

## **against Women**

### **Forty-second session**

20 October-7 November 2008

## **Concluding observations of the Committee on the Elimination of Discrimination against Women: Ecuador**

1. The Committee considered the combined sixth and seventh periodic reports of Ecuador (CEDAW/C/ECU/7) at its 854th and 855th meetings on 22 October 2008. The Committee's list of issues and questions is contained in CEDAW/C/ECU/Q/7 and the responses of Ecuador are contained in CEDAW/C/ECU/Q/7/Add.1.

### **Introduction**

2. The Committee expresses its appreciation to the State party for its combined sixth and seventh reports, which follow the Committee's earlier guidelines for the preparation of periodic reports and make extensive reference to previous concluding comments (A/58/38, paras. 282-336). The Committee also expresses its appreciation to the State party for its written replies to the list of issues and questions raised by the pre-session working group.

3. The Committee commends the State party for the delegation headed by the Chairperson of the National Council for Women (CONAMU) and composed of representatives of CONAMU and the Ministry for Social Affairs Coordination. The Committee appreciated the frankness of the report in assessing challenges to the implementation of the Convention and the open and constructive dialogue that took place between the delegation and members of the Committee, although it regrets that some of the questions remained unanswered.

### **Positive aspects**

4. The Committee notes with satisfaction the efforts to implement the Convention and give follow-up to previous concluding observations through the adoption of a considerable number of laws, policies, plans and programmes, including the Code of Childhood and Adolescence; the Criminal Code Reform Act; the Labour Code Reform Act; the Health System Organization Act; the reform of the Free Maternity and Child Care Act; the reform of the Foreign Service Organization Act; the National Plan for Equal Opportunities; the National Plan for the Eradication of Sexual Offences; the National Plan for the Prevention and Elimination of Sexual Offences in Schools; the National Plan of Action against kidnapping, illegal trafficking in migrants, sexual and labour exploitation and other kinds of exploitation and prostitution of women, children and adolescents, child pornography and the corruption of children; the National Plan on Health and Sexual and Reproductive Rights; Ministerial Agreement No. 261 prohibiting gender discrimination in public and private contracting; Ministerial Decree No. 3393 on awareness and handling of sexual offences in the education system; and Ministerial Decree No. 403 on institutionalization of comprehensive sex education.

5. The Committee welcomes the recent establishment of the Ministry of Justice and Human Rights in charge, inter alia, of coordinating the work of different actors within the judicial system, including authorities in charge of the implementation of the national legal protection framework regarding sexual and gender-based violence.

6. The Committee commends the plan to register and provide identity documents to all women in the country, including those living in rural areas.

7. The Committee notes with satisfaction the expansion of the Integrated System of Social Indicators, which includes two related systems, the women's system (SIMUJERES) and the childhood system (SINIÑEZ).

8. The Committee welcomes the involvement of civil society in initiatives aimed at developing relevant projects, programmes and policies, as well as the involvement of women's organizations, in the preparation of the State party's report.

### **Principal areas of concerns and recommendations**

9. While recalling the obligation of the State party to implement all the provisions of the Convention systematically and continuously, the Committee views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It also calls upon the State party to submit the present concluding observations to all relevant ministries, other Government structures at all levels and to Parliament and the judiciary, in order to ensure their effective implementation.

### **Parliament**

10. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of government and it invites the State party to encourage its national parliament, in line with its mandate and procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.

11. The Committee takes note of the fact that the State party is undergoing a complex process of change in light of the recent enactment of a new Constitution. The Committee emphasizes that this period provides the State party with a good opportunity to undertake the structural reforms that are necessary to respond to the concerns identified in the present concluding observations.

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

12. The Committee recognizes the important role played by CONAMU in advancing gender equality and women's rights in Ecuador. The Committee further welcomes efforts at creating institutional and legal equal opportunity mechanisms at local level and within some ministries. The Committee, however, remains concerned that the functional structure, composition, legal basis, powers and resources of CONAMU do not allow it to direct a genuine and cross-cutting integration of a gender perspective into the overall structure of the State and into public policies.

