, the vote in the Senate that took place on December 29 lasted until the early hours of the next day when it was approved with 38 votes in favor, 29 against, and one abstention (Dinerstein, 2021). Outside the congress thousands of people who had kept vigil for more than 24 hours celebrated with laughter, tears and green scarves what would be the first great victory of the Marea Verde. Finally, after tireless years of struggle, since January 2021, every person with gestational capacity (i.e. cis women, non-binary and trans people) can have an abortion in a public hospital up to the fourteenth week of pregnancy without the need to explain the causes or give reasons (Dinerstein, 2021).

3.2 Symbolic elements and discursive resources

Social movements produce symbolic resources to drive their mobilizations and, in the process of framing their demands, they make use of discursive elements that refer to memories of previous experiences of struggle. The sum of symbols with a strong identity charge plus the use of language as a channel for the transmission of ideas gives the movements an important mobilizing force that is reflected in their small and large-scale actions. In the case of the Marea Verde, there is a symbol of particular relevance: the “pañuelo verde” (green scarves). Likewise, there are different slogans used by the movement

as part of their collective actions both through the dissemination of information on social media and face-to-face mobilization through assemblies and protests.

In terms of symbolic elements, green scarves are the most fundamental pieces of the Mare Verde's mobilization repertoire. Their origin dates back to 2003, during the XVIII National Women's *Encuentro* in Rosario (Sutton and Borland, 2013, 195). There, participants wore green ribbons during the closing march of the event. Since then, the green scarves have served two main functions. On the one hand, they are used to raise awareness of the need to include legal abortion in political agendas. On the other hand, they are used as tools to strengthen a transnational collective identity. This accessory is highly visible, easy to use and easy to reproduce (Eviah, 2019). The green colour was chosen because it represents hope and was not linked to another social or political movement in the region. In addition, the original scarf is inscribed with the traditional slogan of the National Campaign for the Right to Legal, Safe and Free Abortion: "Sex education to decide, contraceptives not to abort, legal abortion not to die".

In addition, the scarf has a special meaning in Argentina because it was inspired by the white scarf used by the *Madres de Plaza de Mayo* (Mothers of Plaza de Mayo) Movement (Bellucci, 2014, 340). The *Madres* are an association of activists who demand justice and reparations for their children and grandchildren who disappeared or were murdered during Videla's dictatorship in the 1970s (Sutton & Borland, 2015, 201). By retaking the scarf as a symbol of fight and resistance, the Green Tide inscribes itself as an inherently anti-patriarchal and anti-dictatorial movement (Lamas, 2022, 434). Thus, the green scarves are signs that rely on historical memory and insert those who wear them in a broader horizon of political mobilization where the fight for abortion articulates and approaches other social struggles.

Moreover, the simple fact of wearing a green scarf as an accessory tied to the backpack or wrist, generates a feeling of solidarity and complicity among those who wear it.

Especially in public spaces such as the street and schools, using the green scarf is an intrinsically political act. Wearing it represents not only a clear affiliation to the movement and its principles but also an open opposition to pro-life movements that promote anti-abortion policies. Such is the case of movements like “Salvemos las dos vidas” (Save both lives)" that wear a light blue scarf in opposition to the Marea (Ríos, 2018). It is also relevant to note that this symbol has constructed a shared framework of meaning that cuts across the different intersectional identities of those who wear it. Social class, age, ethno-racial identification and so many other factors become secondary in the face of a shared source of political identity (Lamas, 2022, 433). By wearing the headscarf, the message is clear: everywhere in the world, the right to decide must be the right of all.

Just as with symbolic elements, discursive resources are a key part of any social movement. As La Rosa (2016) asserts, "...collective action requires background as a frame of reference, as well as motivational resources that make it feasible to persuade potential adherents". Starting from this premise, the author wonders how such resources are used in the activity of social movements and what their impact is. She finds the answer in the use of language and symbolism, which enhance the transmission of information and the dissemination of facts. Likewise, these elements are the basis of protests, where they serve as identification tools, but also as drivers of action among participants.

Regarding the use of language, social movements usually appeal to various means of communication to disseminate their ideas among adherents, potential followers and society in general (La Rosa, 2016). Like the rest of the social movements born in the 1960s and 1970s, propaganda was the most used communication and dissemination resource by the different feminist organizations. The latter materialized in the form of leaflets, newsletters or even publications in magazines and newspapers (Almeida and Mosconi, 2020, 128). In any case, when producing them, it is common for movements to use language that is easy to

understand, but at the same time conveys a clear message capable of generating emotions and identity passions among those who read them.

Over time, these paper reproductions were replaced by online publication in accordance with the technological development, the emergence of the Internet, the digitization of communications and the birth of social media. *In Movimientos sociales, redes sociales y recursos simbólicos*, de la Rosa (2016) centers her analysis on the contribution of new technologies and social networks as more effective communication tools for social movements. Such effectiveness is the result of two specific factors. On the one hand, the ease of transmitting anonymous information in real time and without geographical limitations. On the other hand, the possibility of using these resources at a very low cost makes them more accessible. Additionally, the new global communication and information technologies (ICTs) have also facilitated the birth of transnational movements and campaigns (Almeida & Mosconi, 2020, 130).

Although there are numerous ways in which social movements use social media, the most important ones nowadays are perhaps posts on Instagram, Facebook and Twitter. These three social media networks are not only some of the most widely used, but also enable the use of the hashtag resource, which is used to make content go viral and facilitate the search for information. As Dahlberg-Grundberg and Lindgren (2014) claim "...the use of hashtags represents an important factor for social movement identity even in those who do not have an active presence in collective actions because it helps them to get involved to a greater extent without having to be present at the protest sites...".

With specific regard to the use of social media in the context of this thesis, I gathered some data on certain hashtags that are associated with the Green Tide and that have gone viral on Instagram. As of September 2022, the platform showed at least 581,013 posts with the hashtag #abortolegal; 91,943 with the hashtag #mareaverde, and 155,493 with the hashtag

#28S (in commemoration of September 28). The use of social networks and elements such as the hashtag have been of vital importance in the case of the Marea Verde and its various organizations, in terms of their impact on society and the internalization of the movement. Not only are social networks used to disseminate information about the movement's collective actions, but also to provide accompaniment to people who need or want to have an abortion. The diffusion of collective actions consists mainly of sending local, national, and international convocations for mass events such as protests or sit-ins. These events usually take place on commemorative dates such as September 28 or March 8. Dissemination also includes reporting on specific occurrences, such as the abortion situation in a given geographical location or following up on a specific individual cases.

Likewise, abortion accompaniment through social media takes various forms depending on specific contexts and situations. Support is often available at different stages of the abortion process, from before the abortion takes place to months or years later. In order to get in touch with those in charge, it is enough to send a private message through one of their accounts. This allows the process to be performed anonymously, ensuring confidentiality and privacy for people who do not want to openly disclose their situation. The possibility of remaining anonymous mitigates feelings of guilt or fear of retaliation, which in many cases are the reason why people decide to use unsafe abortion methods or simply continue with an unwanted pregnancy.

In the case where individuals have the opportunity to opt to seek abortion accompaniment, feminist organizations in this field usually offer support at three key stages. When accompaniment takes place before an abortion, it consists of providing information on how to have an at-home abortion. This includes indications for post-abortion care, as well as relevant information on where and how to obtain the necessary resources to do so. Some organizations even provide free distribution of medications such as misoprostol to enable the

process to be performed. If the accompaniment takes place during or after the process, the organizations offer medical and psychological care and emotional support. In the third chapter, we will explore this topic further by presenting the example of the Ecuadorian feminist collective "Las Comadres".

In addition to social media publishing, there is another resource of social movements in which language and symbolism play a key role: the protest posters. As Protzel (2016) says, "...posters show a close link between graphic composition and political propaganda." Indeed, they have been used since the dawn of the mainstream feminist movement and have remained an unfading tool throughout time. Posters can serve to identify different organizations or organizational branches of the movement, or simply to display eye-catching symbols and slogans. A graphic element widely used in Latin America and the Caribbean is the clothes hanger (Araúz, 2018). This symbol is commonly utilized to expose the use of dangerous homemade tools to perform illegal abortions in countries where formal medical practice is criminalized.

Likewise, some of the most commonly used slogans on the posters have become popular internationally, as in the case of "Let it be law!", "Legal abortion now!", "Take your rosaries out of our ovaries!" or "They are girls, not mothers!". These slogans, in turn, are inspired by or form part of popular chants used in public street demonstrations. Such is the case of "If the Pope were a woman, abortion would be law!" or "Girls are girls, girls are not mothers." Evidently, these particular slogans not only call for the legalization of abortion, but also condemn other issues of particular importance such as the incidence of the Church in political decision making and the very serious situation of child pregnancies in the region (Lamas, 2022, 445).

3.3 Fighting for the right to decide: Main objectives, demands, actions, and strategies in the Marea Verde's agenda

The original slogan of Marea Verde, as well as the work of the different organizations that operate under its principles, is comprehensive: "Sex education to decide, contraceptives not to abort, legal abortion not to die" (ALA, 2020). This implies that the legalization and decriminalization of abortion must be addressed not only within the legal system, but also within the education system and the public health system. The intrinsic link between these three systems is critical when addressing the issue of sexual and reproductive rights, since their effective realization is impossible without holistic education, quality public health and judicial systems in which social justice prevails. The reform of these systems requires the inclusion of differential approaches that acknowledge diversity in all its forms. In turn, this implies the recognition that such diversity is linked to different levels of structural discrimination that are frequently institutionalized.

Although the main objective of the Marea Verde is to achieve the decriminalization and legalization of abortion so that those who decide to terminate a pregnancy have safe and free care, there are multiple other objectives and demands for which it campaigns. In the case of social movements, objectives are understood as the short, medium, and long-term goals that organizations aim to achieve in order to promote changes in social structures (Retamozo, 2015). These objectives are an integral part of the organizational structure of social movements, as they allow them to focus their actions and determine the allocation of resources in a strategic manner. It also helps them assess the results obtained and redirect their strategies if the need for improvement is identified in order to achieve the desired goals. Complementarily, "...the (social) demands are the resource through which societies exert direct pressure to obtain a change, development or transformation, in social relations and which are institutionalized in a group, of a given society" (Arango, 2014, 47). Put simply,

demands are the claims that a movement makes in response to a given problematic that has been identified based on the existing needs in a particular area. Complementarity stems from the fact that movements set their objectives based on the social demands they raise.

In the case of the Marea Verde, it is possible to identify five common objectives that are often shared by the feminist organizations that identify with the movement (ALA, 2020). First, the core objective of collective actions is to get States to recognize that sexual and reproductive rights are basic human rights. Once this general objective has been achieved, the movement focuses on a second objective with a specific theme: to achieve the decriminalization and legalization of abortion so that the procedure can be performed safely, with dignity and free of charge. Subsequently, the third objective is to work for the right to abortion from a social justice approach using an intersectional perspective. This implies acknowledging that people who suffer or die from illegal abortions frequently belong to marginalized constituencies. The fourth objective is to expand democracy by guaranteeing abortion rights to those affected by a patriarchal society that limits, violates and subordinates people with the capacity to bear children. Finally, the fifth objective is to achieve a secular State in which the guidelines of the Churches are not placed above the right to free decision of the people. The latter point is especially important in the Latin American context where the Catholic Church continues to have a major influence on the elaboration of public policies.

The aforementioned objectives were established on the basis of several demands arising from common social problems in the region. The basic premise of these demands is that everyday hundreds of people undergo abortions in unsafe conditions, putting their health, life, and freedom at risk (ALA, 2020). Particularly those who die, are harmed, or go to jail for illegal abortions are poor women: indigenous, rural, and working women. Furthermore, for intersectional feminists, motherhood is a right, not an obligation and cannot be realized in a comprehensive manner if the State does not guarantee the right to bodily autonomy and

choice (Ni Una Menos, 2017). As Lamas (2022) affirms, "...forcing a woman to continue a pregnancy when she did not choose to be a mother is a form of violence, not only with her but also with the child. There is already enough information on how unwanted children suffer from the lack of maternal desire and how they subsequently reproduce the rejection they suffered in multiple ways."

