

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 42<sup>ND</sup> SESSION ECUADOR, 6<sup>TH</sup> AND 7<sup>TH</sup> PERIODIC REPORTS 22 OCTOBER 2008

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### Key facts<sup>1</sup>

<b>Ratification</b>	<b>Reservations</b>	<b>Party to Optional Protocol?</b>	<b>Other core treaties ratified</b>
1981	None	YES	ICCPR, CERD, ICESCR, CAT, CMW, CRC

<sup>1</sup> The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at [www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx](http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx).

## Information submitted to the Committee

### State report

Ecuador submitted its combined 6<sup>th</sup> and 7<sup>th</sup> periodic reports to the Committee on the Elimination of All Forms of Discrimination against Women (the Committee) on 9 March 2007.<sup>2</sup> The State report was due on 9 December 2006 and thus was not submitted on time. Ecuador last appeared before the Committee in July 2003.<sup>3</sup>

The 73-page State report portrays Ecuador's commitment towards promoting gender equality and eradicating discrimination, primarily in education, health, employment, the political and institutional framework, violence against women, and the participation of women in decision-making processes. It emphasises the adoption of a new constitution, replacing the old constitution of 1998. The new constitution is officially in force since October 20 2008. The report displays that progress has been made in criminal issues, where new laws have been passed to deal with crimes against women. The State also acknowledges its efforts in gender equality, which is symbolised to a large extent by the establishment of CONAMU (the National Council for Women). This body works to ensure gender mainstreaming in public policy by promoting equal rights and women's participation in decision-making. CONAMU is made up of representatives from civil society and the Government. The State report also lauds the creation of the Equal Opportunities Plan: 2005-2009. The plan aims to eradicate existing equality gaps and was created as a response to the concerns expressed in the Committee's last set of concluding comments.<sup>4</sup>

Ecuador was generally honest and forthright in its report about the current challenges and insufficiencies it faces in terms of improving women's rights. More funds need to be provided and allocated in State and local projects to further promote women's rights, and improvement of State mechanisms and procedures is necessary for the implementation of recent acts and laws to protect women from poverty and discrimination. Another remaining challenge acknowledged by the State is the need to establish violence against women as a crime in the Penal Code. The Government has assured that it will do its utmost to ensure that the reform is adopted in Congress soon.

### List of issues

After having studied the report, on 6 March 2008, the Committee provided its list of issues to the State.<sup>5</sup> The Committee put emphasis on the issues of violence against women, employment, trafficking and exploitation of women, and the legislation apparatus for the advancement of women's rights. It requested further information in terms of statistics, detailed descriptions, and updates on measures and ongoing reforms being taken by Ecuador to implement its obligations related to the above-mentioned issues.

The written responses of the State to the enquiries of the Committee are generally honest, detailed, and substantive on many of the issues. Special attention is presented concerning violence against women, the implementation of programmes to prevent teen pregnancies, and the implementation of the reformed *Act on Health* related to the work on the prevention of HIV/AIDS among girls and women. A number of the Committee's questions, however, are not responded to or lack statistical information. For instance, no information is provided regarding the timeframe for providing registration and identity cards to all

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<sup>2</sup> CEDAW/C/ECU/7, available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

<sup>3</sup> 29<sup>th</sup> session of CEDAW, [www.un.org/womenwatch/daw/cedaw/29sess.htm](http://www.un.org/womenwatch/daw/cedaw/29sess.htm)

<sup>4</sup> Paragraphs 12 and 13, A/58/38, available at [www2.ohchr.org/english/bodies/cedaw/cedaws29.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws29.htm)

<sup>5</sup> CEDAW/C/ECU/Q/7, available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

unregistered Ecuadorians. There is similarly no information on or mention of the working situation of and legal support mechanisms available to domestic servants (where the vast majority are women).