**13. While noting with satisfaction that the new Constitution provides for the existence of a specific mechanism to promote gender equality — the Council for Equality — the Committee recommends that the Council be functionally integrated in the Government structure and be given the necessary mandate and legal authority, through specific secondary legislation, to mainstream gender and women's rights in all policies and structures of the State party. It also recommends that the Council be provided with an adequate budget to perform its activities in an effective manner. In addition, the Committee recommends an adequate representation of indigenous women and of women of African descent in the Council.**

14. The Committee welcomes the development of the Equal Opportunity Plan 2005-2009 — declared State policy through an executive decree in 2006 — as well as the efforts by CONAMU to incorporate the Plan into the operative planning of all public-sector institutions, as well as the initiatives to promote decentralized equal opportunities plans in some local governments. However, the Committee remains concerned that the Plan is provided with limited resources and remains unknown in many government sectors. The Committee also remains concerned that the implementation of the Plan seems to focus excessively on isolated programmes and reactive actions.

**15. The Committee recommends that the State party ensure that the Plan and its implementation be provided with a legal basis through the adoption of the draft Equal Opportunities Act. It also recommends that the Plan be provided with the necessary political visibility and resources to promote a systemic and inclusive approach of all agencies, organizations and services, public and private, at the central and local levels, in order to ensure the validity, universal exercise, enforceability and protection of the principle of gender equality and of women's rights.**

### **The principle of equality**

16. The Committee takes note with appreciation that the new Constitution enshrines the principle of equality between men and women and the principle of non-discrimination and establishes that Ecuador is a secular State. The Committee further welcomes the legislative reforms undertaken by the State party in the period under consideration to eliminate a number of discriminatory provisions. However, the Committee remains concerned at the disparity between the *de jure* and *de facto* situation regarding the legal protection of women and gender equality. It in particular notes that, as the State party's report recognizes, "certain legal and social practices discriminate against women in the public and private spheres in that they give men preferential treatment compared with women" (para. 98).

**17. The Committee urges the State party to adopt the draft Equal Opportunities Act and develop and implement mechanisms for its effective enforceability. The Committee further recommends that the State party take adequate and prompt measures to ensure the full implementation of existing legislation in a manner that does not discriminate against women. The Committee urges the State party to undertake a comprehensive process of review of the compatibility of national legislation with the new Constitution and the Convention and to repeal without delay all legislation that discriminate against women, including the provision of the Civil Code that enshrines a presumption in favour of the husband in the administration of the couple's affairs.**

### **Poverty and economic empowerment**

18. The Committee is concerned about the persistence of high levels of poverty and social exclusion of Ecuadorean women, especially indigenous women and women of African descent, and about obstacles to their access to basic social rights. While welcoming efforts undertaken in the State party to alleviate poverty, including through the recently expanded Human Development Bond Cash Transfer Programme and the Programme for the Advancement of Rural Women (Promujeres), the Committee remains concerned at the lack of integration of a specific gender perspective in national social and economic development plans and programmes. The Committee is also concerned that resources invested to promote the situation of women seem to be concentrated in sectors related to their social roles as mothers and caretakers in the health sector and that there are no mechanisms to assess systematically whether existing programmes tend to reproduce and perpetuate stereotypical gender roles.

**19. The Committee urges the State party to ensure that economic and social policies and public investment take into specific account the situation of women. It recommends that the nation's system of social indicators be strengthened and allow for disaggregated data on the situation of indigenous women and women of African descent, in particular in rural areas, and that this information in turn inform relevant policies. The Committee further urges the State party to strengthen initiatives aimed at encouraging women's economic initiatives, such as the "Promujeres Fund", keeping in mind the situation of different groups of women. Finally, the Committee encourages the State party to establish mechanisms to monitor regularly the impact of social and economic policies on women.**

### **Violence against women**

20. The Committee welcomes the creation of women's and family commissariats and the establishment of specialized domestic violence and sex crimes units in the Public Prosecutor's Office of the largest districts, as well as the development of a programme for the protection of victims of sexual violence and the efforts to ensure the implementation of the Violence against Women and the Family Act. However, the Committee remains concerned at the high incidence of violence against women and girls in the State party, including domestic and sexual violence, and at the gaps in coverage and limitations in resources directed at the programmes to protect women victims. The Committee is concerned that, in spite of specific legislation and plans, sexual violence and harassment against girls in schools remain rampant. The Committee is also concerned that, as stated in the State party's report (para. 163), violence against women "continues to be considered a misdemeanour". The Committee further notes with concern that corporal punishment is lawful in the home and constitutes a form of violence against children, including the girl child.