There are four key issues that relate to the main demands of the groups affiliated with the Marea Verde. In the first place, the notion that the denial of abortion access is as a form of gender-based violence. This could constitute torture and/or cruel, inhuman, and degrading treatment. Second, the concern that when abortion access is restricted, there is often a disproportionate impact on marginalized groups. Third, the need for post-abortion medical services to be always available, safe, and accessible, regardless of whether the procedure is legal or not. And fourth, the fundamental obligation of States to ensure, at a minimum, essential levels of fulfilment of the right to sexual and reproductive health. This includes measures to prevent unsafe abortions (OHCHR, 2020).

The demands of the Marea Verde recognize that guaranteeing access to abortion and related services must conform to basic human rights standards (ALA, 2020). In turn, this guarantee is part of States' international obligations to eliminate discrimination against women and diverse people. For States to effectively address these social demands and take appropriate political-legal measures, they must commit to respect, protect, and fulfil sexual and reproductive rights as broadly as possible (OHCHR, 2020). To this end, States must design and reform their health systems so that there are adequate and accessible resources to perform the abortion procedure. This also includes the possibility of referring the pregnant patient to an alternative health facility when there is a conscientious objection on the part of the health providers. They should also remove legal provisions, including criminal laws, that

criminalize individuals who have abortions and physicians who perform the procedure (OHCHR, 2020).

In order to achieve their objectives and effectively convey their demands, social movements use a variety of strategies and carry out different kinds of collective actions. As discussed in the first part of this chapter, these actions can take place at different scales and in peaceful or contentious settings. Like any other type of social movement, the different groups of the Green Tide carry out actions at local, national, regional, international, and global dimensions. Likewise, these actions are manifested in a multiplicity of areas of daily life as well as in specific events of greater magnitude that require a larger scale coordinated organization.

In the particular case of the Marea Verde, the *Colectivo Aborto Legal Argentina* launched a manifesto stating that:

"... (the feminist collectives of the Marea Verde) organized street actions, collected signatures, marched, debated in workshops and seminars, participated in women's assemblies, organized spaces for debate and festivals, organized photographic exhibitions, participated in public hearings in the National Congress (...) we produce materials with our positions, we cover cities with posters, we hold annual meetings, we create work commissions, we activate in the media, we spread our ideas wherever we can and we wear our green scarves, a symbol of this fight in which we are engaged together with broad sectors of society" (ALA, 2020).

This manifesto is an example of how, from the creation of feminist assemblies to massive demonstrations and the drafting of bills, the Green Tide has as a source of inspiration the actions carried out in the already discussed National Encounters. From their beginnings in the 1980s, the Encuentros were posed as spaces for the production of ideas through which participants had the possibility of sharing their stories and using them as sources of inspiration to push for normative changes that considered real-life experiences (Sutton and

Borland, 2013, 203). In this way, storytelling and debate became two key tools in terms of feminist strategies of content production. Likewise, the reappropriation of the streets through protests, mobilizations, vigils and performances is the living expression of what intersectional feminists define as "putting bodies for struggle" (Lamas, 2022, 439). That is, using the body as a weapon of collective expression, even if it means risking it. This is especially important in contexts where the right to protest is not respected and is often repressed by state forces.

As Dinerstein (2021) points out, a fundamental aspect of the analysis of these actions and strategies is the understanding that feminist collectives have historically sought to carry them out in a horizontal way. This means that the different organizations that make up the Green Tide perform independent actions, but also coordinate collective actions to support the process of transnational organization. All this while maintaining a sort of collective organization in which there are no hierarchies, militancy encourages plurality and diversity, and activities are designed to be as accessible as possible (Sutton and Borland, 2013, 194). This also infers that those who work in the collectives generally do so on a voluntary basis.

3.4 The creation of transnational feminist solidarity and sorority networks

According to Zarate (2015) transnational social movements are "...sets of actors with common purposes and solidarities, linked across country borders, that have the capacity to generate coordinated and sustained social mobilization in more than one country to publicly influence social change". In *Resistances and transnational social movements* (2015), the author conducts a critical review through which she comes to the conclusion that, more than sets of diverse actors, those who make up this type of movements are communities. Within this context, the notion of community is shaped by shared experiences and the common search for more meaningful ways to create social change through the convergence of diverse views and insights. Furthermore, unlike the traditional conception of community that is often delimited in territorial terms, communities belonging to transnational movements "...do not

need to protect borders, territories and national interests, nor be tied to particular localities" (Zarate, 2015).

Although the experience of transnationalization has become more accessible thanks to new technologies and globalizing trends, human rights movements have succeeded in creating strong international solidarity ties since decades ago (Zarate, 2015). One example of international solidarity is the feminist movement, whose transnational character can be traced back to the 19th century during the emergence of the first wave of mainstream Western feminism (García-Bullé, 2022). The demand for the right to vote and social justice for women led to the emergence of numerous international abolitionist groups. A similar thing happened during the second wave, which unfolded in an anti-war and pro-revolution context whereby dozens of collectives for women's empowerment and sexual liberation emerged. Later, with the birth of Queer Theory the feminism of the third and fourth waves adopted a broader approach in which intersectionality constitutes the basic premise of all its principles and actions (Zarate, 2015). While internationalization initially occupied the territories of the Global North, the feminist demands of each wave gradually spread to the Global South. There, feminist movements embraced them and made them their own, tailoring them to the diverse historical, territorial, and socio-cultural contexts they inhabited.

As previously discussed in this chapter, in the specific case of the Marea Verde, its cross-border capacity has been a key factor since its origins in the Argentinean National Encuentros. Even though the initial organization of these gatherings was aimed at addressing the situation of women in Argentina, these spaces gradually became venues for addressing the situation of women across the region and beyond (Dinerstein, 2021). Both through the general Feminist Assemblies, as well as the various workshops and closing mobilizations, each year the Encuentros were attended by thousands of diverse voices from all corners of the continent. The outcome of this coordinated effort was the creation of the Regional Campaign

for the Legalization of Abortion in Latin America, Central America, and the Caribbean in the 1990s (Lamas, 2022, 436).

Currently, the collective actions carried out around the International Campaign are possible because national organizations are in constant dialogue with each other. This transnational coordination continually seeks ways to strive for the same objectives while still respecting the uniqueness of the different campaigns based on the specific contexts in which they develop. In terms of symbolism, the adoption of the green scarf throughout the region is the most obvious sign of the transnationalization of the movement. Nevertheless, each country has its own slogan and its own communication strategy, which ensures that internationalization does not obscure the Movement's autonomy and horizontal organization (Dinerstein, 2021). Similarly, in other countries the Marea Verde has initiated specific types of action, aimed at carrying out a concrete campaign or performance. Some of these have been very successful with the media by going viral and obtaining great attention from the press. An example of this is the performance that accompanies the song "Un violador en tu camino" (A rapist in your way) or "El violador eres tú" (The rapist is you), which was created by the Chilean interdisciplinary collective *Las Tesis* and performed for the first time in 2019 (Días & Illbele, 2020).

The original song, whose objective is to denounce the physical and systemic violations that women experience, quickly went viral on social media. Since then, it has been performed in dozens of cities around the world in different contexts such as protests for the legalization of abortion or in commemoration of March 8. A specific example of the transnationalization and creation of solidarity networks through this performance is the coordination between *Las Tesis* and the members of the Campaign for Legal, Safe and Free Abortion. Both entities came together in 2020 to organize a "pañuelazo" in front of the Argentine Congress (Días & Illbele, 2020). To this end, the activists had the support of

Argentine writer Claudia Piñeiro, who adapted the original lyrics of the feminist anthem to include the struggle for the legalization of abortion. Thus, the lyrics written by *las Tesis* that read: "...The patriarchy is a judge, who judges us for being born, and our punishment, is the violence that you see. (...) It is femicide. Impunity for my murderer. It is disappearance. It is rape (...)" was replaced by "...The patriarchy is a judge, who forces us to give birth and our punishment is the violence that you see. (...) It is femicide. Maternity as destiny. It is rape. It is clandestine abortion" (Días & Illbele, 2020).

The viralization of *Las Tesis* performance, as well as its adaptation and replication throughout the world are the purest example of how transnational solidarity and sorority networks operate. Through something as relatively simple as a choreography, the feminist movement achieved to establish an international anthem that was sung in dozens of diverse languages (including native languages and sign language) and in radically different contexts (Giménez, 2019). From the massive performance outside the Argentine National Congress, to the small performance carried out by a group of opposition deputies in the Turkish Parliament to protest the repression of the performance in Istanbul, women demonstrated that there are no borders or limits when there is a shared feeling.

What is relevant in terms of the struggle for legal abortion is that within the framework of meaning with which activists enunciate the objective of promoting abortion as a law, there is also a broader aspiration that is expressed with the phrase "patriarchy will fall". This statement implies that the legalization of abortion is an integral part of the actions that must be taken to eventually succeed in overthrowing the patriarchal system and all the ways in which it oppresses the lives of women and diverse people (Sutton and Borland, 2013, 197). Further, the struggle also recognizes that attention to context is critical in analysing abortion rights frameworks. This means that while activists certainly innovate, they also draw on existing cultural resources and political histories to develop specific claims. This entails that

even though there are common social demands, each territory experiences varying oppressions that in turn create diverse necessities (Sutton and Borland, 2013, 197).

Along these lines, is it worth questioning what patterns emerge among simultaneously protesting countries? And also, how do these patterns differ in diverse contexts? (Almeida & Mosconi, 2020, 63). The Marea Verde has made an imprint on social consciousness and has reinforced the perception that the legality of abortion is a democratic demand, a matter of public health and social justice. In trying to find patterns that explain why this movement has gained so much popularity in the region, the most obvious answer lies in the fact that almost all of the countries that constitute it live under restrictive, penalizing, or non-existent abortion laws. Throughout this thesis this issue has been highlighted by means of different figures and comparative analyses both between countries in the region and between continents. Therefore, in order to avoid repetition of data, in this section it is best to focus on more specific trends of similarity. In other words, the real underlying causes for which several countries in the region still seek shelter in clandestinity.

Although there are dozens of possible examples, perhaps the most notable shared pattern among the countries that have been flooded by the Marea Verde is the power of the Catholic Church that is embedded in their histories and territories. As early as the early 1990s, critical feminists began to conduct studies on how ecclesiastical power played a role in the deadlock of sexual and reproductive rights advancements in the region. In *Dimensiones de la diferencia: género y política*, Lamas (2022) recovers some of these texts, in which the scholars affirm that the tendency to legalize voluntary abortion that had been taking place in the world since the end of the 20th century, in Latin America came up against the obstacle imposed by the control imposed by the Catholic Church in the States. On this basis, the author performs a critical analysis through which she concludes that "...the Vatican rejects everything that implies an intervention in the processes of life (contraceptives, abortion, even

euthanasia), since its dogma is that women and men do not give life, but that they are depositaries of the divine will" (Lamas, 2022, 442).

Without a doubt, the latter point is one of the ideological challenges faced by abortion rights activists in the region due to the powerful ideological symbolism of motherhood, both at the political and sociocultural levels. In other words, the association of women with motherhood remains strong so that termination of pregnancy is seen as a threat that offsets this expectation (Sutton & Borland, 2015, 201). Motherhood in these countries is glorified by religious icons such as the Virgin Mary and cultural tradition is embodied in popular phrases such as "There is only one mother" ("Madre hay una sola"). According to Lamas (2022, 448) moralizing conceptions of this type have consolidated sexist prejudices, which in turn have been reinforced by a dangerous alliance between ecclesiastical fundamentalism and political conservatism. This is of particular importance since conservatism is often associated with right-wing political parties, which happen to be in power in several Latin American countries in the last decade, during the most critical moment of the Marea Verde.