### NGO information

Six non-governmental organisations<sup>6</sup> (NGOs) submitted written reports to the Committee.<sup>7</sup> The focus of the NGOs is generally centred on violence against women, sexual violence against girls in schools, and the rights of lesbian, gay, bisexual and transgender (LGBT) individuals. In its report to the Committee, the Global Initiative to End all Corporate Punishment of Children comments on corporal punishment of girls, an issue which was not explicitly touched upon in the State report or in the list of issues. The NGO criticises Ecuador for not reporting on this issue, and in particular the ‘traditional’ forms of justice inflicted upon girls in indigenous communities. Similarly, the Centre for Reproductive Rights noted that adequate measures are not in place to eradicate sexual violence in schools and that the National Plan on Eradication of Sexual Offences is vague and lacking in detail.

The situation of pregnant female prisoners is another issue that was raised by NGOs, but was not touched upon in the State report or the list of issues. CLADEM-Ecuador argued that there are no statistics or other relevant information present in the State report pertaining to the status of women deprived of liberty or concerning the specific group of pregnant women and elderly prisoners.

The situation of LGBT persons in Ecuador is the focus of the reports by Organizacion Ecuatoriana De Mujeres Lesbianas (OEML) and the Women’s Communication Workshop. These NGOs argued that the State needs to reinforce the rights of these groups in the Constitution, and more generally include gender identity and sexual orientation in public policies.

At the beginning of the session, an **informal meeting** was held between the Committee and NGOs from States appearing before the Committee. One coalition of NGOs represented by CLADEM-Ecuador was present and gave an oral presentation on the situation of human rights in Ecuador before the Committee. The NGO addressed issues such as the increasing prevalence of domestic violence in Ecuador, inequalities between men and women in the fields of education and employment, and discrimination against women with regard to sexual and reproductive rights. Committee members Ms Silvia Pimentel and Ms Pramila Patten asked for more information regarding the rehabilitation clinics where LGBT individuals had allegedly been tortured and discriminated against. The NGOs replied that officially, these clinics deal with alcohol and drug rehabilitation, but this not true. The average age of people at these clinics is between 18 and 25 and attending these clinics is often forced and not voluntary. Legal action against these clinics is very difficult and there is only one such example.

### Themes and issues

The delegation of Ecuador was led by Dr Ximena Abarca, Executive Director of the National Council for Women (CONAMU), the governing body for gender mainstreaming in public policies. She was supported by a small delegation consisting of the following representatives: Mr Juan Holguín, Head of Negotiations; Ms María Del Carmen Vivar, Third Secretary, Permanent Mission to the United Nations in Geneva; Ms Paola Mera, CONAMU; and Dr David Chiriboga, Ministry for Coordination and Social Development.

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<sup>6</sup> Global Initiative To End All Corporate Punishment of Children, CLADEM-Ecuador, Organizacion Ecuatoriana De Mujeres Lesbianas (OEML), Centre for Reproductive Rights, Corporacion Humanas, and Women’s Communication Workshop.

<sup>7</sup> The NGO reports are available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

The delegation's opening remarks before the Committee were made by Dr Abarca and touched upon Government initiatives and mechanisms in place to promote gender equality and development. Among these initiatives and instruments mentioned were CONAMU, the Equal Opportunities Plan 2005-2009, the National Plan for Eradication of Sexual Offences and the National Plan for Education on Love and Sexuality. The legal mechanisms in place for punishing violations of women's rights were likewise emphasised in the presentation.

The Head of delegation was frank and recognised the challenges of the constitutional reform process in consolidating the different Government institutions, but maintained that gender equality must be guaranteed nonetheless. The presentation was very broad and general, however, and the vast amount of statistical information provided was drawn from the State report.

There was a courteous atmosphere between the delegation and the Committee. The delegation made a good effort to reply to the questions posed but fell short at times of the detailed and conciseness requested by the Committee. Moreover, many of the delegation's responses referred to the new Constitution, which is still being implemented. The members of the Committee required more statistics in order to fill the gaps in the State report. Many Committee members, however, complimented the delegation for the progress being made in issues such as education and health, and commended its openness in responding to the Committee's questions and comments.