**21. The Committee urges the State party to give priority attention to the design and implementation of a comprehensive strategy, with dedicated appropriate resources, to combat and eradicate all forms of violence against women and girls and to strengthen protection and assistance to victims, in conformity with general recommendation 19. The Committee calls upon the State party to ensure that existing legislation to combat violence against women and girls is appropriately enforced. It further recommends that domestic violence be included as an offence in the Penal Code and that the Code expressly prohibit corporal punishment of children in the home, as well as in care and justice institutions. The Committee recommends that the State party comply with the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará, 1994), and use the indicators approved at the fourth meeting of the Committee of Experts on Violence of the Inter-American Commission of Women on 15 August 2008. The Committee also invites the State party to provide in its next periodic report data and statistics on cases of different forms of violence against women and access by victims to the justice system, as well as information on protection and assistance provided to victims and on the number of trials and convictions.**

### **Trafficking and sexual exploitation**

22. While noting the State party's recent initiatives to address the problem of trafficking in, and the sexual exploitation of, women and girls, including the development of a specific plan of action and efforts to ensure registration of undocumented women, the Committee remains concerned about the persistence of trafficking from and into the State party. The Committee is particularly concerned about the situation of migrant, asylum-seeking and refugee women who, falling victim to discrimination, are pushed into the informal economy, including sex work, and become vulnerable to sexual exploitation. The Committee is equally concerned at reports according to which indigenous women and women of African descent may be particularly vulnerable to trafficking and sexual exploitation.

**23. The Committee calls upon the State party 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. The Committee encourages the State party to tackle the root causes of trafficking, including poverty, discrimination and social exclusion, that make certain groups of women particularly vulnerable. The Committee further encourages the State party to strengthen the protection against discrimination and violence provided to women and girls who wish to leave prostitution as well as to victims of trafficking, develop awareness-raising programmes, conduct research on the root causes of trafficking, provide women with alternative means of livelihood as well as provide adequate training to lawyers, criminal justice workers, health-care providers and law enforcement officials in all matters concerning sexual exploitation and trafficking. The Committee invites the State party to provide in the next periodic report statistical data regarding the level of incidence of the crime, the number of criminal proceedings initiated and the sanctions imposed.**

### **Vulnerable groups of women**

24. The Committee is concerned about the situation of indigenous women and women of African descent. It notes that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (see A/HRC/4/32/Add.2) and the Committee on the Elimination of Racial Discrimination (CERD/C/Ecuador/CO/19) have concluded that indigenous women continue to experience double discrimination, based on their sex and ethnic origin, and violence, which constitute an obstacle to their de facto enjoyment of their human rights and full participation in all spheres of life. The Committee is concerned that indigenous women and women of African descent are disproportionately affected by poverty, have lower level of access to higher education, higher school drop-out rates, higher rates of maternal mortality and early pregnancies, higher rates of unemployment and underemployment, lower wages and a lower level of participation in public life than the rest of the population of Ecuador.

**25. The Committee encourages the State party to adopt, in the context of its policies and programmes, concrete, targeted and time-bound measures, with evaluation criteria, to accelerate the improvement of conditions of indigenous women and women of African descent in all spheres of life. It calls upon the State party to ensure that indigenous women and women of African descent have full access to education and health services and can fully participate in decision-making processes. It requests the State party to include information and data, including trends over time, on the situation of indigenous women and women of African descent and on the impact of measures taken to overcome multiple discrimination against them in its next periodic report.**

26. The Committee is concerned about the situation of migrant, refugee and asylum-seeking women, especially undocumented ones, as they are exposed to abusive work and living conditions and gender-based violence and have limited access to health care. The Committee is also concerned that many unregistered and undocumented refugee women remain vulnerable to refoulement to their countries of origin and to being denied the international protection to which they are entitled.