The so-called turn to the right in Latin America represented a tangible danger in the region since right-wing governments usually sustain their policies in a colonial pattern of cruelty in which suffering is channeled towards the relegated bodies. Namely, the others: the non-white, non-binary, non-masculine (Bello, 2021). In *El giro a la derecha en América Latina: La crueldad y el gobierno de los cuerpos*, the author argues that:

"...in the last decade the capacity of interference (of the church) in politics became evident in the region. Its political capital lies in the defense of life and the traditional family, and the fight against gender ideology. These tenets were translated into concrete political demands: prohibition of abortion and egalitarian marriage, the possibility of interference in sexual education in schools and opposition to any proposal coming from feminist sectors and to any initiative that implies recognition of gender dissident bodies and existences" (Bello, 2021).

According to this argument, gender regulation defended by religious agendas and adopted by right-wing governments is inserted in the continuous dynamics of the violation of sexual and reproductive rights. Policies such as the prohibition and criminalization of abortion contribute to the standardization of values and norms that govern the body.

An example of how the Church operates as a supervisory entity of governments is the case of the pressure exerted by religious leaders to veto the approval of the pro-abortion bill in Argentina in 2018. During the period in which the debates in the Chamber of Deputies took place, the activation of the Church lobby was evident. Pope Francis himself took advantage of the last audience of the year in the Vatican Library to express his position on the matter. Although he did not explicitly mention that he was referring to Argentina, he affirmed that "...Christians, like all believers, bless God for the gift of life. To live is above all to have received life", which was clearly intended as a moralizing appeal to the possibility of legalizing abortion in the country (Lamas, 2022, 443). In this case, religious leaders not only pressured the deputies and senators of the Nation, but also called on their faithful followers to mobilize against the proposed bill. The mobilizations were mainly carried out by the pro-life movement which denounces gender ideology throughout the continent. It uses slogans such as #ConMisHijosNoTeMetas (Don't Mess with My Children), and defends the traditional family, with its complementary roles between women and men (Lamas, 2022, 443). As previously mentioned, these conservative groups also opted for the use of scarves, but in light blue colour in a clear opposition to the Marea Verde (Carbajal, 2020).

From the intersectional feminist perspective there is an open rejection of the imaginary signification that women are a sort of vessels for the creation of a new life. This rejection is present in the deep anger and weariness of activists who use protest slogans such as: "Take your rosaries out of our ovaries" or "If the Pope were a woman, abortion would be law" (Lamas, 2022, 443). Feelings of anger and frustration towards the Church, Conservatism

and all the inherently patriarchal systems related to them, is one of the primary elements of transnational solidarity. In this case, solidarity is seen as a form of combating inequalities and is intimately linked to the concept of sorority. Sorority, defined as a pact between women in the face of the model of competition imposed by patriarchy, is key to creating networks of women who walk together towards freedom in all spheres of their lives (De Grado, 2019).

Feminist solidarity and sorority are also the basis on which the transnationalization of the movement is sustained. The complicit way of acting among women in different latitudes of the world is a political proposal that recognizes that human sentiments do not recognize the existence of borders (De Grado, 2019). With slogans or chants such as "If they touch one, they touch us all" or "Be Alert because the feminist struggle walks through Latin America. And the *machistas* tremble because they know that all of Abya Ayala is going to be feminist", feminist movements send a clear message in which they affirm that the struggle of one is the struggle of all. Hence, specific movements and campaigns have been able to go viral and replicate massively in different territories, where women organize their own activities as a show of solidarity with the cause of their sisters in other parts of the world.

LA MAREA VERDE IN ECUADOR: TOWARDS THE DECRIMINALIZATION AND LEGALIZATION OF ABORTION

In Ecuador, voluntary termination of pregnancy is a crime punishable by up to two years in prison for those who undergo the procedure, and between one and three years for health professionals who perform it (COIP, 2014). At present, exceptions to criminalization are only contemplated when the life or health of the pregnant person is at risk, or if the pregnancy is the result of rape (Asamblea Nacional del Ecuador, 2022). The legal provision that recognizes sexual assault and rape as a legitimate reason for abortion was recently promulgated in April 2022. This critical advance for sexual and reproductive rights in the country was the outcome of the comprehensive efforts of various feminist organizations with the support of the *Defensor del Pueblo* (Ombudsman's Office). After six years of intense political debate, activism and collective mobilization, the legalization of abortion in cases of rape would not have been achieved without the establishment of the National Campaign for Free, Legal and Safe Abortion, also known as *Aborto Libre EC*.

The Campaign was inspired by the National Campaign for the Right to Legal, Safe and Free Abortion in Argentina and especially the historic events that led to the decriminalization of abortion in the country and thereby the emergence of the Marea Verde in 2018. Following the historic slogan of "Sex education to prevent, contraceptives to enjoy, free abortion to decide", the organizations belonging to the National Campaign have established themselves as entities of utmost importance in Ecuador's political and social current context. From different forts, feminist organizations work together not only for the promotion of bills, but also to provide permanent support to people who experience abortion-related difficulties.

In addition to their accompaniment activities, the organizations are dedicated to disseminating information and raising awareness of the different realities faced by girls, women, and diverse people in a country where social inequality and institutional discrimination are deeply ingrained. In general, feminist organizations document the human costs of the illegality and criminalization of abortion, recognizing that these contribute to increased maternal mortality, violation of children's rights, limited access to essential health and justice services, and the perpetuation of patterns of violence and poverty (HRW, 2021). To this end, activists rely on a model of intersectional analysis within the framework of a feminist struggle that defines itself as anti-patriarchal, anti-capitalist and post-colonialist.

This chapter is divided into three sections. The first section explores key issues for the construction of a comprehensive contextual and analytical framework on the abortion situation in Ecuador through an analysis of the evolution of the legal framework of the right to abortion at the national level. It is mainly based on the changes that have been made in the Organic Integral Penal Code (COIP) between 1837 and 2014. It includes a subsection on the process of decriminalization of abortion between 2016 and 2022, considering the COIP reforms in 2019 and the partial presidential veto in 2022. The second section looks at the incidence of the Marea Verde in Ecuador through the National Campaign for Abortion. It includes the different strategies used to influence the decriminalization of abortion, especially regarding the recent inclusion of rape as a ground for accessing the procedure in a legal manner. It also includes subsections on the specific case of Surkuna and Las Comadres and their ongoing work for sexual and reproductive rights in the country. Finally, the third section presents an intersectional perspective on how this legal framework negatively impacts the lives of pregnant women in the country. It analyses specific issues such as discrimination in judicial processes, child pregnancy, re-victimization and persecution of GBV victims and the exclusion of diverse bodies in health systems.

1. Laws of protection or repression? Evolution of the legal framework for abortion at the national level

For most of Ecuador's Republican history, Sexual and Reproductive Rights (SRHR) have been treated under the most rigid moral and penal regulations. According to Buendía (2021), throughout its history, Ecuadorian Law has addressed the topic of female sexuality and reproduction from an inherently patriarchal perspective that views women as objects rather than subjects of rights. Evidence of this is found in the five penal codes that the country had between 1837 and 2014, all of which have addressed the issue of abortion from different perspectives according to the socio-political contexts in which they were developed. The Organic Integral Penal Code (from now on, COIP) is a systematized and organized set of legal norms of a punitive nature. This means that it establishes crimes and penalties in accordance with the Ecuadorian penal system. In general, these norms are based on both the Constitution of the Republic of Ecuador and international criminal law norms¹⁰

As for its history and connection to the issue of abortion, the first Penal Code dates back to 1837, shortly after the foundation of Ecuador as a Republic. This Penal Code, better known as the Penal Code of Rocafuerte (in honour of the then President Vicente Rocafuerte), was based entirely on the French or Napoleonic Penal Code. During the period in which this Code was developed, there was not a single nation in the world in which women were recognized as autonomous subjects of law, so its mention in legislation was limited (Buendía, 2021). However, this Code was the first to typify abortion, defining it as a crime against private individuals. In this case, the legal protection was for the (unborn) child, and the penalty was only applied to the professionals who performed the abortion, not to the woman (Art. 457). The only consideration in this case was the woman's consent to the procedure. If

¹⁰ According to Article 424 of the Constitution of the Republic of Ecuador, the norms and acts of the public power must maintain conformity with the constitutional provisions; otherwise, they will lack legal effectiveness (Derecho Ecuador, 2014).

positive, the doctors, apothecaries, or midwives (*matronas*) had to serve a sentence of one to four years¹¹. If negative, the penalty was two to six years.

The second penal code was established four decades later during the presidency of Gabriel García Moreno. The 1872 Code was mainly inspired by the Belgian Penal Code and is known for its conservative and clerical tone. The confessional morality present in each article of this Code also responded to the government project of García Moreno, who established that in order to be a citizen one had to be Catholic. Hence, the legal regulations were strongly influenced by the Catholic Church and Christian values. Hence, in this code, the classification of abortion changed its legal right of protection of (unborn) children to what was called "the family order and public morality". In addition, unlike the previous Code, this one established for the first time the sanction for women who have consented to an abortion. Article 374 stipulated that those who had abortions could be punished with imprisonment from one to five years and had to pay a fine¹². It is worth mentioning that there was a difference in the sentence if the abortion had been performed "... to hide her dishonour". As Buendía (2021) mentions, "...this detail is important, because the woman's honour did not really belong to the woman -who was relatively incompetent- but to her father or husband."

Later on, the third Penal Code was formulated in 1906 with the arrival of State secularism under the presidency of Eloy Alfaro. Although there were several substantial changes in terms of the elimination of the religious norm in Ecuadorian legislation, the situation of women worsened considerably. On the one hand, there was no amendment regarding abortion, so the penalty remained the same. On the other hand, adultery-related

¹¹ "Art. 456.- Those who cause the abortion of a woman (...) shall be punished as follows: If they employ the means or methods expressed without the consent or knowledge of the woman, they shall suffer a prison term of two to six years, and if they do it with her consent or knowledge, the prison term shall be from one to four years" (Penal Code of Ecuador, 1837).

¹² "Art. 374.- The woman who voluntarily consents to be induced to have an abortion, or causes the abortion herself, shall be punished with a prison term of one to five years and with a fine of twenty to one hundred pesos. If she does it to hide her dishonor, she shall be punished with six months to two years imprisonment" (Penal Code of Ecuador, 1872).

penalties and punishments were included. In this case, not only were adulterous women sentenced to prison (Art. 378¹³), but their femicide was legalized if perpetrated by their father, brothers (Art. 30¹⁴) or husband (Art. 24¹⁵). In addition, it also established the legality of kidnapping a woman (even if she was a minor) if the kidnapper took her as his spouse (Art. 356¹⁶). These laws that restricted girls and women, limiting their bodily autonomy and right to a free life, were declared unconstitutional only 30 years ago in 1989 (Buendía, 2021).

Three decades later, in 1938, the fourth Penal Code was established under the presidency of General Enriquez Gallo. This Code marked a fundamental turning point in terms of sexual and reproductive rights in the country by making some substantial changes regarding abortion. First, the legal right of protection was changed from "public morals and the family" to "life". Secondly, it included two legal grounds that would exempt the penalization of abortion: the endangerment of the woman's health or life, and if the pregnancy was the result of the rape of an "idiot or insane" woman¹⁷. The latter was the terminology used to define a mentally disabled person. Important to note that the decriminalization of abortion for rape in these cases was not based on a genuine concern for the welfare or life of the woman, but as "... a eugenic criterion that sought to avoid the birth of children with the same disability as their mothers" (Buendía, 2021).

¹³ "Art. 378.- A woman who is convinced of adultery shall be sentenced to imprisonment for three to five years" (Penal Code of Ecuador, 1906).

