

ECUADOR'S NATIONAL COALITION OF WOMEN



**SHADOW REPORT TO THE CEDAW COMMITTEE
JOINT CONTRIBUTION**

Quito, September 2020



SHADOW REPORT ON ACCESS TO JUSTICE AND VIOLENCE AGAINST WOMEN IN ECUADOR¹

ACCESS TO JUSTICE

◆ *Specialized judicial units on violence against women and the family: 2015 – 2020*

1. In Ecuador, there are 228 Judicial Units (221 cantons in total): 37 specialized in violence against women, situated in the main town of the canton. In cantons where there are no Units, the cases are taken care of in the nearest canton.
2. There are 112 judges in all the capitals of the provinces. The Judiciary Council explains that 80% of the complaints are contraventions. The Office of the Prosecutor attends only 20%.
3. From 2015 to 2019, the state report highlights the budget cuts for the Council of the Judiciary (149 million USD). In 2020, the state cut 4 million more. This directly affects 340 people recently hired in 2019, who were incorporated into the judicial units of the country, to complete the technical teams.
4. Administrative measures of protection of the 2018 Organic Comprehensive Law of Prevention and Eradication of Violence Against Women (LOIPEVCM): women leaders of rural organizations affirm not having access to the protection system.^[5] The political lieutenants have jurisdiction to award measures to women victims of violence but are civil servants that are dismissed frequently by political reasons.
5. Many Autonomous Decentralized Governments (GADs) lack Councils and Boards of Protection of Rights, the last, responsible for the issue of measures of protection. There is a confusion of roles between both instances.
6. The judges do not fulfill the mandate to authorize or ratify administrative measures of protection issued by Boards of Protection, political lieutenants, and national commissariats.
7. The Public Prosecutor issued the “Administrative Procedure of Attention to the applications of Measures of Protection during the sanitary emergency” (COVID-19); women of the rural area, communities, and distant parishes, without access to the internet, have not benefited of this disposal.

Recommendations

To the Council of the Judicature and the Ministry of Government:

- Expand coverage of internet in the country to facilitate administration of justice.
- Redistribute and increase the Units of Violence in urban and rural areas and strengthen the capacities of justice operators for their immediate intervention and gender-sensitive performance.
- Eliminate the obligation of judges to ratify the administrative measures of protection.

¹ Organizations that contributed to this report: Movimiento Nacional de Mujeres de Sectores Populares - Luna Creciente, “Yo Decido por los derechos sexuales y reproductivos” - Manabí, Colectivo de Mujeres “La Tejedora Manabita”, Casa Amiga-Federación de Mujeres de Sucumbíos, Centro de Desarrollo y Estudios Alternativos, CONAIE, Comunidad de la Toglla. Special thanks to Geraldine Guerra (Red de Casas de Acogida), Ariadna Reyes (Dignidad+Derechos), Silvana Tapia (Universidad del Azuay) Alexandra Suasnavas, and Virginia Gómez de la Torre (Fundación Desafío) for their contributions.



To the Autonomous Decentralized Governments:

- Create sufficient councils and cantonal Boards of Protection and strength their administrative autonomy, functional and financial activities; and provide appropriate personnel.
- Strengthen the advisory boards of women and the community defenders.

To the Human Rights Secretary:

- Propose other mechanisms that allow women of rural areas and without connectivity, make complaints, and obtain administrative measures of immediate protection.

To the Ministry of Government:

- Avoid the rotation of qualified personnel of lieutenancies and commissariats. Do a permanent follow-up of their performance.

◆ ***Fastrack and Special procedure:***

8. In December 2019, a “unified, special, and FastTrack procedure was approved for the judgment and sanction of the crimes of violence against the woman or members of the family core”. This procedure is not a FastTrack and does not fulfill the requirements of Art. 81 of the Constitution.
9. VAW and members of the familiar core judges only have jurisdiction in the stage of evaluation and preparatory of trial. A Criminal Tribunal with no specialization on the subject is the one who will hear and rule at the trial stage and will dictate the sentence. If there is no specialization, there is no “special” procedure.

