

Combined fourth and fifth periodic report

Ecuador

Concluding observations: 29th session

282. The Committee considered the combined fourth and fifth periodic report of Ecuador (CEDAW/C/ECU/4-5) at its 622nd and 623rd meetings, on 11 July 2003 (see CEDAW/C/SR.622 and 623).

Introduction by the State party

283. In introducing the combined fourth and fifth periodic report, the representative noted that the national machinery for the advancement of women had been strengthened through the creation, in 1997, of the National Council for Women, attached to the Office of the President. A Permanent Commission on Women, Children and the Family had been created in 1998. The Defensoria del Pueblo had been established, together with the Defensoria Adjunta de la Mujer. The National Council for Women had a certain financial and political autonomy, and benefited from the participation of the women's movement in its structures and implementation of public policies. Preparation of the combined fourth and fifth periodic report had been a collaborative effort between the National Council for Women and the Ministries of Labour, Social Welfare and External Relations.

284. Despite profound economic and political crises during the 1990s, significant legislative reforms had been undertaken towards the elimination of discrimination against women. The Constitution of 1998 incorporated the principle of equality and non-discrimination on the basis of sex, and a series of legislative measures to eradicate discrimination and to create equal opportunities had been introduced, such as a law on violence against women and the family (law 103) adopted in 1995, and a law on love and sexuality, as well as revision of the electoral code, and reforms of the civil and penal code.

285. Since 1996, the collection of sex-disaggregated data had been improved, and a national Equal Opportunity Plan had been formulated by the National Council for Women with the participation of national women's movements. The plan incorporated Ecuador's commitments emerging from the Fourth World Conference on Women, Beijing 1995. Despite the significant progress women had achieved in different areas, cultural perceptions and practices remained discriminatory to women.

286. Turning to developments in relation to the articles of the Convention, the representative drew attention to various measures that had been adopted in support of the implementation of the law on violence against women and the family (law 103). Public officials had been trained, 32 Women's Commissariats had been established, and the Oficina de la Defensa de los Derechos de la Mujer within the National Police had been established in 1995. Such offices now existed in six provinces. Awareness-raising campaigns had been undertaken, and the number of complaints regarding violence against women had increased by 30 per cent between 1992 and 2002. Violence against women was now recognized as both a social and public health problem. However, the representative noted that corrupt practices in the judicial system and sexist cultural attitudes continued to impede the full implementation of the law.

287. Other legislative advances included the Labour Code and Social Security Law which guaranteed the rights of pregnant women to work and to enjoy maternity benefits. The Ley de Maternidad Gratuita aimed at enhancing women's sexual and reproductive health. The revised Ley de Amparo Laboral established a minimum quota of 20 per cent representation of women in the

administration of justice. A “Solidarity Bonus” had been established in 1998 for poor women with minor children, persons with disabilities and the elderly living below the poverty line, with some 85 per cent of beneficiaries being women. However, those social protection programmes had not significantly ameliorated their situation.

288. Constitutional and legislative provisions were also in place to protect children and adolescents against exploitation, including prostitution and sexual exploitation. Those measures had been reinforced by the creation, in 1997, of the National Police Directorate specializing in boys, girls and adolescents, and in 2000, the Observatory of the Rights of Children. However, police and judicial corruption continued to hinder the imposition of sanctions for the exploitation of minors. With regard to prostitution, the representative noted that some 15 per cent of sex workers registered with the Ministry of Health were organized in associations. An HIV/AIDS prevention programme targeted at sex workers had been implemented since 1998.

289. The reform of the electoral law in 2000 provided for a minimum quota of 30 per cent representation of women on electoral lists, which led to a significant increase in women’s access to elected public office. Nevertheless, such representation, while increasing, remained low at national, provincial and local levels. Similarly, the number of women in the higher levels of the judiciary was low, and there was only one woman among the 39 Supreme Court judges. In 1999, 26.1 per cent of cabinet ministers were women. While there was no *de jure* discrimination with regard to entry into the foreign service, women still faced resistance and difficulties in securing equal opportunity in that area. In 1998, there were 3 women ambassadors out of a total of 61, but by 2003, that number had increased to 5.

290. The 1998 Constitution incorporated provisions guaranteeing equality between women and men in access to education, ensuring a gender focus in curricula and textbooks and participation of parents in the education process. The National Council for Women supported programmes to mainstream gender perspectives in educational curricula, textbooks and in entrance examinations to institutions of higher education. Steps had also been taken to introduce sex education programmes into the education system. Major emphasis was placed on enhancing education in rural areas. While those and related efforts led to a reduction in women’s illiteracy and an improvement of women’s educational indicators, gender-specific stereotypes remained prevalent in the education system. The high teenage pregnancy rate, especially in rural areas, continued to lead to the expulsion or dropping out of young women from schools.