¹⁴ "Art. 30.- Likewise, the infraction committed by one of the spouses when he surprises his daughter, granddaughter or sister in a carnal act, either by killing, wounding or beating the offender or the man who lies with her, is excusable" (Penal Code of Ecuador, 1906).

¹⁵ "Art. 24.- Nor is there any infraction when one of the spouses kills, wounds or beats the other, or the accomplice, at the instant of surprising them in adultery in fraganti; or when a woman commits the same acts, in defense of her modesty, seriously threatened." (Penal Code of Ecuador, 1906).

¹⁶ "Art. 356.- The abductor who marries the minor he has abducted or caused to be abducted, and those who have taken part in the abduction, may not be prosecuted until after the nullity of the marriage has been definitively declared." (Penal Code of Ecuador, 1906).

¹⁷ "An abortion performed by a physician with the consent of the pregnant woman, or of her husband or intimate relatives, when the latter is unable to consent, shall not be punishable. 1.-If it has been done to avoid a danger to the life or health of the mother, and if this danger cannot be avoided by other means; and 2.-If the pregnancy comes from a rape or statutory rape committed on an idiot or insane woman. In this case, the consent of her legal representative shall be required for the abortion." (Penal Code of Ecuador, 1938).

Finally, the last penal code that is still in force is the *Código Orgánico Integral Penal* (COIP) adopted in 2014 after the proposal of then President Rafael Correa. This Code came as a refreshing change to a country that for more than sixty years maintained a Penal Code that was not in line with the new advances in human rights. In spite of the various modifications in the form and content of this new code, the attention given to the situation of sexual and reproductive rights was very limited. More specifically, the only major change made regarding abortion was the elimination of the expression "idiot or insane woman", which was replaced by "woman who suffers from mental disability" (Art. 150¹⁸). While this change is significant in terms of employing a more inclusive and sensitive language, it was merely a political correction that did not modify the criminal provisions of the article at all.

From its entry into force 2014 to 2022 the COIP has been reformed more than seventy times González, M. (2022). In the case of voluntary termination of pregnancy, in 2019 a series of reforms to the Code opened the possibility of including new grounds for non-punishable abortion such as rape, incest, non-consensual insemination and malformation of the fetus. In the end, the only one of these grounds that was successfully approved was rape, after a long process of political debate that will be discussed later on. This reform will modify point 2 of Art. 50, which until now establishes that abortion will not be punishable "...if the pregnancy is the consequence of rape in a woman who suffers from mental disability". The modification implies eliminating the specification of "...in a woman who suffers from mental disability" (COIP, 2014), opening the way for the recognition of cases of rape in all pregnant bodies without distinction of any kind.

¹⁸ "Article 150.- Non-punishable abortion.- Abortion performed by a physician or other qualified health professional, with the consent of the woman or her spouse, partner, intimate relatives or her legal representative, when she is not in a position to give it, shall not be punishable in the following cases: 1. if it has been practiced to avoid a danger to the life or health of the pregnant woman and if this danger cannot be avoided by other means. 2. If the pregnancy is the consequence of rape in a woman who suffers from mental disability" (COIP, 2014).

2. The influence of the Marea Verde in Ecuador: The national campaign for free, legal, and safe abortion (Aborto Libre EC)

After the establishment of the National Campaign for the Right to Legal, Safe and Free Abortion in Argentina, several countries in the region have gradually launched their own campaigns. In the case of Ecuador, the first traces that exist about the formal emergence of the campaign date back to mid-September 2018, barely a month after the Argentine Senate's Upper House blocked the bill that sought to legalize abortion in the country. Through a 2-minute video that was posted on the campaign's Facebook page, a variety of Ecuadorian women released the call for the first national march in the framework of September 28. The initial statement of the call was clear and concise: "La Marea Verde recorre Abya Ayala" (The Marea Verde is moving through Abya Ayala¹⁹). This statement made it possible to recognize two key issues. On the one hand, the fact that the Marea Verde started to become transnational. On the other hand, the fact that the Ecuadorian campaign was framing their struggle from a vision of their own in which they acknowledged their Andean identity. The invitation continued with:

"This September 28 is the commemoration of the Global Day of Action for safe and legal abortion. From Ecuador we join women from all over the world to demand the State and society to respect the right to decide about our maternity. Come to the march with your scarf and let's demand Sexual education to discover, contraceptives to enjoy and free abortion to decide" (Aborto Libre EC, 2018).

When September 28th arrived, the streets of the Ecuadorian capital city were flooded by thousands of women and people from all over the country. This can be seen in two audiovisual records published by GK City and Wambra Medio Comunitario. From their respective platforms, both independent media presented images and videos in which the diversity of the Ecuadorian Marea Verde can be appreciated. With green scarves that

¹⁹ Concept discussed in the first chapter. Abya Ayala refers to the territories of the Americas, especially in the Andean zone, that underwent colonization processes.

were modified for the Ecuadorian campaign and posters with slogans such as: "My body, my decision" or "We give birth, we decide", diverse women of all ages; mestizo, indigenous, black and from all sectors of society united with the same purpose: the social and legal decriminalization of abortion. Although there is no formal record of those who are part of the Campaign, it is well known that this first effort was driven by women, feminist organizations, collectives, networks, and transgender people. In the *Wambra Medio Comunitario* video, two representatives and spokespersons of the campaign were interviewed: Cayetana Salao from *Taller Comunicación Mujer* and Ana Vera from *Surkuna Ecuador*.

During the interview Salao referred to the main objectives and demands of the Campaign. Among the key points, the activist stated that:

"...we (the feminist organizations) are going to fight for free abortion in the broadest possible grounds (...) We are especially supportive of the grounds of rape, particularly for underage persons (...) we are also going to fight for the social decriminalization (of abortion) so that women who need to decide about their own bodies are understood, and empathized with" (Wambra, 2018).

Likewise, Vera said that the decriminalization of abortion is fundamental because: "... it is the most impoverished women, (and) the youngest women who get sick, who die, and who go to prison for having an abortion in this country" (Wambra, 2018). Through these statements, the spokeswomen of the campaign not only presented their motivations and objectives, but also revealed a stance in which they acknowledge that the struggle for the decriminalization of abortion should be treated as a political and social issue. The recognition that the people who suffer most from the consequences of criminalization are those belonging to marginalized or vulnerable groups in society is a discourse that has been maintained over the years. Furthermore, seeing abortion as a social justice issue in Ecuador

poses an anti-patriarchal stance that is also post-colonialist, as it fights against the State' and society's exploitation of the body-territories.

After that first march in September 2018, the Campaign has called for mobilization during each year until the present. Notwithstanding its permanence, the call has evolved and grown over time. Moreover, it has had to adapt to diverse contexts, as was the case with the COVID-19 global pandemic that limited in-person demonstrations. An example of this evolution is the call sent out for the September 28, 2021 mobilizations. Unlike the first call in 2018, which only organized a march in Quito, in 2021 the Campaign called for a national mobilization in 9 cities across the country. Among other things, this call was set up as a march for the rights of girls, adolescents, women, and *pregnant people*, which implied the inclusion of diverse bodies. In addition, although the call was sent from the original page of *Aborto Libre EC*, the campaign used the occasion of the 28S to present its new name, image, and platform: OLA.

According to a press release sent along with the call, OLA or *Organizadas por una Ley Justa y Reparadora* (Organized for a Just and Restorative Law) is "...a group of feminist organizations from all over Ecuador that arises from the need to generate new and improved organizational processes, where decisions are made collectively and by consensus, and where networked and articulated work strengthens us" (OLA, 2021). One of the main objectives of the group at the time of its establishment was to strategically influence the drafting of the Abortion Law, which at that time was still being processed in the National Assembly. To make this possible, the incidence process was carried out through various strategies and collective actions of small and large scale, as we will see below. Although mainly led by Surkuna Ecuador, all of the actions were coordinated in solidarity and sorority among the various organizations.

2.1 Process of incidence of the Campaña Aborto Libre EC and OLA (2016-2022)

As discussed at the beginning of this chapter, during the last 6 years Ecuador underwent a reform process that changed its history in terms of sexual and reproductive rights. The possibility of debating the situation of legalization and decriminalization of abortion due to rape in 2016 was the starting point through which the rape causal would be included in the Comprehensive Organic Penal Code (COIP) in 2022. To make this a reality, the political and social process was marked by ups and downs, advances, setbacks, joys and frustrations. Behind complex debates, constitutional rulings, presidential vetoes and others, was the permanent presence of feminist organizations, who carried out various incidence strategies throughout the process. Especially from the *Campaña Aborto Libre EC* and the *OLA* platform, women's collectives established themselves as an omnipresent political force in Ecuador. From street actions to communication campaigns, and presentation of legislative proposals, the organizations that identify themselves under the Marea Verde Movement played an active role in making abortion for rape a reality.

In this regard, a systematization carried out by Planned Parenthood Global (2021) presents a comprehensive analysis of the incidence process of women's and feminist organizations in different settings and times of the process of decriminalization of abortion for rape. In particular, the report notes that the strategies and actions employed were carried out by the different organizations and individuals involved based on their (institutional) mission, capacities, and scope of action. Although there are countless collective actions that have taken place in recent years, in this section only those of greater relevance within the context of the COIP reforms are discussed. Namely, legislative advocacy, communication strategies and public actions.

First, in terms of legislative advocacy, the presence of feminist and women's movements was permanent throughout the debates that took place around the COIP reform (PP Global, 2021). Since 2016, these organizations carried out a series of actions focused on ensuring that the debates in both the Constitutional Court and the National Assembly were properly informed. In addition to ensuring that essential testimonies from experts on the issues and spokeswomen from the organizations themselves were included in the debates, legislative advocacy was achieved through workshops, seminars and meetings with assembly members. Maintaining a permanent political dialogue with the members of the Assembly helped not only to raise their awareness of the figures and realities of the criminalization of abortion, but also to create strategic alliances. It is worth noting that, among the various supporting documents presented by the organizations, there is a Proposal of the Women's and Feminist Movement for a Bill to Guarantee Access to Abortion for Rape (Surkuna, 2021). This was one of the base documents used for the elaboration of the bill by the Ombudsman's Office in cooperation with the organizations and other civil society actors.

Secondly, and keeping in mind that one of the main objectives of *Aborto Libre EC* is to raise social awareness regarding abortion, the communication strategies during the reform process served as a double-edged sword. The communication campaigns carried out during this period served not only to build sympathy and gain supporters, but also to influence the decisions of legislators and other actors in the process. It should be noted that these campaigns always sought to include a pedagogical component, through which the population could become familiar with the legal and technical arguments used in public debates and rulings (PP Global, 2021). The use of reader-friendly language and the simplification of concepts made the information free and accessible to all. Within these

strategies and media campaigns, there are two key points to highlight: the use of social networks and the coordinated work with alternative media.

Regarding the use of social media, as of 2016 feminist organizations managed to position themselves and gain visibility through virtual campaigns carried out on the main platforms: particularly Twitter and Instagram. In the case of the latter, accounts such as *Aborto Libre EC* (12 thousand followers), *Surkuna Ecuador* (20 thousand followers) and *Las Comadres* (14 thousand followers) have used their accounts to expand the conversation on the need to decriminalize abortion; share relevant information on figures of particular cases or send calls for various collective actions. In addition to the support of digital activists and virtual media, the communication campaigns focused on establishing strategic alliances with independent media and journalists (PP Global, 2021).

Thanks to the movement's advocacy, media outlets such as GK and *Wambra* were able to publish a series of articles on sexual violence, forced pregnancy in girls and abortion. These were written with the support of feminists, who provided training, updated information and fact-checking (PP Global, 2021). In addition, the movement was able to promote what is known as legislative journalism. That is, a sort of journalism that was in charge of permanently monitoring the debates that took place around the COIP reforms. The publication of articles about the process, as well as the positions of the politicians in the debate, made it easier for people to be updated on what was happening. Finally, the support received from independent media allowed for permanent media coverage of all the actions carried out by the collectives, which in turn helped to demystify the issue of abortion and feminism, often treated as sensitive topics by the traditional media before.