Recommendation

To the Council of the Judicature and the National Assembly:

- Develop and approve a proper FastTrack special procedure that allows treating the violation of rights as subject-specific, particularly the rights of the women to a life free of violence.

◆ ***Application of the Protocol 154-2014:***

10. The protocol 154-2014 was not effectively implemented and did not collect the needs of women in the field. Many units that attend violence do not have a professional team and sufficient accompaniment to apply the protocol.
11. Judges manifest that this instrument is of difficult implementation, even worse with the budgetary cuts. They explain that “critical knots exist in the judicial diligences: they do not assign dates for facts reconstruction, recognition of place, neither for testimony-taking, anticipated testimonies of the victims, psychological or social expertise, with promptness. There is not an efficient protocol to guarantee the processes. Sexual crimes have endless delays, the police report does not elaborate properly, and many times the proofs are not submitted to the chain of custody. This is why lots of cases of violence against the woman, sexual crimes and femicides, have fallen” (Judge testimony).



Recommendations

To the Ministry of Government:

- Train the Judicial Police in protecting the proofs, with clear protocols for the chain of custody, and in the correct preparation of police reports.

To the Council of the Judiciary:

- Train public prosecutors, first instance court and criminal tribunal judges in gender, violence, and human rights.
- Organize to the specialized personnel in the subjects of VAW so that the violence, family, and multi competency judicial units have skilled technical teams.
- Review the protocols of attention to victims of violence, so they adapt to the territorial realities in the function of their needs.
- Generate efficient mechanisms of follow-up to strengthen the application of the protocols of attention for cases of violence against the women.

◆ *Systems of ordinary justice and indigenous/traditional/native justice (IJ)*

12. The contradiction between ordinary justice and indigenous traditional native justices, has deepened since 2018. The resolutions of IJ are not respected. The Judicialization of its exercise is unconstitutional.
13. Authorities and women leaders of ancestral communities highlight that from 2018, the judges do not decline jurisdiction and prevent the development of the IJ, arguing that “they have not studied Law.” The agreement signed by the Council of the Judiciary and CONAIE has to be implemented.
14. The native women confront internal limitations in the access to justice in the communities because they reproduce patriarchal practices: reparation is not ruled for women victims of rape; they do not inherit the land. These practices do not have internal questioning.
15. Indigenous women do not attend hearings, so they are not mistreated. It is necessary to review the positive experiences that have harmonized the two justices and the experiences of applying native justice for women.
16. A woman leader from CONAIE affirms that none of the two justices guarantees women the right to a life free of violence. Thus, native women keep quiet about violence and sexual abuse. Few public prosecutors fulfill with the protocols of attention for the indigenous women. *“We do not want jail sentences without recovery, without healing, of the contrary, because it will cause more rapes, more femicides” (Luisa Lozano, indigenous leader).*
17. There are 18 peoples groups, 14 nationalities, montubios, and afro-Ecuadorians, each with a different way to see and do justice.

Recommendations

To the Council of the Judiciary:

- Retake the agreement subscribed with CONAIE to coordinate with different peoples and nationalities to strengthen the dialogue between ordinary justice and IJ.
- Cease the criminalization of the exercise of the IJ.



- Strengthen the capacities of justice operators concerning the IJ of different territories and communities.
- Strengthen the capabilities of the community judges in subjects of gender, violence against women, and human rights.
- The application of IJ and ordinary justice due process of indigenous women has to prevail.

◆ ***Creation of consciousness between men and women***

18. In Ecuador, a culture of violence of patriarchal order exists. It minimizes, discriminates, explodes women, and requires a real change of socio-cultural patterns, so much of men as of women, to eradicate it.
19. The SDH, framed in the LOIPEVCM, has elaborated a strategy that incorporates neighborhoods and communities. Nevertheless, there is no budget neither personnel to implement it in a systematic way and with visible results.