291. The Constitution guaranteed women equality of opportunity in access to the labour market as well as equal pay for equal work, recognized domestic work as productive work, and prohibited discrimination in the labour market for reasons of maternity. The Labour Code provided for maternity leave, measures to provide for childcare had been realized, and public employees were covered by social security. However, the political and economic crises of the 1990s had resulted in an increase in the number of economic migrants, of whom an estimated 38 per cent were women. Foreign remittances had become the country’s second largest source of income. Women’s unemployment and underemployment rates were significantly higher than those of men.

292. The representative drew attention to certain improved health indicators, however, some 80 per cent of women remained without health insurance. Some 17.5 per cent of 15 to 19-year-old women were already mothers. Care for pregnant women had not improved during the last decade, and that situation remained a particular concern among indigenous women. Since 1999, the Ministry of Public Health had been implementing a plan to improve maternal health and the health of children under five years of age by focusing on improved access, quality of service and social participation. The Ley de Maternidad Gratuita aimed at providing women with the necessary care during

pregnancy, delivery and post-partum. That law was complemented by a series of important institutional reforms.

293. The representative noted that, according to all social indicators, the situation of indigenous women was worse among all groups of disadvantaged groups of women, for example with regard to literacy rates, income, or access to health care. The Agrarian Development Law of 1994 strengthened capacity-building efforts in rural areas, and encouraged local organization for productive purposes. The law also guaranteed land ownership and promoted access to credit. Steps such as the 1997 Plan to fight rural poverty, the national programme for rural development, and the establishment of a National Division for Campesino Women, Youth and Family within the Ministry of Agriculture and Livestock aimed at improving the situation of rural women, and provided them with direct services, such as in regards to land ownership, and access to credit. Notwithstanding those efforts, lack of rural development and services led to a significant degree of rural-to-urban migration.

294. In conclusion, the representative noted that legal reforms had ensured for women the same legal status, rights and obligations as men in the context of marriage and family. At the same time, the national culture continued to assign family responsibilities almost exclusively to women, a situation that was reinforced by public support programmes that focused on family welfare. Ecuadorian women had shouldered the costs of economic adjustment, which had led to budgetary cuts in the social, education and welfare sectors.

Concluding comments of the Committee

Introduction

295. The Committee welcomes the delegation of Ecuador, headed by the Technical Director of the National Council for Women, who provided a comprehensive picture of the progress achieved and obstacles that remained in the realization of gender equality in the country.

296. The Committee expresses its appreciation to the State party for the extensive information contained in its combined fourth and fifth periodic report, as well as its replies to the questions raised by the pre-session working group, which contain additional information on the situation of Ecuadorian women. The Committee also appreciates the detailed oral replies from the delegation which made possible a constructive dialogue with the Committee.

Positive aspects

297. The Committee commends the State party for the proclamation of the State Constitution in 1998 which enshrines the fundamental principles of protection and promotion of the human rights of women, and for the adoption of a series of important laws and new laws aimed at achieving equality.

298. The Committee congratulates the State party for the establishment of the National Council for Women in 1997 as the lead agency for public policy aimed at the inclusion of a gender perspective in public sector agencies, whose Board of Directors includes representatives of civil society.

299. The Committee commends the State party for the implementation of the Equal Opportunities Plan 1996-2000, whose results led to progress in the advancement of women.

300. The Committee congratulates the State party for its ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 5 February 2002.

Principal areas of concern and recommendations

301. Although the Committee welcomes with satisfaction the laws recently adopted and the legislative reforms and bills submitted to the National Congress, it is concerned that discriminatory provisions still remain in criminal and civil law, family law in particular. Furthermore, the Committee is concerned at the disparity between the de jure and de facto situation regarding legal protection for women. It is also concerned at the lack of an integrated policy to institutionalize a gender perspective among the major elements of the State party's strategic priorities.

302. The Committee urges the State party to repeal the remaining discriminatory provisions in its criminal, civil and family law to ensure the enforcement of laws prohibiting discrimination against women, and to streamline procedures for review of the compatibility of those laws with the Convention, thereby strengthening its political will to incorporate a gender perspective in the formulation and enforcement of laws. The Committee also urges the State party to consider the incorporation of a gender perspective in its normative framework as a main focus among its strategic priorities and to consider the possibility of designing and implementing an integrated policy to institutionalize a gender perspective.

303. Although the Committee welcomes the establishment of the National Council for Women by executive decree in 1997, it is concerned at the lack of a law institutionalizing the Council and regulating its normative capability, operations and financing. It is also concerned that this body does not have an explicit mandate allowing it to guarantee, and require from the different sectors of government, the enforcement of laws, plans and programmes for gender equality, and that a Director still has not been appointed. The Committee is also concerned that the participation of civil society organizations in the Council could be weakened and that movements of indigenous women and women of African descent are still not represented.