Thirdly, the movement's incidence through demonstrations and public actions is probably the one that has had the highest visibility. Since the first call launched in 2018, feminist marches and mobilizations in favor of abortion were attended by thousands of

people who identified with the green scarf and the slogans of the Marea Verde (Surkuna, 2021). The great response and involvement of the public gave the actions a great media coverage at national and international level. Among these symbolic collective actions, the annual marches within the framework of the Global Day of Action for Legal, Safe and Accessible Abortion stand out; the "*pañuelazos*" (sit-ins) that took place outside public entities such as the Constitutional Court and the National Assembly during key moments of the process; and the active participation in other actions called by partner feminist movements. The symbolism present within these collective actions is something of utmost importance, as the movements employ artistic means such as music or performance to draw the attention of the public. An example of this is the replication of the famous feminist anthem "*Un violador en tu camino*" (Trujillo, 2019) which, as we saw earlier, was also used by the Argentine National Campaign.

There were some necessary factors that contributed to the success of the three types of incidences. In the first place, the creation of evidence through research and reporting was fundamental to sustain the pro-abortion campaign. Investigations such as Fundación Desafío's *Stolen Lives* (2016) or Surkuna's *Monitoring of reproductive health policies in the framework of responses to the COVID-19 outbreak* (2020) served as the basis for the creation of campaigns and communication strategies, as well as for technical training and sensitization within legislative advocacy. That these investigations, campaigns, and collective actions were possible is also the result of strategic alliances at the national and international levels.

On the one hand, the alliance with political actors such as the Confederation of Indigenous Nationalities of Ecuador (CONAIE) and the Ecuadorian Faith Network served to gain support from sectors of society such as peoples and nationalities and people who believe in the religious values of Catholicism (PP Global, 2021). The public statements

made by these entities represented a milestone for the movement as these sectors had never before expressed their support in a public way. It is important to highlight that, when expressing its support to the process, the CONAIE (2019) stated that:

“...the assembly members of the Movement of Plurinational Unity Pachakutik (who are in the Assembly), have the duty to change this reality (of impoverished women and girls), assuming a historical role, attached to Ecuador's international human rights obligations so that abortion is free and safe, guaranteed, with access to education, without prejudice, or violence of any kind; while putting a stop to the unjust prosecution and criminalization of women for having an abortion” (CONAIE, 2019).

This declaration entailed an open commitment that the Pachakutik assembly members would maintain a pro-legalization stance within the debates, which was an example of successful legislative advocacy for the feminist movement.

On the other hand, the strategic alliances formed with international actors were essential for feminist organizations to have greater financial and strategic support. Particularly in the strategic area, organizations such as Human Rights Watch (HRW) and the United Nations played a key role in the decriminalization process. As for HRW, the Organization not only published the report *Why do they want to make me suffer again?* (2021) in reference to the situation of vulnerability of girls and women in Ecuador, but one of its representatives participated in one of the key moments of the legislative debate. In 2019, José Miguel Vivanco, the head of Human Rights Watch (HRW) for the Americas, travelled to the country to meet with various important political figures such as the President of the Republic and the President of the Assembly in order to present his arguments in favor of the bill (HRW, 2021). Likewise, the UN through the Gender Roundtable for International Cooperation (MEGECI) held meetings with several

institutions and organizations to address the topic and look for possible alternative avenues (UN Women, 2018).

Although the incidence process also faced difficulties such as opposition to the movement by anti-rights groups or the change of legislators in the middle of the process, the National Campaign managed to achieve (at least partially) the intended goal (PP Global, 2021). Thanks to the actions and strategies carried out at the legislative, communicational, and collective levels, the movements achieved a majority vote in favor of the decriminalization of abortion for rape. Although it is true that the final law was not accepted with total joy as it was considered restrictive and unfair, the legalization marked a historic milestone for sexual and reproductive rights. In addition to the legal decriminalization of abortion, advances were also made towards its social decriminalization. As a result of the activism and support of independent media, the Marea Verde movements were able to attract thousands of supporters. Furthermore, demystifying the abortion issue and including diverse voices from all sectors of society strengthened the mobilization power of the organizations.

2.2 The role of Surkuna in the legalization and decriminalization of abortion in the country

Nowadays, the human rights and support centre Surkuna is the most notable referent for the protection of sexual and reproductive rights in Ecuador. Since its establishment in 2014, the feminist organization has been operating under the principle that "...women in all their diversity, adolescents and girls can exercise their sexual rights and reproductive rights; live a life free of violence; access justice and reparation; and decide with autonomy over their bodies and lives" (Surkuna, 2022). In order to achieve this, the organization undertakes different kinds of strategies and collective actions, including strategic litigation, incidence processes, popular and feminist education, and research for the generation of knowledge.

Furthermore, the members of the organization are a diverse group of women who use their particular life experiences to pursue a collective mission. Most of them are lesbians, survivors, lawyers, communicators, and psychologists by profession. From different areas, the members of Surkuna actively contribute to a variety of initiatives to ensure that women, girls, and diverse people in the country live dignified lives and are free from all forms of violence (Surkuna, 2022). Hence, one of its main actions is to provide free legal advice to victims and survivors. Through its virtual platform, the organization's lawyers are ready to assist in cases related to sexual and reproductive rights. These include lawsuits against aggressors of gender-based violence or defense for people who have been denounced for having an abortion. Likewise, since the decriminalization of abortion for rape, the organization provides advice on the legal procedure to access the voluntary termination of pregnancy for rape in the public health system. According to the last report presented in 2022, from April to August of that year Surkuna provided legal accompaniment to 11 people, most of whom were under 14 years of age (Surkuna, 2022).

In addition to legal advice on voluntary abortion, from 2014 to 2022 Surkuna has published more than 20 reports, manuals, and press releases on the subject. From the first report called *Patriarchal Codes, building inequalities* (2014) in which the researchers analysed the cases of judicialization for clandestine abortion, the organization has worked permanently to produce new materials in order to disseminate information, generate evidence and raise awareness of the different realities of those who live processes linked to abortion (Surkuna, 2022). It is worth mentioning that all these documents are created using intersectional analysis tools. This, due to the concern of the collective to bring to light the situation of thousands of girls, women and people who suffer various types of discrimination based on their multiple identities.

The most relevant documents in the context of the decriminalization of abortion for rape started being published in 2021, after Surkuna issued the press release "*Una ley justa es una ley reparadora*" (A Just Law is Reparative). This was followed by the *Proposal of the Women's and Feminist Movement for a Rape Abortion Law*, as well as several reports on particular cases related to rape survivors and access to abortion. Important mentioning that the Proposal was sent to the Ombudsman's Office in cooperation with other organizations of the *Aborto Libre EC Campaign* for the creation of the bill that led to the inclusion of rape as a causal for abortion. Furthermore, the last document published in 2022 was the *Report on the voluntary interruption of pregnancy in cases of rape*, which makes a critical investigation on the situation since the inclusion of the new legal ground in Ecuadorian legislation.

Providing legal advice, conducting research, and disseminating information are just some of the various actions carried out by the organization, which is the head of multiple feminist alliances and networks such as *Aborto Legal EC* and *OLA*. Through these collective platforms Surkuna actively participates in incidence processes that include the presentation of law proposals, participation in political debates, creation of strategic alliances and organization of mobilizations at a national level. In addition to this, Surkuna manages different social media platforms, through which they share their research, publish relevant information, show support to other social movements, and send out calls to various small and large-scale events.

Usually, these events revolve around specific issues that are often addressed through the creation of their own campaigns or by replicating those carried out at the international level, as in the case of *Aborto Libre EC*. In addition, *Surkuna's* participation is not limited to Ecuadorian territory. An example of this is its role as a participating organization in the international strategic litigation team of the regional movement "*Niñas, no madres*" (Girls, Not Mothers). This movement that was established in 2014 under the idea of "...informing

about the serious consequences of sexual violence and forced maternities in the lives of Latin American girls, as well as joining efforts to demand the protection of their rights." (Girls, Not Mothers, 2022) is also part of the Marea Verde. This, in recognition of the fact that forced pregnancy in children mainly takes place in countries where there are restrictive or limiting abortion laws, as is the case of Ecuador.

2.3 Las Comadres: accompaniment and assistance with a differential approach in cases of abortion

Just like Surkuna, the *Comadres* are one of the pioneering and key organizations in the struggle for the legalization of abortion in Ecuador. The substantive difference between the two is that Surkuna has a major role in public incidence in terms of legislation, communication, and collective actions, while the *Comadres* carry out actions focused solely on providing direct support to the victims. This support is materialized through various accompaniment strategies so that people can access a safe abortion. Although the organization was established in 2014, it gained greater popularity and visibility in 2018 in the context of the emergence of the National Campaign *Aborto Libre EC*. The organization calls itself a feminist network and is made up of feminist activists located in the main cities of Ecuador such as Quito, Guayaquil, Cuenca, Esmeraldas, Ibarra, and Lago Agrío. Because the actions carried out by the *Comadres* take place in a context where legal abortion is restrictive and limited, the exact identity of most of the activists remains anonymous.

As for their actions, the *Comadres* inform, facilitate and accompany the abortion decision of women, trans men and non-binary people. To begin with, informing means sharing information on how to perform safe abortions at home with the use of medication. To make this possible, the organization works with doctors and experts in the field who provide safe and up-to-date advice to avoid complications during the process. Secondly, facilitation refers to the cooperative work of the organization with allied institutions and professionals,

whose contacts are referred to the petitioners so that they can access the necessary medications required for the process. Third, accompaniment, defined as "...being present and answering all the questions that arise during and after the medical abortion" implies providing assistance and companionship in all parts of the process.

More concisely, Comadres operate through a variety of platforms, including Instagram, WhatsApp, and Telegram. On Instagram, the Comadres post key information on the abortion issue and share calls in collaboration with other feminist collectives. Through WhatsApp and Telegram, they get in direct contact with people who need to be assisted. These accompaniment processes can take place individually and in groups and are carried out based on specific factors such as the person's place of residence and their life context, always under the principle of absolute confidentiality. If possible, the meetings between members of the collective and the applicants take place in person and in a public space where the parties involved feel safe and confident.

If it occurs before the abortion, accompaniment involves providing key tools to make an informed decision. If it takes place during the abortion, it implies being attentive to the process, ensuring that there are no medical complications. In these first two cases, it is common for Las Comadres to hand out care kits (sanitary napkins, pain medication, etc.) and to support the realization of ultrasounds when necessary. If it happens afterwards, it involves creating a safe space for medical, psychological, and emotional support. In addition, the network is ready to provide legal assistance in cases where for any reason the procedure was discovered, and the person prosecuted. This is especially true in cases where people do not have the necessary resources or sufficient options to do so autonomously. In order for all these activities to be carried out, the Accompaniment Network is self-managed and operates both on a volunteer and donation basis.

3. A feminist intersectional perspective on the impact of the criminalization of abortion in Ecuador

The latest official data available shows that in the year 2021, there were 12,180 hospital admissions related to abortion-related obstetric emergencies. This number shows an increase compared to 2020, which registered 11,435 cases. In the annual report of Health Statistics: Hospital Beds and Discharges of the National Institute of Statistics and Censuses (INEC), these figures consider different forms of abortion: spontaneous abortion, therapeutic abortion, unspecified abortion, and other abortions (in reference to unsafe abortions). The report also includes data on failed abortions and complications following obstetric emergencies, which include abortion. It is important to mention that INEC's data collection and processing is based on information from 630 health facilities nationwide, including public and private institutions in all regions of the country.