Recommendation

- **To the Ministry of Education, to the Secretary of Human rights, Office of Communication, Ministry of Government and Police, Ministry of Health, Council of the Judiciary, Technical Office of “Plan Toda una Vida”:**
- Strengthen continuous actions of prevention, awareness, and training on VAW to modify the sociocultural patterns in the Ecuadorian society, particularly in ministries and government civil servants.

◆ **Women are criminalized for abortion**

21. The Criminal Code criminalizes women for abortion. They are forced to self-incriminate. Professional confidentiality is not respected. The Council of the Judiciary registers 286 crime notifications (abortion with consent) from 2014 to June 2019 and 134 abortion trials between 2014 and 2018.
22. Girls are also brought to justice according to the Code of Childhood and Adolescence (CONA): with sanctions such as cautions, community work in nurseries that produce revictimization and psychological damage.

Recommendation

To the Ministry of Health:

- Sanction to medical personnel that does not fulfill the rule of confidentiality of its patients.
- Do follow-up to cases of the objection of consciousness.



GENDER BASED VIOLENCE AGAINST THE WOMEN AND GIRLS
paragraphs 7 and 8 of the LOIPR

1. In April 2019, the Presidency of the Republic promoted the National Agreement 2030, intending to prevent and eradicate violence that affects the lives of women, children, and teenagers. Three subjects were prioritized: legal reforms, the Unified Register of Violence RUV, and Specialized justice.
2. Little remains of this initiative. The economic crisis has been the big shield: the Government prioritizes economic issues from a perspective of “productivity” before attending social matters.
3. Many state institutions have joined in the 2019 National Agreement for the Access to Justice for a Life Free of Violence: National Court of Justice, Council of the Judiciary, Ombudsperson Office, Office of the Prosecutor, and the Ministry of Economic and Social Inclusion. The Specialized justice, the unique protocol of attention in violence, the RUV, and comprehensive repair are still pending. All mentioned institutions have been affected by budgetary cuts.
4. It does not exist formulation, application, and update of plans and integral programs for prevention and eradication of violence headed to the women in the ancestral languages of Ecuador. (Art. 15, numeral 14 LOIPEVCM.)
5. It exists a new plan of eradication of violence in the process of socialization.

Recommendation

To the Central Government and the Ministry of Finances:

- Strengthen the budget allocation to the Secretariat of Human rights to effectively apply the LOIPEVCM in the whole country.
- ◆ ***Implementation and enforcement of the Violence Against Women Law enacted in February 2018 and on the level of funding allocated for its implementation across the territory.***
8. The Decree No. 560 transforms to the Ministry of Justice and Human rights in the Secretariat of Human Rights (SDH), weakening its hierarchy, budget, technical personnel, and actions, hampering the application of the LOIPEVCM Law.
 9. The Sub-secretary of Prevention and Eradication of the Violence of the SDH, signals that its budget rises to 4.755.000USD; of these, 2,440.000 are allocated to cover the agreements with the Women Shelters, Only 876.000 is for investment in the programs of prevention and attention of violence. The rest of the resources cover the recurrent costs of the Services of Comprehensive Protection.
 10. The fulfillment of the Law is partial: nor the citizens or the public servants know its content. The axis of prevention is feeble, and the one of reparations, almost non-existent.



Recommendations

To the Secretariat of Human Rights:

- Strengthen the dissemination of the LOIPEVCM, and to the responsibilities of the Autonomous Decentralized Governments.
- Do follow-up to the GADs for the fulfillment of the LOIPEVCM.

To the Boards of Protection of Rights:

- Fulfil with the responsibility established in the LOIPEVCM for the issuance of administrative measures of protection to women.

◆ **Shelters for women**

11. There are not enough shelters in the country. The deficit is more significant in rural zones than in urban areas. The model of attention of the shelters has not been reformed in order to include the psico-social and legal attention, the hosting, and the component of economic empowerment.
12. By September 2020, the Shelters do not have the economic means neither sufficient technicians. The sustainability of these services falls into organizations of the civil society that administer the shelters.
13. The contribution of the State is similar for all the shelters but the budget of each one varies according to the size and agency of each shelter. The agreement with the State covers 40% of the total cost of maintenance until 70% (in the smaller shelters). However, the allocations are very restricted. The contributions of the State have delays, which produces negative impacts and desertions by part of the technical personnel, and a consistent drop in the quality of attention.