**27. The Committee recommends that the State party consistently ensure the inclusion and protection of asylum-seeking, migrant and refugee women in national legislation, public policies and response programmes that address issues related**

to women's rights, in particular sexual and gender-based violence. The Committee further urges the State party to take concrete measures to eliminate all forms of violence and discrimination against migrant, asylum-seeking, displaced and refugee women, including in the employment sector, by inter alia promoting their integration into the formal employment sector. The Committee encourages the State party to facilitate the access of refugee, asylum-seeking, migrant and displaced women to health and other social support services. The Committee welcomes the State party's current campaign to register and document all persons along the northern border and encourages the State party to strengthen and accelerate the process of registration as well as the refugee status determination procedure.

28. While noting the prohibition of discrimination against sexual minorities referred to in article 11, paragraph 2 of the new Constitution of Ecuador, adopted on 29 September 2008, the Committee is concerned with reports of discrimination against women on this ground.

**29. The Committee recommends that the State party ensure investigation of such cases and undertake remedial action in line with its Constitution.**

## **Education**

30. The Committee, while welcoming efforts by the Ministry of Education and Culture to eliminate illiteracy, including through programmes such as "Yes, I can", notes with concern the high level of illiteracy among rural women speaking indigenous languages. Notwithstanding the State party's efforts to achieve equality between men and women in formal education and the progress made in this direction, the Committee remains concerned about high drop-out rates among women and girls, especially indigenous girls, and discrepancies between men and women in access to higher education. The Committee also notes with concern that higher education choices continue to reflect stereotypical notions of appropriate fields of study for women.

**31. The Committee encourages the State party to strengthen its efforts to eradicate illiteracy, in particular among rural women speaking indigenous languages. It also urges the State party to take measures, including studies, to address the root causes of school dropouts, including poverty and factors related to gender discrimination and stereotypical gender roles, and to promote women's access to higher education, including through scholarship funds. The Committee further encourages the State party to strengthen efforts to promote the inclusion of women in non-traditional careers. The Committee requests the State party to provide, in its next report, information on budget allocations for public education compared with other sectors. It also requests information on levels of access to school, permanence and grade disaggregated by sex and ethnic group.**

32. The Committee is alarmed at the high level of sexual abuse and harassment against girls in schools, as well as expulsion or rejection because of pregnancy and violence.

**33. The Committee calls upon the State party to strengthen its efforts to provide an educational environment free from discrimination and violence, including through awareness-raising and training of school officials and students, sensitization of children through the media, the promotion of intercultural perspectives in education services and the establishment of reporting and accountability mechanisms to ensure that perpetrators are prosecuted.**

## **Employment**

34. The Committee is concerned about the high rates of women's underemployment and unemployment, especially in the rural areas, and the segregation of women in employment sectors that attract low wages. The Committee is concerned that women earn lower wages than men, especially in rural areas, and that female-headed households have a lower average income compared to male-headed households, especially in urban areas.

**35. The Committee recommends that efforts be strengthened to enhance women's access to employment in the formal sector and eliminate occupational segregation, including through increased opportunities for education and training leading to employment attracting higher wages. The Committee encourages the State party to adopt measures to narrow and close the wage gap between women and men, including by applying job-evaluation schemes in the public sector connected with a wage increase in female-dominated sectors. The Committee invites the State party to monitor the impact of measures taken and trends over time and to provide this information in its next periodic report.**

36. The Committee is concerned at cases of gender discrimination in the workplace, including dismissals related to maternity, and at discriminatory labour practices against women, especially indigenous and migrant women and those of African descent.