The 2021 Health Statistics report shows that abortion care for all recognized types of abortion increased compared to the previous year. As for legal abortion cases for justifiable medical reasons, spontaneous abortion care cases increased from 7,729 in 2020 to 7,863 in 2021. Likewise, those for therapeutic abortion increased from 704 to 750. Something similar occurred in the records of cases related to illegal and unsafe terminations of pregnancy. The figures for "other abortion", which is a synonym for unsafe abortion, increased from 701 in 2020 to 921 in 2022. In two of these cases, the patients died. Likewise, in the case of unspecified abortions, in 2020, 2,301 users were treated for this reason, while in 2021 there were 2,646. As for the other abortion-related typologies, the Annual Report shows that in 2021 there were 17 unsuccessful abortion attempts, from which one person died. As well as 181 complications resulting from obstetric emergencies, including abortion. These numbers show only the cases that have been registered, without considering the hundreds of abortions

that are permanently performed in a clandestine manner and of which there are no formal records.

Regarding the recent inclusion of rape as a ground for accessing abortions, the only publicly available data with concise figures is found in the different situation and accompaniment reports published by Surkuna. In the report Access to voluntary termination of pregnancy in cases of rape in Ecuador, the organization states that, since the declaration of unconstitutionality of the criminalization of abortions for rape in April 2021, at least 26 people requested their assistance. In addition, according to data from the Ministry of Public Health (MSP), 18 abortion requests were submitted by survivors of sexual violence between April and December 2021.

As for criminalization in the context of abortions that do not fall within the parameters of legality of the Comprehensive Organic Penal Code, from August 2014 to July 2021, the Attorney General's Office recorded 503 people prosecuted for the crime of consensual abortion. The defendants include not only those who aborted, but also the persons who accompanied them and health care providers who facilitated the procedure. Specifics on the profiles of the defendants can be found later in this section. It should be noted that these are the latest figures available and were compiled by Surkuna following a request for statistics on crimes of gender-based violence and abortion sent to the Attorney General's Office. It was not possible to include figures on criminalization in 2022 as there are no updated public domain documents in this regard.

Although the legalization of abortion for rape represents a positive change in the reduction of cases of criminalization in the country, the legislation in this regard is still rather restrictive. In addition, the fact that there is still no access to abortion in all possible cases continues to push pregnant persons to seek unsafe procedures that put their physical and mental integrity at risk. This is worsened by the climate of fear created by a penal system that

discourages people with obstetric emergencies from attempting to obtain medical services, thus increasing the threats posed against their lives.

This section delves more deeply into two particular issues related to the criminalization of abortion in the country: the prosecution of indigenous, black and impoverished women; and the situation of forced pregnancies and abortions in children and teenagers. From an intersectional feminist perspective, the analysis in this section recognizes the various levels of structural and institutionalized discrimination that are rooted in Ecuadorian society and politics. This facilitates the identification of the most at-risk groups in the context of the illegality and criminalization of abortion. This is all under the assumption that the criminalization of abortion violates the right to life, to integrity; to freedom from torture or cruel, inhuman, or degrading treatment; to equality and non-discrimination; and to privacy.

3.1 Who are the true victims of judicial injustice? Criminal proceedings and repression of marginalized bodies

As previously mentioned in this chapter, Ecuadorian law (Art. 149 of the COIP) imposes penalties of six months to two years of prison for those who perform consensual abortions, and one to three years for health care providers who perform them. Typically, the prosecution is settled by trial or an abbreviated trial. Depending on the sentences of such trials, individuals serve a prison sentence or a conditional suspension of the sentence. The latter means that, instead of going to jail, the convicted person must do community service or receive psychological treatment. In most cases, those who go to prison serve a sentence of less than one year, and the conditional suspensions are given specially to convicted individuals under 25 years of age.

While feminist and human rights organizations make great efforts to keep track of the current figures, there is no adequate record in the country to account for the reality of

women's criminalization related to abortion (Zaragocin, 2018). There are various institutions such as the State Attorney General's Office, the Judiciary Council or the Ministry of Public Health that have the capacity to provide answers in this regard. However, it is not uncommon that when they do, these do not match or are inconsistent. Thus, this implies the necessity to carry out independent systematization processes (HRW, 2021). Taking this into consideration, this section includes only figures verified by feminist organizations or international bodies, through reports published between 2018 and 2022. Particularly, the report *Why do they want to make me suffer again?* by Human Rights Watch (2021) and the report *Acceso al Aborto en Ecuador* by Surkuna (2021).

More specifically, in this section the focus is placed on an investigation carried out by Human Rights Watch based on 148 cases of abortion sentences between 2009 and 2019. Of the cases studied, 60 people were convicted and 38 were sentenced to jail time. According to the information presented by HRW (2021, pp. 50), the majority of these cases corresponded to young people between 18 and 24 years old. The majority of them came from regions with high levels of poverty where the majority of the population is indigenous or black. The data confirmed a trend in terms of the profiles of the victims, which was previously discussed by several women's organizations in the report *Access to Justice for Women in Ecuador* (2018). In this report, the researchers claimed that 100% of the cases studied corresponded to people of low socioeconomic backgrounds, most of whom were either black or coming from indigenous peoples and nationalities. Accordingly, the report stated that the data "... demonstrates the existing intertwining between the criminalization of abortion and belonging to traditionally excluded groups, so that the criminalization of abortion constitutes a problem of social injustice and discrimination." (INREDH, 2018, 12).

The problematic found in the figures of both reports is also verified through a feminist mapping exercise carried out by the Ecuadorian Collective *Geografía Crítica* in 2018.

Mapping is one of the tools used in feminist geography, which, as mentioned in the first chapter, is responsible for analyzing territorial variations in gender relations. Under the principle that the body is our first inhabited territory and that geographical spaces influence our life experiences; the mapping exercise facilitates the location of specific issues within cartographies. As Zaragocín (2018) states:

"...the maps have been useful graphic tools for raising public awareness and reflecting on the problems of structural-patriarchal violence, for a greater understanding of the territorialization of violence throughout the country and as a further action of resistance towards society as a whole".

In the specific case of Mapping the Criminalization of Abortion in Ecuador, the collective looked at existing data on women prosecuted for abortion based on various reports produced by civil society. These data were placed in five different maps that showed specific problems related to abortion, such as sexual violence or child pregnancy. Two of these maps focused mainly on criminalization processes, revealing that abortion is deeply influenced by the variables of class and ethnicity. This conclusion results from the finding that the highest numbers occur in territories of provinces that have majority indigenous or black populations (Zaragocín, 2018).

There are several reasons that could explain the origin of this phenomenon. However, it can undoubtedly be said that it is the direct consequence of the multiple structural obstacles faced by marginalized populations in the country. As stated by the Coalition of Women's Movements of Ecuador (2021):

"Women of indigenous peoples and nationalities and Afro-Ecuadorian communities in remote rural areas (...) experience various types of violence, including sexual and gender-based violence. They also face obstacles to the exercise of their sexual and reproductive life. This situation is intrinsically related to poverty, the presence of regular and irregular armed actors, extractive activities and the structural

absence of the State. In remote areas, the barriers to access to health services are accentuated because they are not available, and when they do exist, they are deficient or of poor level of coverage, the care they provide is not of high quality and in many cases it is not even satisfactory for the population" (Surkuna, 2021).

In reference to the mention of poverty, the report of the National Institute of Statistics and Census (INEC) states that as of 2022, 25% of Ecuador's population lives in poverty. Most of the affected people live in rural areas, particularly in the countryside, where the majority of indigenous populations are located. The impoverishment of these areas is not only reflected in the fact that hundreds of people live on less than \$100 per month, but also in the lack of adequate public infrastructure (Coba, 2022). Distant or underserved hospitals or police commissions and courts only available in nearby urban cities are just some of the obstacles faced by pregnant people in these areas. Thus, the lack of resources and services not only makes access to safe abortion nearly impossible, but also puts people in a position of increased vulnerability if they are criminalized.

3.2 “They are girls, they are not mothers”: child pregnancy and abortion

According to the latest figures presented by UNFPA (2022) and the reports of the Campaign "Girls, Not Mothers" (2022), the Latin American and Caribbean region is the one with the highest rate of unwanted pregnancies among girls younger than the age of 15. The studies indicate that the patterns of similarities in the cases of child pregnancy show that in most cases the pregnancies result from sexual violence. Furthermore, studies also recognize that these sexual assaults are mainly perpetrated by family members or people in their close circle. Sexual violence against girls and forced pregnancy have permanent physical, psychological, and emotional consequences in their lives (OHCHR, 2020). Added to this is the burden of living in a region where access to abortion is limited, restrictive and criminalizing (Niñas, no madres, 2022).

In the case of Ecuador, the problem of sexual violence and child pregnancy is one of the greatest challenges the country faces. Bernarda Ordóñez, then Secretary of Human Rights of Ecuador, reported that every year more than 3,000 girls under the age of 14 give birth in Ecuador (Primicias, 2021). According to data compiled by Surkuna (2021), between 2014 and 2021, 41,958 rape complaints were registered with the state attorney general's office. Of these, the majority of rape cases corresponded to children and adolescents under the age of 14. Likewise, according to other documents reviewed by Surkuna (2021) such as the National Survey on Family Relations and Gender Violence against Women, sexual aggressions against children were mostly perpetrated in the family sphere (grandparents, fathers, uncles, aunts and brothers). This general pattern in the region also implies that the process of denouncing these crimes is more complicated, as children tend to remain silent out of fear or because they do not understand the situation they face (Surkuna, 2021).

These processes of sexual violence and forced pregnancy are directly linked to the issue of abortion. An example of this are the figures presented in the annual reports of Health Statistics: Beds and Hospital Discharges of the National Institute of Statistics and Censuses (INEC) between 2019 and 2021. These record a total of 405 cases of girls between 10 and 14 years old who were admitted for different kinds of abortion or related complications. In 2019, there were 27 cases of unspecified abortion, 111 of spontaneous abortion, 7 of medical abortion, 11 of other abortion, 1 unsuccessful attempt and 1 case of complications related to the procedure. That is, a total of 158 cases. In 2020, there were 21 cases of unspecified abortion, 93 cases of spontaneous abortion, 8 cases of medical abortion, 7 cases of other abortion, 2 unsuccessful attempts and 1 case of complications related to the procedure. This gives a total of 113 cases attended. Finally, in 2021, there were 16 cases of unspecified abortion, 97 of spontaneous abortion, 18 of medical abortion and 13 of other abortion. The total sum is 144 cases. There are no figures for cases of unsuccessful attempts and related

complications (INEC, 2022). In comparison, it can be noticed that the highest figures correspond to spontaneous and unspecified abortions.

In the report published by Surkuna in January 2022, the organization presents data on the cases of children who have accessed abortion for rape since the procedure was legalized in April 2021. According to a technical report made by the Ministry of Health in response to a request for information made by the activists, until the end of January 18 people requested the termination of pregnancy on the grounds of rape. At the end, only 15 of the 18 survivors were able to access the procedure. According to the report, 12 of these 15 cases corresponded to people 14 years old or younger. This means that of the 100% of cases, 80% corresponded to girls who were sexually abused, became pregnant without their consent, and had to undergo an abortion as a result. Surkuna states that the report did not include data on weeks of gestation or information on aggressors and reporting processes (Surkuna, 2022). Even though both the figures in the INEC report and the Surkuna report are highly relevant, it is important to keep in mind that they do not consider clandestine abortions performed at home. There are no official records in this regard, which makes it impossible to have a real number that responds to the real situation of Ecuadorian girls and adolescents.

There are no official records in this regard, which makes it impossible to have a real number that responds to the reality of Ecuadorian girls and adolescents. Something that is also important to mention is that most cases of sexual violence, forced pregnancy and child abortion are located in rural areas where mainly indigenous communities live. According to the Human Rights Watch report (2021), girls who live in poverty and belong to marginalized ethnic groups are less likely to have safe abortions. These girls have limited access to the information and resources necessary to obtain an informed and safe procedure. According to the organization, the lack of information also entails that they and their families or

representatives are less likely to be familiar with abortion laws and the necessary steps to legally access the procedure (HRW, 2021, 53).