304. The Committee urges the State party to strengthen the regulatory and normative role of the National Council for Women by adopting a law institutionalizing and regulating its activities and giving it a more active role in monitoring the enforcement of standards to promote gender equality, and to allocate to it the financial resources necessary for its operation and the exercise of its functions. Furthermore, the Committee encourages the State party to appoint a director to head the National Council for Women. The Committee encourages the State party to ensure the participation of civil society in the Council and to promote the participation of movements of indigenous women and women of African descent.

305. While the Committee welcomes the elaboration of the Equal Opportunities Plan 1996-2000 as a technical instrument guaranteeing the inclusion of a gender perspective in public policies and promoting the development of programmes and projects to benefit women and girls, it is concerned at the delay in the discussion and consultation on the adoption of the Equal Opportunities Plan 2002-2007.

306. The Committee urges the State party to accelerate the review and consultation process for the adoption of a new plan, with the participation of civil society and particularly women's groups, with a view to its rapid adoption.

307. The Committee is concerned at the high levels of poverty and extreme poverty among women, and notes in particular the situation of rural and indigenous women. Despite the existence of isolated anti-poverty plans, the Committee is concerned at the lack of a general and comprehensive poverty eradication policy specifically targeting rural and indigenous women.

308. The Committee urges the State party to develop a general poverty eradication policy incorporating a gender perspective and focusing particularly on rural and indigenous women.

309. Given the increasing numbers of Ecuadorian women taking refuge in foreign countries to escape from poverty and extreme poverty, the Committee is concerned at the fact that this situation makes it likely that emigrant women will be victims of various forms of violence, exploitation and trafficking. The Committee is likewise concerned at the vulnerability of women whose spouses emigrate to other countries. It is also concerned at the situation of Ecuadorian women living on the Ecuador-Colombia border and that of Colombian women who flee Colombia and take refuge in Ecuador, since they are also victims of violence of all kinds owing to the militarization of the border area and the application of “Plan Colombia”.

310. The Committee urges the State party to focus on the causes of this phenomenon and adopt measures to alleviate poverty and extreme poverty, and to protect migrant women and those who remain in Ecuador when their spouses emigrate, as well as women living on the Ecuador-Colombian border.

311. Although the Constitution guarantees the protection of children and adolescents from trafficking, prostitution, pornography and sexual exploitation, and the law defines the corruption of minors as a serious offence, the Committee is concerned that many such activities are not explicitly defined as serious offences by the Penal Code and that there is insufficient protection for the victims of such offences. The Committee is also concerned at the lack of studies, analyses and gender-disaggregated statistics on the incidence of these activities. The Committee is also concerned that sexual abuse is not defined as an offence; it is especially concerned at the fact that trafficking in women, particularly for the sex industry, is not penalized by law, leaving its victims unprotected.

312. The Committee recommends that the Penal Code should severely penalize these serious offences against children and adolescents, that the appropriate measures should be taken to protect and rehabilitate the victims and that the appropriate studies and analyses should be conducted to enable the Government to deal effectively with the situation. The Committee further believes that trafficking in women, particularly for the sex industry, should be strictly penalized.

313. The Committee is concerned at the Government’s lack of attention to the problem of prostitution and at the fact that current legislation fails to penalize pimps for managing premises for this type of exploitation. This is the case under the rules established by the administrative authorities, and those rules are incompatible with article 6 of the Convention.

314. The Committee recommends that appropriate attention should be given to the problem of prostitution and that the law should penalize those who engage in the exploitation of prostitution.

315. While the Committee welcomes the efforts of the State party to combat violence against women through the enactment of the Law to Combat Violence against Women and the Family, it is concerned at the absence of regulations for the implementation of that Law and at the persistence of violence against women in Ecuador. The Committee also expresses its concern at the fact that the Penal Code defines violence against women not as a serious offence but only a minor offence.

316. The Committee urges the State party to take steps to implement the aforementioned legislation, taking into account the Committee’s General Recommendation 19 on violence against women, and to monitor its application and assess its effectiveness. The Committee likewise considers it particularly important that violence against women should be penalized under the Ecuadorian Penal Code. Similarly, it urges the State party to

draft and implement regulations to implement the Law to Combat Violence against Women and the Family and recommends that the State party should conduct training and awareness campaigns on domestic violence, mainly for staff in the judicial sector and police officers. It urges the State party to provide sufficient funding for programmes to protect the victims of violence against women, in order to ensure their implementation.