### **National machinery for the advancement of women**

Throughout the session with the Committee, the delegation emphasised the recent adoption of a new constitution and the challenges this is having on coordination among Government institutions, in particular in promoting and mainstreaming women's issues in Ecuador. One of the main institutions in charge of this task is CONAMU. A few Committee members requested information on this body further to that provided in the State report and the opening remarks. Committee member Ms Mary Shanthi Dairiam asked about the status of CONAMU and about the monitoring mechanisms of the institution. She also inquired into how the Government plans to provide a legal mandate for mainstreaming gender and the place of CONAMU in the political hierarchy. The delegation responded by saying that CONAMU is the central institution for equality, and instruments have been created for monitoring its effectiveness. The delegation did not, however, give any further details on these instruments. Moreover, the delegation stated that due to the transition period of the new Constitution, the Government cannot know when a law on gender equality will be adopted.

Committee member Ms Dairiam followed up on the issue of CONAMU and inquired into the effectiveness of CONAMU and how the Secretariat for Planning will work with this institution. The State response to these points were rather vague and repetitive; they only assured that work is being done to mainstream a gender perspective in CONAMU and that further measures are needed to ensure that decisions on gender issues are binding. Some Committee members were also curious about the creation of six National Councils of Equality related to gender and equality in the new Constitution, and whether these are really necessary and effective. The delegation responded that the Councils will not have executive functions but will monitor enforcement and ensure mainstreaming of the gender perspective, evaluation, and follow-up.

In sum, many responses given by the delegation in relation to the situation of CONAMU were general and at times lacking in detail. The transition phase of the new Constitution was generally given as a reason for the lack of gender mainstreaming and institutional coordination.

In its concluding observations,<sup>8</sup> the Committee notes that CONAMU has an important role to play for the promotion of women's rights in Ecuador. There remained, however, a concern that the functional structure,

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<sup>8</sup> CEDAW/C/ECU/CO/7, available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

legal basis, powers, and resources of CONAMU do not allow it to direct a real and cross-cutting integration of a gender perspective into the overall structure of the State and into public policies. The Committee is also concerned that the Equal Opportunities Plan 2005-2009 has limited resources and remains unknown in many Government sectors. The Committee therefore recommends that the State ensure that the Plan and its implementation be provided with a legal basis through the adoption of the draft *Equal Opportunities Act*.

### **Violence against women**

Committee member Ms Silvia Pimentel commented that the State report does not provide analytical statistics on domestic violence or how effective Government institutions have been on combating domestic violence. She also inquired into the low number of cases of domestic violence that have been resolved and if measures are being taken to make domestic violence illegal. The delegation did not reply to these questions.

Committee member Ms Dairiam asked if there is a special programme for protecting refugee women from sexual violence and whether there is an inclusive approach between all agencies to promote rights of refugee women to be free of discrimination. The delegation's response was not very comprehensive; it merely stated that there is a national identification campaign in place, which provides all refugees in the northern border areas with identification documents, and inter-departmental cooperation is taking place.

Sexual violence against girls in school was an important issue among the Committee members and member Ms Pimentel commented that the right to health is violated when the State cannot protect girls from violence at school. She wanted to know what steps the State plans to take to address sexual violence. The Head of delegation responded that monitoring programmes are in place to study sexual violence and to enhance educational programmes. Moreover, the Government is carrying out its National Plan for the Prevention and Elimination of Sexual Offences in the Schools. The Government is also monitoring committees already in place to study sexual offences to try to introduce more information on this subject in educational programmes. Ms Pimentel suggested that, concerning information on violence and health, Ecuador could use indicators from the Organization of American States (OAS) and the Inter-American Women's Committee for data on violence against women.