Furthermore, especially girls from indigenous peoples and nationalities are exposed to processes of stigmatization and rejection of their right to abortion not only by society, but also by their own communities. Cultural beliefs concerning the gift of fertility generate a great sociocultural burden on young girls, who, being compared to the Pachamama, are meant to create life. To be more specific:

"The existing conceptions in these indigenous and rural environments, about family extension and the greater number of children, as fundamental factors for the survival and historical sequence of the family clan, limit the rights of women and subject them to a great burden of stigma and discrimination when they refuse to fulfil this role and decide to have an abortion" (Surkuna, 2021).

Thus, cultural patterns, shame around sexual assault and the intersection between gender and ethno-racial identification are just some of the factors that influence the perpetuation of sexual and reproductive violence against children and adolescents.

4. Is the new law enough? Beyond the Organic Law that Guarantees the Voluntary Interruption of Pregnancy for Girls, Teenagers and Women in the Case of Rape

Voluntary abortion for rape has been legal in Ecuador since April 2021. The official process for the decriminalization and legalization of the procedure in these cases took a little over a year, beginning in April 2021. After a Constitutional Court ruling, intense debates in the National Assembly, and a presidential veto, the new legislation was finally enacted in July 2022. Since then, the new Organic Law that regulates the Voluntary Interruption of Pregnancy for girls, women and pregnant persons in case of rape in Ecuador, stipulates that the practice and intervention of abortion under this cause can be performed up to 12 weeks of gestation (Art.18). As for the requirements, pregnant people and rape survivors must have

one of the following: a sexual assault report, a sworn statement, and a sworn legal medical examination (Art.19).

As for the text of the law, the first bill was presented by the Ombudsman's Office in cooperation with feminist collectives, was subsequently modified by the assembly members during the debates on the specification of the law, and finally received at least 61 modifications by the president. These modifications were not challenged by the Assembly, which resulted in the final text we now know. This point is important because the most fundamental details of the law such as the acceptable pregnancy time limits or the requirements for access to abortion were completely defined by the presidential veto of Guillermo Lasso. This, completely ignoring the demands and suggestions presented by human rights organizations, feminist collectives and various entities that participated in the project. As well as all the evidence presented in favor of a less restrictive and fairer law than the one that was achieved in the end.

This last point is evident if we compare the most relevant changes between the initial and final proposal of the Assembly and the final document modified by the Presidency of the Republic. The first point is the time limits regarding the maximum number of weeks of gestation to access abortion for rape. According to the final report of the first debate held in the Assembly at the end of January, the proposed time limits were: up to 22 weeks of gestation for persons under 18 years of age and up to 20 for those of legal age. These deadlines were changed in the second debate, in which the opposition pressured the reduction of the number of weeks. In this debate, the assembly members agreed with the following terms: up to 18 weeks of gestation for persons under 18 years of age; and up to 16 weeks for those over 18 years of age. In addition, on this occasion it was agreed that the maximum term of 18 weeks would also be for people who live in rural areas or belong to indigenous peoples and nationalities.

These deadlines, which were already considered restrictive by human rights defenders and feminist activists, were drastically modified through the presidential veto. Under the justification that "...we are all equal before our Constitution and our laws. And, to establish legal differences between citizens based on place of birth or conditions of origin would be contradictory to this basic principle"(Lasso, 2021), the President made 3 modifications to the deadlines. First, he unified the time limits for access to abortion, eliminating the differentiation between minors and adults. Secondly, he reduced the maximum weeks of gestation from 18 and 16 to 12. Thirdly, it ruled out the possibility of providing differential access to persons belonging to marginalized groups or who are more exposed to structural discrimination based on their ethno-racial category or place of residence.

Two other substantial differences between the bill debated and approved in the Assembly debates and the Executive's revision are the requirements and conscientious objection for health professionals. In the case of the requirements for accessing an abortion for rape, Lasso established that the rape victim, or other person with knowledge of the crime, must file a complaint with the relevant authorities. In addition, the victim must sign a sworn statement before a notary public detailing the act and must undergo a health examination to prove signs of rape. These requirements are completely opposite to those set forth in the initial bill, where it was established that, in order to have an abortion, the person must only express their will to terminate the pregnancy through a single form that must be signed. Finally, regarding conscientious objection, the Executive stated that the possibility of objection by health care providers should be included, as this is a constitutional right.

As Ron (2022) states, "...the setbacks derived from the legislative deliberation and the presidential veto maintain the situation of vulnerability of survivors of sexual violence in Ecuador and the risk to their lives due to clandestine or self-induced abortions". Based on the data presented in the previous section on the impact of the illegality and criminalization of

abortion, the main victims in Ecuador are black, indigenous and impoverished girls, women and pregnant persons. In the context of a restrictive, limiting and bureaucratized law such as the current law on abortion for rape, these people are at greater risk of discrimination and exclusion. Based on this, this last section presents criticisms and recommendations on time limits, requirements, conscientious objection and other relevant points.

4.1 Criticism

As we saw earlier, the presidential veto of the law on voluntary abortion in cases of rape represented a step backward in terms of the limitations it imposes on the process. Although the simple fact of having a law that recognizes sexual violence as a legally acceptable reason for accessing an abortion is a great advance in terms of reproductive rights, this does not mean that the law is effective. In fact, the parameters and conditions under which the legislation is applied may even create discriminatory and re-victimizing contexts that are harmful to victims. Although there are multiple points in the law that could be discussed, on this occasion I focus only on those that are most relevant in the current socio-political context. From an intersectional feminist perspective, it is possible to analyze in more depth the problems related to the reduction of time limits, the establishment of requirements and the inclusion of the possibility of conscientious objection by health care providers.

First, the reduction and unification of the number of weeks of gestation acceptable for abortion in cases of rape is discriminatory and perpetuates clandestine abortions. According to Surkuna (2021), although worldwide most abortions occur in the first trimester of pregnancy (12 weeks), in the cases that the organization has accompanied in Ecuador, the average is 20 weeks. Likewise, the organization affirms that:

"In the case of Surkuna's accompaniments, the data correspond to a population sample with greater vulnerabilities: girls, indigenous women, in a situation of human mobility, in poverty, exposed to sexual violence in their family environment; who, therefore, had greater delays and barriers in accessing this right. Without legal advice and

accompaniment, none of them would have had access to voluntary termination of pregnancy due to rape". (Surkuna, 2021)

Legal advice and accompaniment in these cases is fundamental because people belonging to marginalized groups often have limited access to relevant information about their rights and the process. Although there are feminist organizations that provide these services, pregnant women do not necessarily know of their existence or manage to connect with them within the first 12 weeks of gestation.

Moreover, for at-risk individuals, the 12-week window may not be long enough to notice or react to the fact that they are pregnant. In the case of girls, it has already been discussed that teenage pregnancies occur mostly as a result of rape perpetrated by members of their family circle. When pregnancies occur as a result of incestuous rape, children may not share their pregnancy status out of fear or shame. In addition, in young adolescent girls who are unaware of how their menstrual cycle works, they may not even notice that they are pregnant until very late in the pregnancy. Likewise, in the cases of indigenous, black, rural or impoverished people, the 12 weeks may be insufficient to access the process. In addition to the institutional discrimination they face in public systems, it is very likely that these people live in areas where health services are insufficient or non-existent. An example of this is the cases in which pregnant people live in areas far from the nearest hospitals, which is particularly difficult if they do not have the necessary resources or time to travel, as they have to work or are stay-at-home mothers.

Secondly, the requirements established to be able to access an abortion for rape are revictimizing and limit the autonomy of those who have an abortion. According to Save the Children (2022), revictimization "...makes the person relive the traumatic situation and reassume her role as a victim. This time he or she is not only a victim of a crime, but of the incomprehension of the system". This occurs mainly in cases in which the victims of some

type of violence are forced to relive the traumatic moments experienced through interrogation. According to Virginia Gomez (2022), representative of Fundación Feminista Desafío, the requirement to report a rape forces victims to remember what happened, which has a serious impact on their mental health. In addition to the reporting requirement, the need to make a sworn statement means that victims have to prove to the justice system that they are not lying. This is made worse by the obligation to present a medical examination that establishes that the victim has signs of having been raped. Among the victims of sexual abuse who seek abortions, girls are the ones who suffer the most from revictimization processes (Ron, 2022). When minors are required to have the authorization of their legal representatives in order to access an abortion, their autonomy and the possibility of carrying out the process is limited.

A concise example of how these requirements have a negative impact on the effectiveness of the law is found in the report presented by Surkuna in 2022. According to the report's data on voluntary termination of pregnancy in cases of rape, these requirements represented the main reason why rape victims did not access abortion. According to Surkuna, after receiving counseling on the legal procedure to access abortion for rape in the public health system, 45.5% of the people they accompanied between April 2021 and August 2022, desisted from following the process. This occurs because of the victims' fear of filing a complaint or a sworn statement.

Thirdly, conscientious objection in health care providers is unconstitutional because it affects third parties. President Lasso's veto allows individuals, groups or health institutions to declare themselves conscientious objectors. This implies that they can refuse to provide legal abortion care to women, girls, adolescents and pregnant rape victims. There are several problems surrounding this issue. According to feminist organizations (Surkuna, 2021), although conscientious objection is a right of health professionals, the Ecuadorian

Constitution provides that it should not undermine other rights or cause harm to third parties (Art.12). Furthermore, the Constitution states that regardless of everything, "...for no reason shall public or private facilities or health professionals deny emergency care". According to Surkuna (2021), since abortion for rape is an emerging need for women, girls, adolescents and persons with the possibility of gestation who have been victims of sexual violence, the law should not allow conscientious objection.

The problem of conscientious objection is aggravated when talking about cases of violation of professional confidentiality, which are common in abortion cases. According to HRW (2021), in cases where people suffer an obstetric emergency, there is a tendency in which it is mainly doctors who notify the police. This criminalizing tendency is not consistent with the obligation assumed by health professionals to guarantee the privacy of patients and respect professional secrecy. Although the COIP establishes the obligation of health care providers to report suspected crimes that come to their attention through their work (Art. 442), it also provides that this obligation applies only when it is not covered by professional secrecy.

4.2 Recommendations

For a law to be truly just and restorative for victims, it is essential that it be designed with respect for the principle of intersectionality. Recognizing that there are multiple discriminations linked to certain marginalized identities opens the door for medical and legal processes to be truly effective. Although human rights and gender approaches are mentioned throughout the text of the law, they should be explicitly included as a basic requirement for all practices related to the abortion process. That is to say that those in charge must make use of differential approaches whether at the time of receiving requests for voluntary abortion, receiving complaints in cases of rape, providing medical care for the procedure or dealing with criminal proceedings if the situation so requires.

The use of differential approaches implies the existence of specific or alternative care procedures that take into account the needs and realities of vulnerable groups. In addition to the gender approach, it is essential that both the laws and those in charge of enforcing them use intercultural, intergenerational and gender-diversity approaches. Regarding the current law that was vetoed by the Ecuadorian Executive, the main recommendation revolves around the need to reformulate the deadlines and requirements so that they are consistent with the needs of the people and the suggestions of feminist groups and human rights organizations.

Given that the law is already in force, the only way to modify it is to file unconstitutionality lawsuits before the Constitutional Court (Ron 2022). As of November 2022, three unconstitutionality suits have already been filed, of which one was not considered, and two are being processed. As for the lawsuits in process, the first was filed by a group of mothers who argued that certain articles of the law directly violate the rights of girls and adolescents (Montaño, 2022). Articles 5, 12 and 22 related to the consent of legal representatives and other requirements for the process, limit the autonomy of children and adolescents. Based on this lawsuit, since the beginning of July of this year, the Constitutional Court temporarily suspended the validity of the three mentioned articles. The suspension means that the related obligations do not apply temporarily, but the decision to maintain, modify or eliminate them remains entirely in the hands of the Court. The second lawsuit in process was filed by the National Coalition of Women and claims that 14 articles of the law are unconstitutional. Specifically, the lawsuit focuses mainly on the time limits and requirements for the abortion process. There is still no response from the Court on the matter.