317. The Committee is concerned that, although there is a National Education Plan for Love and Sexuality, it is not applied consistently and little is done to publicize women's right to sexual and reproductive health care, which would help to make both sexes aware of their rights and responsibilities in the area of reproduction. The Committee is also concerned at the high rate of pregnancy and abortion among teenagers, particularly in rural areas.

318. The Committee urges the State party to implement the National Education Plan for Love and Sexuality and to strengthen its health-care programmes, including sexual and reproductive health, and, as soon as possible, to implement a national programme that provides women and men with adequate and reliable information on available contraceptive methods and methods that can enable them to exercise their right to make a free and informed decision concerning the number and spacing of their children and to strengthen methods for preventing sexually transmitted diseases and HIV/AIDS, including the availability of condoms. It also requests the State party to continue strengthening support programmes for pregnant teenagers and teenage mothers and sexual education programmes to prevent pregnancies among the teenage population. The Committee requests the State party to include in its next periodic report information on the impact of programmes to limit and prevent teenage pregnancies.

319. The Committee is concerned at the persistent problem of illiteracy, especially in rural areas, and the high rate of school dropouts among the female population, in particular in rural and indigenous areas.

320. The Committee recommends that efforts to address this problem should be stepped up, through the sustained implementation of programmes and plans, especially in rural and indigenous areas.

321. Although there is a bilingual education plan and gender mainstreaming programmes designed to be applied at the different levels of basic education and teacher training, the Committee notes with concern that the plan is not applied systematically and in all centres responsible for applying it.

322. The Committee urges the State party to implement the bilingual education plan and the gender mainstreaming programmes.

323. Although labour legislation exists, the Committee notes with concern the lack of a general employment policy giving priority attention to women, the failure to apply labour legislation and the persistence of inequalities, manifested in particular by a gap between men's and women's salaries. The Committee is especially concerned at the persistent high rate of child labour in Ecuador.

324. The Committee recommends that the necessary steps should be taken to guarantee that the provisions of article 11 of the Convention are enforced and that the relevant International Labour Organization conventions ratified by Ecuador are applied, in particular concerning the prohibition of discrimination in employment, the prohibition of child labour and equal pay for women and men. It recommends the adoption of a gender-sensitive employment plan and labour code and the prohibition of child labour.

325. Despite the existence of awareness-raising programmes, the Committee is concerned at the persistence of traditional stereotypes relating to the roles

and responsibilities of women and men within the family, in the education system and in society in general.

326. The Committee recommends the development of policies and implementation of programmes for women and men aimed at eliminating stereotypes associated with traditional roles within the family and in the education system, employment, politics and society in general.

327. Despite the reform of the Electoral Law, the Committee is concerned at the low percentage of political participation of women and the failure to apply, alternatively and sequentially, article 40 of the Electoral Law, which stipulates that there must be a 30 per cent quota of women on the electoral lists. The Committee is also concerned at the possibility that this article might be removed from the Law.

328. The Committee recommends that the State party should adopt strategies to increase the number of women taking part in decision-making positions at all levels, including the introduction of temporary special measures, in conformity with article 4, paragraph 1, of the Convention, to strengthen its efforts to promote women to positions of power in both the public and private sectors, supported by special training programmes and campaigns to raise awareness of the importance of women's participation in the country's political life.

329. While acknowledging efforts made by the State party to establish gender-disaggregated indicators, the Committee notes that the reports submitted contain an insufficient amount of gender-disaggregated data and insufficient information concerning rural and indigenous women.

330. The Committee recommends a broader and more exhaustive compilation of gender-disaggregated data and urges the State party to include in its next report statistics indicating the status of programmes and their impact on the country's female population, in particular rural and indigenous women.

331. The Committee notes with concern that the terms "equality" and "equity" are used synonymously in the State party's reports.

332. The Committee urges the State party to note that the terms "equity" and "equality" are not synonymous or interchangeable terms and that the Convention is aimed at the elimination of discrimination against women and at ensuring equality between women and men.

333. The Committee urges the State party to deposit its instrument of acceptance of the amendment to article 20, paragraph 1, of the Convention concerning the Committee's sessions.

334. The Committee requests the State party to respond to the specific questions raised in these concluding comments in its next periodic report to be submitted under article 18 of the Convention. The Committee invites the State party to submit its sixth periodic report, which was due in December 2002, and its seventh periodic report, due in December 2006, in a combined report in 2006.

335. Taking account of the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions (such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (the twenty-first special session), the special session of the General Assembly on Children (the twenty-seventh special session), the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Second World Assembly on Ageing), the Committee requests the State party to include information on the implementation of aspects of these documents relating to relevant articles of the Convention in its next periodic report.

336. The Committee requests the wide dissemination in Ecuador of these concluding comments in order to make the people of Ecuador, in particular government administrators and politicians, aware of the steps that have been taken or remain to be taken to ensure the de jure and de facto equality of women. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".