In its concluding observations the Committee urges Ecuador to give priority attention to the design and implementation of a comprehensive strategy to combat and eradicate violence against women and girls, and to strengthen protection and assistance to victims. The Committee recommends that domestic violence be included as an offence in the Penal Code and that it expressly prohibit corporal punishment of children in all settings. In 2005, the Committee on the Rights of the Child also expressed its concern about violence against children and urged the State to take effective legislative measures to prohibit all forms of corporal punishment in all settings, as well as strengthening awareness-raising campaigns to ensure that alternative forms of discipline are administered.<sup>9</sup>

### **Participation of women in the public sphere**

Committee member Ms Violeta Neubauer was the most active Committee member in the issue of political participation of women. She noted the progress that had been made in terms of women's participation in decision-making and welcomed the fact that mechanisms for gender equality have a legal basis in the Constitution. She expressed concern, however, about the power and mandate of gender equality mechanisms, as well as the impact of the proposals made by these mechanisms. She also inquired if there is a specific body within Parliament to address gender equality.

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<sup>9</sup> CRC/C/15/Add.262, available at [www2.ohchr.org/english/bodies/crc/crcs39.htm](http://www2.ohchr.org/english/bodies/crc/crcs39.htm).

The Head of delegation remarked that the issue of the model of participation is in the new Constitution, but because of the transition period, it is difficult to say when the law on gender equality will actually be created. She continued by stating that there is equal representation of men and women in the electoral process. However, the traditional political culture is an important aspect to be aware of and it will take time to change structure and attitudes.

Committee member Ms Neubauer continued with questions on this issue, stating that the State report is silent concerning the participation of women in political parties and in decision-making bodies. She asked what the barriers are to participation of women in the public sector and what policies have been implemented to overcome them. The delegation subsequently provided satisfactory statistics on the number of women present in the public sector at the national level. Nevertheless, no information was provided on the participation of women at the local level.

Committee member Ms Meriem Belmihoub-Zerdani asked whether the political parties in Ecuador are subsidised by the State. She suggested that if this is the case, funding could be made conditional on the parties' compliance with gender equality standards. The delegation replied that political parties do in fact receive subsidies under the new Constitution. The objective of this is to encourage the political participation of women. However, the overall target of 30 percent political participation of women has not yet been reached.

In its concluding observations the Committee expresses its concern about the persistence of obstacles to the participation of women, especially indigenous women and women of African descent, in many areas of public life. The Committee therefore urges the State to ensure consistent application of legislation aimed at ensuring the participation of women in public life.

## **Women and health**

### ***Teenage pregnancies***

Committee member Ms Begum enquired what impact the law on free maternity and child care has had in Ecuador given the large numbers of teenage pregnancies. Committee member Ms Pimentel asked about the steps taken by the State to address sexual violence and to widen access to abortion for adolescents who have been raped. The Head of delegation responded with an assurance that the State has a national plan for teenage pregnancies in place and that it is working with the Ministry of Health, the National Council for Women, and children and adolescents' groups. Dr Abarca pointed out that the new Constitution obliges the State to provide sexual education; this should lead to an effective reduction in teenage pregnancies. She further commented that the State is considering decriminalising abortion, especially in the case of rape.

### ***Women-specific diseases***

Ms Begum enquired into the measures the Government has been taking towards eliminating cervical cancer and other types of diseases specific to women. In response to this question The Head of delegation merely replied that there should be cervical and breast cancer treatment for all women. In this instance, a representative of the Ministry of Health or a similar institution would have been more apt at supplying the Committee with more useful information on this issue. At the end of these responses from the delegation, Committee Member Ms Hanna Beate Schöpp-Schilling commented that the information presented by the delegation in the future must be more women-oriented.

In its concluding observations the Committee recommends that Ecuador strengthen its measures towards addressing teenage pregnancy. In its concluding observations in 2005, the Committee on the Rights of the Child also concerned itself with this issue and urged the State to undertake measures to reduce the rate of

teenage pregnancies, in particular through reproductive health education and child-sensitive counselling services. It also recommended that the State take measures to reduce the rate of teenage pregnancies through the effective implementation of the National Plan for Education on Love and Sexuality in a gender- and child-sensitive manner.