**37. The Committee urges the State party to undertake legislative and administrative measures to prevent sex-based discrimination in the workplace including by making public all cases in which there were convictions. The Committee further urges the State party to take further measures to educate the general public about the value of women in the workplace. The Committee recommends that the State party ratify Convention No. 183 of the International Labour Organization concerning the revision of the Maternity Protection Convention (No. 103).**

## **Health**

38. The Committee remains concerned at the high rate of pregnancy among teenage and young women, particularly in rural areas. The Committee is also concerned at the high incidence of maternal mortality. The Committee notes with concern that the second leading cause of maternal mortality is abortion and is concerned that the magnitude of unsafe abortion in the country and its effects on maternal mortality are underrecorded and unknown. The Committee welcomes the enactment of the Free Maternity Care Act and the establishment of committees of users to monitor its implementation. However, the Committee is concerned at the lack of resources

for the full implementation of the Act, especially in rural areas.

**39. The Committee recommends that the State party strengthen measures to address teenage pregnancy, especially among indigenous girls and those of African descent, including the allocation of adequate and targeted resources to the Plan for the Prevention of Teenage Pregnancy and programmes to assist teenage boys and girls during pregnancy. The Committee further recommends that the Ministry of Public Health undertake a thorough investigation or study on the issue of unsafe abortions and their impact on women ' s health in particular maternal mortality, to serve as a basis for legislative and policy action to address this issue. The Committee further urges the State party to allocate adequate resources for the de facto full implementation of the Free Maternity Act and take measures to ensure that all women have easy access to health services that are culturally sensitive and of good quality.**

40. The Committee is concerned at the increasing number of women contracting HIV/AIDS and at the lack of information on the incidence of HIV/AIDS among indigenous women and women of African descent. The Committee is also concerned at the low percentage of women screened for early detection of uterine, cervical or breast cancer.

**41. The Committee recommends that the State party assess the incidence of HIV/AIDS in indigenous women and women of African descent, as well as migrants and refugee women. It further urges the State party to strengthen the preventive approach to HIV/AIDS and to uterine, cervical and breast cancer. The Committee further invites the State party to include in its next report further information, especially trends over time and addressing the life cycle of women, on women ' s general and reproductive health, including rates and causes of morbidity and mortality of women in comparison with men; contraceptive prevalence rates; spacing of children; diseases affecting women and girls, in particular various forms of cancer; and the efforts of the State to improve women ' s access to health-care services, including family planning and services directed towards cancer prevention and treatment. The Committee recommends that the State party strengthen the role of local governments and promote an intercultural perspective in the provision of health-care services.**

### **Participation in public life**

42. The Committee welcomes the Political Participation Act and notes with appreciation that for the first time since its enactment it was fully implemented during the elections for the Constituent Assembly in 2007. The Committee further welcomes progress in the representation of women in all spheres of public life. However, the Committee remains concerned at the persistence of structural, political, cultural and socio-economic obstacles to the participation of women, especially indigenous women and women of African descent, in many spheres of public life.

**43. The Committee urges the State party to ensure consistent application of legislation aimed at ensuring the participation of women in public life and to take other measures in this direction, especially targeting indigenous women and women of African descent. The Committee encourages the State party to take temporary special measures in line with article 4, paragraph 1, of the Convention and the Committee ' s general recommendation No. 25. The Committee invites the State party to provide comprehensive data concerning the participation of women in all spheres of public life in the next periodic report.**

### **Beijing Declaration and Platform for Action**

**44. The Committee urges the State party to utilize fully, in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

### **Millennium Development Goals**

**45. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.**

### **Ratification of other treaties**

**46. The Committee notes that States ' adherence to the nine major international human rights instruments enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Ecuador to ratify the treaties to which it is not yet a party, namely the International Convention for the Protection of All Persons from Enforced Disappearances; and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.**

### **Dissemination of concluding observations**

**47. The Committee requests the wide dissemination in Ecuador of the present concluding observations in order to make the people, including Government officials, politicians, parliamentarians and women ' s and human rights organizations, aware of the measures that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in this regard. It requests the State party to continue to strengthen the dissemination, in particular to women ' s and human rights organizations, of the Convention, its Optional Protocol, the Committee ' s general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled " Women 2000: gender equality, development and peace for the twenty-first**

century ” .

#### **Article 20, paragraph 1**

48. The Committee encourages the State party to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.

#### **Follow-up to concluding observations**

49. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 13 and 15 above. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate for implementation of the above recommendations.

#### **Date of next report**

50. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its combined eighth and ninth periodic reports in 2012.