In addition to the need to promote and support these claims of unconstitutionality, there are some generic recommendations that could improve the current law and should be included in any subsequent law. The purpose of this is to ensure that national legislation is

consistent with the basic principles of human rights that are essential for people to live a dignified and integral life. These recommendations, moreover, are put forward from an intersectional feminist perspective that responds to all the discussions carried out throughout this thesis. It is also important to mention that the recommendations are not necessarily focused on changing legislation, but rather on how to improve the processes through which these laws are applied:

- **On justice and legal processes:**

Generally speaking, the Ecuadorian State must provide effective, independent, inclusive and good quality access to justice. To this end, it is essential that a diagnosis of current judicial and administrative mechanisms be carried out to evaluate whether they take into account the factors of vulnerability and discrimination faced by the majority of people seeking access to abortion for rape. In particular, the State must ensure that such mechanisms and access to justice services are confidential, sensitive and adapted to the realities of survivors of sexual violence, forced pregnancy, and obstetric emergencies. For this to be possible, it is essential that awareness-raising and capacity-building strategies be implemented for all public officials responsible for ensuring compliance with the law. Training on gender, victim protection and care, and judicial inclusiveness should be provided to the national police, the Prosecutor's Office, the Constitutional Court, and the lawyers' and public defenders' professional associations.

- **On the health and abortion care systems:**

Just as in the judicial system, the Ecuadorian health system should provide comprehensive and differential care for persons seeking access to voluntary termination of pregnancy procedures. Whether in public or private institutions, it is recommended that the State ensure that these institutions have specialized health services and that they can easily adapt to those in need of preferential care. Likewise, it must ensure that all services are

available to those who need them. In these cases, granting greater resources or preferential treatment to people at socioeconomic risk does not imply violating the right to equality, but rather promoting the right to equity.

It is essential that the Ministry of Public Health of Ecuador and all related entities have training in gender perspective and health care for survivors so that they can effectively address cases of abortion due to rape. From medical personnel, particularly nurses and doctors, to administrative staff, it is essential that health providers ensure that patients are treated humanely, with dignity and empathy. In addition to the utmost respect for the confidentiality and privacy of victims, providers must be able to perform procedures that are as minimally revictimizing as possible. In addition, since mental health is an integral part of this type of process, it should be guaranteed that the health system includes strategies for cognitive and emotional support. The medical procedure for the voluntary termination of pregnancy due to rape should include the possibility of access to psychological therapy if the victim so desires. Psychologists who are referred for these cases must have experience in treating survivors of sexual violence and obstetric emergencies, which avoids revictimization and helps pregnant patients to go through the process without guilt or remorse.

- **On differentiated care for at-risk groups:**

In both the justice system and the health system, it is advisable that there be strategies and guidelines for differentiated care in cases of abortion due to rape. These should focus primarily on the treatment of girls, persons belonging to indigenous peoples and nationalities, and trans or non-binary women and men.

As for girls, it is imperative that their protection begins with prevention. The promotion of comprehensive sexual education facilitates the early identification of potential cases of sexual violence and, therefore, of forced child pregnancies. In cases where prevention has not been possible, it must be ensured that girls have the possibility of

accessing fair services that are specifically designed for their differentiated attention. It is essential that girls receive psychological accompaniment throughout the process and that there are people trained to explain the situation to them so that they are aware of what is happening. Part of respecting their autonomy is to make them an active part of their treatment in cases where they are old enough or it is considered appropriate. It is also important that, after the abortion is performed, girls have access to pediatric and gynecological care to ensure that the process does not cause permanent damage to them.

With regard to persons belonging to indigenous peoples or nationalities, it is advisable that both the justice system and the health system have specific care protocols that respect the Andean cosmovision and cultural diversity. For this to be possible, coordinated work should be carried out with women leaders of indigenous organizational structures, feminist and human rights activists of peoples and nationalities, and midwives who provide services in the communities. In addition to the possibility of accessing information in their mother tongues, people from the indigenous peoples and nationalities should be accompanied by cultural mediators or people trained in the subject. This is especially important to ensure that people can access abortion despite the moral limitations that may exist within their own communities. Regarding the law in particular, Surkuna recommends the incorporation of indigenous justice as a deferential strategy in the criminal procedure. This is essential because, since indigenous justice is recognized as a constitutional right, it is not uncommon for aggressors in cases of gender-based violence to be prosecuted solely by community authorities. Although this is consistent with the rights of peoples and nationalities, there is a possibility that in certain cultures rape or domestic violence is not seen as a crime, making it impossible for survivors to receive the reparations and justice they deserve.

Finally, there is very little information regarding the treatment of trans men and women and non-binary people in cases of voluntary termination of pregnancy due to rape.

Although the legislation uses the inclusive term "pregnant person" in addition to girl or woman, this linguistic inclusiveness does not imply that there is differential and dignified treatment for people with diverse gender identities. With this in mind, it is advisable to incorporate a specific section on the treatments and medical supplies necessary to guarantee the integral health of diverse persons who have the capacity to gestate and abort. This implies that both justice and health personnel receive sensitization and capacity building regarding the rights of trans and non-binary persons. For this to be possible, it is recommended to work together with LGBTIQ+ activists and organizations, who, despite usually being part of the feminist movement, tend to be invisible in this type of process.

CONCLUSIONS

Within the human rights framework, it is not possible to talk about the effective promotion and protection of sexual and reproductive rights (SRHR) if they are not approached from an intersectional feminist perspective. Despite the existence of international norms and instruments that establish principles for their protection, SRHR continue to be violated and restricted in several territories around the world. Although instruments such as CEDAW or the action plans of various international conferences such as Cairo (1994) and Beijing (1995) have played an essential role in building a foundation for the protection of SRHR, they failed to address fundamental issues such as abortion. Furthermore, although the advances made at the conferences were influenced by the various waves of Western feminism, the discussions excluded the experiences of non-white women and pregnant people from the Global South.

Through the use of tools such as gender mapping, it became possible to show how the exclusion of these voices has impacted the state of sexual and reproductive rights of millions of people around the world. Especially with reference to reproductive rights, there are prevailing patterns of exploitation and repression of feminized bodies in territories that have been marked by processes of conquest and exploitation. From a postcolonial intersectional perspective, the understanding of concepts such as the body-territory are essential to deepen the links between socio-political contexts, cultural patterns and the restriction of SRHR. Likewise, intersectional analysis paves the way for the recognition that the multiple vulnerabilities faced by marginalized groups make them the main victims of violations such as rape, unwanted pregnancy and criminalization in cases of abortion.

The latter point is precisely one of the reasons for the emergence and establishment of various social movements that promote SRHR from an intersectional feminist perspective. This is particularly true in Latin America, where feminist collectives have adopted a counter-

hegemonic vision that seeks to go beyond mainstream feminism and adapt to the realities of their own territories. Through elements such as the reconstruction of historical memory, social consciousness and collective actions, these movements have become a transforming force in the continent.

In particular, the case of the Marea Verde perfectly exemplifies how Latin American feminism(s) have institutionalized themselves as entities of social and political influence. The emergence of the movement from the National Women's Encuentros in Argentina and the establishment of the Campaign for Legal and Free Abortion meant a total reconfiguration of the struggle for the legalization of abortion in Latin America. In a region where 27 out of 33 countries have restrictive or criminalizing laws on access to abortion, the solidarity and sorority networks created through the Marea Verde fostered the belief that it is possible to change the reality of millions of girls, women, and pregnant people.

The feminist assemblies, demonstrations, awareness campaigns and political advocacy strategies that led to the legalization of abortion in Argentina were the first great proof of the Campaign's success. Accompanied by the powerful symbol of the green scarf, thousands of women celebrated what would be the first of several triumphs of the Marea Verde in the region. Inspired by the advocacy processes in Argentina and in solidarity with the regional Campaign organized in commemoration of 28S, in 2018 the National Campaign Aborto Libre EC was established in Ecuador. Since then, the experience of the Marea Verde in the Andean country has been marked by diverse processes of political, communicational, and collective advocacy. This has turned it into one of the most important social forces in the country.

Especially through processes of accompaniment and assistance, organizations such as Surkuna or the Comadres have achieved great changes in the lives of hundreds of women, girls and pregnant people who decide to undergo abortions. Until a bit more than a year ago, abortion in Ecuador was legal only in cases where the health or life of the mother was in

danger or if the pregnancy was the result of rape in women with some kind of mental disability. In all other cases, abortion was criminalized. This changed in April 2021, when the Constitutional Court declared the unconstitutionality of abortion for rape in all cases. The Court's ruling was made in the context of a 2014 reform process of the Organic Integral Penal Code (*Código Orgánico Integral Penal*). Feminist organizations, through *Aborto Libre EC* and *OLA*, initiated advocacy processes to facilitate the ruling, design of the law and enactment by the National Assembly.

Through legislative advocacy processes such as the creation of strategic political alliances and support for the design of the proposed Law of the Public Defender's Office; communication campaigns through social networks and collective actions such as marches and protests, feminist organizations promoted the law from start to finish. However, when the new legislation decriminalizing abortion for rape was finally enacted, it was received by the Ecuadorian Marea Verde with feelings of frustration and anger. The bill, which had initially been designed with a human rights and gender approach that considered the situation of survivors of sexual violence belonging to the most vulnerable groups, was drastically modified. Due to a partial presidential veto that was influenced by the personal beliefs of the president, there were substantial changes that are seen by activists as unjust and revictimizing.

The shortening of the time limits for accessing an abortion, as well as the inclusion of requirements such as a legal complaint and sworn statement, represent significant setbacks. These not only perpetuate the position of vulnerability of survivors of sexual violence in Ecuador, but also puts their lives at risk once again due to clandestine abortions. From an intersectional feminist perspective, restrictive timelines and revictimizing requirements perpetuate the circles of marginalization and poverty faced by girls, women and pregnant persons belonging to historically marginalized groups. Black and indigenous survivors from

impoverished communities and girls under the age of 14 are the main victims of a system that remains inherently patriarchal.

Although having a law that allows abortion in these cases is a great step forward, it is important to acknowledge that its effectiveness is limited by the aforementioned conditions. This implies that there is still a long way to go for the laws to truly respect the principles of bodily autonomy and freedom of pregnant people. For the feminist organizations of the Marea Verde this journey also leads to a final goal: the achievement of free, safe, and free abortion on all bases. For now, the persistence of the criminalization of abortion in certain cases creates a dual system of guarantee and repression of rights. On the one hand, access to abortion under legally acceptable conditions is a right protected by constitutional guarantees. On the other hand, when the procedure is performed outside such conditions, it is considered criminal offense. With this in mind, achieving progressive changes in the status of abortion in Ecuador requires a multidimensional, flexible, and long-term process that involves the inclusion of differential approaches and comprehensive care.

Finally, through research and critical analysis it has been possible to show that the advancement of sexual and reproductive rights has been historically influenced by social movements. In recent years, this is especially true for those movements that use intersectional feminist principles. From participation in International Conferences that included SRHR language in the human rights framework, to advocacy processes carried out to influence the legalization of new grounds for abortion, feminist movements have always been present. Particularly in the case of the Marea Verde and its struggle for the legalization of abortion, the rupture of mainstream feminist principles and the inclusion of new perspectives adapted to the Latin American context allowed the movement to expand throughout the region. In a territorial context marked by processes of colonization and dictatorships, elements such as the recovery of historical memory and the use of common symbols strengthened a kind of

transnational solidarity network that is very significant. In the particular case of Ecuador, the feminist collectives of *Aborto Legal EC* and *OLA* were inspired by these networks to push for the inclusion of rape as a ground for access to legal abortions. Although this is now a reality, the movement recognizes that there is still a long way to go to achieve total decriminalization under laws that are genuinely equitable, inclusive, and restorative.

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