### Trafficking in women

Committee members Ms Ferdous Ara Begum and Ms Yoko Hayashi commented primarily on the insufficiency of statistics and data provided in the State report on the numbers of women being trafficked and how many violators of trafficking have been punished. Ms Hayashi recognised the difficulty for a Government to providing statistics on trafficking of women, but insisted that some information should nonetheless be provided to the Committee. Ms Begum inquired if there have been any studies on the harms of trafficking in Ecuador, and also if the State has any bilateral agreements with countries regarding migrants. Delegation member Ms Paola Mera, representative of CONAMU, provided some statistics regarding court rulings and the number of complaints registered in this area. She also said that CONAMU is working with different Government departments to carry out training programmes for law-enforcement officials and legal personnel to prevent and better deal with trafficking.

In its concluding observations the Committee is especially concerned about the situation of migrants, asylum-seekers, and refugee women who are pushed into the informal economy, including sex work, and become vulnerable to sexual exploitation. The Committee calls upon the State to dedicate adequate resources to the implementation of the National Plan against Trafficking and Sexual Exploitation and to establish a mechanism to monitor its implementation and assess its effectiveness.

### Other issues

One issue a few members of the Committee touched upon was women's situation in the field of **employment**. Committee member Ms Patten was concerned about the lack of statistics for monitoring women's progress in the field of employment. She enquired whether the State is paying attention to the expansion of the informal sector and the vulnerable positions women face in this sector. She also asked whether measures have been taken by the State to eliminate occupational segregation. Committee member Ms Hayashi followed up on Ms Patten's questions and asked if it is possible for a woman to take her employer to court. She also asked for information on trade unions and their role in improving the situation of women in employment. The delegation's response was provided firstly by Mr David Chiriboga, who mostly gave general statistics on the employment conditions and labour issues in Ecuador without touching on the specific situation of women. This Head of delegation added to Mr Chiriboga's replies, but similarly focused on the general issue rather than the specific situation of women in employment.

Committee members were also interested in **family** issues. Committee member Ms Patten focused on the issue of equality in marriage and inquired what priority the State gives to this issue, and what function Civil and Family Code plays in this respect. She also emphasised that early marriage of girls is a great concern for the Committee, and expressed concern that under Ecuadorian law it is possible to ignore the age limit of 18 years of marriage if there is parental consent. Committee member Ms Zerdani expressed her concern that laws covering marriage, family and children, are dispersed in the Civil Code, the Family Code, and the Juvenile Code, which creates confusion. The Head of delegation responded that more in-depth analysis is needed to answer these questions satisfactorily. She reminded the Committee of the ongoing political changes in Ecuador, which has led to many legal aspects and areas being reconsidered.

During the session, the Committee also engaged the delegation in discussion on the following themes: refugee women in Ecuador, the Equal Opportunities Plan, and education.

## Conclusions and next steps

The Head of delegation, Dr Ximena Abarca, concluded the session by thanking the Committee for the ‘valuable dialogue’. She promised that the State will in the future respond to questions with disaggregated statistics, as well as statistics on how public policies are impacting the people on the ground.

The Chairperson of the Committee, Ms Naela Mohamed Gabr noted that a lot of progress for women had been made in Ecuador, particularly with the establishment of CONAMU, which she hoped would be given even more competence. Ms Gabr praised Ecuador for its attention to the concluding observations of the Committee on earlier reports and also hoped that the cooperation between Ecuador and NGOs would continue. She emphasised, however, that it is important for the State in the future to put more focus on the issues of rural women and violence against women, and stressed that the gap between law and practice should be decreased.

In its concluding observations, the Committee urges the State to ratify treaties to which it is not yet a party, such as the *International Convention for the Protection of All Persons from Enforced Disappearances* the *Convention on the Rights of Persons with Disabilities* and its Optional Protocol. The Committee urges the State to make use of the *Beijing Declaration and Platform for Action* in the implementation of its obligations under the Convention, and requests information on this in its next periodic report. The Committee also requests the wide distribution in Ecuador of the present concluding observations to inform the people, public institutions, and organisations of its content.

The Committee asked the State to respond to the Committee’s concerns in its next report, which Ecuador is invited to submit as a combined 8<sup>th</sup> and 9<sup>th</sup> periodic report in 2012.

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## ABOUT THE PUBLICATION

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