Recommendations

To the President of the Republic, the Ministry of Finances, the Technical Secretariat of “Plan Toda una Vida”, and the Office of Human Rights:

- Declare Shelters, Centers of Attention, and Services of Comprehensive Rights Protection as essential services for the comprehensive attention of the victims of violence.

To the Ministry of Finances:

- Prioritize the allocation of resources for all the programs of attention of women, children, and teenagers in a situation of violence or vulnerability.
- Ensure the timely and sufficient distribution of funding of the shelters and centers of attention.

To the Autonomous Decentralized Governments:

- Create Shelters in the places of a greater incidence of violence: Morona Santiago, Napo, Cañar, Imbabura.

To the Secretariat of Human rights:

- Update the models of management of Shelters and Centers of Attention, incorporating all the amounts that require sustainable funding.



- Strengthen the Services of Integral Protection so that the women, girls and teenagers in situations of violence have access to the orientation and attention.

◆ **Sexual violence**

15. The Office of the Prosecutor signals that the weekly average of complaints of sexual violence before the sanitary emergency, was of 357 cases, during the pandemic 79 cases (up until, 15 May): The Council of the Judiciary reports between 16 March and on 15 May 2020, 1.032 flagrant cases of violence against women.
16. 14 institutions that are part of the System of Protection stated that 3128 women were attended during the pandemic in a situation of psychological violence, physical and sexual. ECU-911 reports 45.028 calls. 41.900 women did not receive any support.
17. There is no disaggregated information about this subject.

Recommendations

To the Prosecutor Office, Secretariat of Human Rights, Council of the Judiciary and Ministry of Government:

- Establish or strengthen mechanisms of effective early alert and confidential that allow women and children to report cases of bullying, abuses, or sexual violence.
- Guarantee that the State fulfil with the guarantees and judicial protection of the direct and indirect victims.
- Warn the acts of sexual violence, training civil servants in gender violence, in particular to the educational and health personnel.
- Activate the system of comprehensive protection for victims of VAW in a coordinated manner.

◆ **The situation of abortion in the country**

18. The Criminal Code, despite several attempts, remains the same. It criminalizes abortion with prison (Art. 149). The exceptions in Art. 150 allow the interruption in cases of rape of a woman with mental disability and to avoid danger for the health or the life of the woman, as long as other means are not available.
19. In the last attempt expert, Gomez de la Torre explained that “the President as a co - legislator could have decriminalized abortion using his veto power in the Criminal Code reform, but he displaced this responsibility to the Constitutional Court.”. To September of 2020, the Constitutional Court has not given his pronouncement.
20. In the current context, of confinement by COVID-19, have reported to two women, of which have little information of a complaint made by the Hospital Alfredo Novoa of the Canton Chimbo, Province of Bolívar.

Recommendations

To the Ministry of Health and to National COE:

- Make clear the information concerning the deaths of people, during the confinement by the sanitary emergency, by place, sex and age.



To the Technical Commission of Femicide Analysis:

- Verify that the deaths of women during the period of the pandemic have not been product of femicides.
- Adopt the international standards of register of femicide in the frame of ECLAC proposal.

To the Constitutional Court, the National Assembly and to the President of the Republic:

- Urgently observe recommendations of United Nations treaty bodies in order to decriminalize abortion in cases of rape.

To the Constitutional Court:

- Rule urgently in favor of abortion in cases of rape.

To the Ministry of Health:

- Observe the recommendation of the Committee CEDAW to implement and spread the Guide of Clinical practice for the Therapeutic interruption of the pregnancy (Art. 150 COIP).

◆ ***Reparations, rehabilitation, compensation and guarantees of no repetition for women victims of the violence***

25. As of August 2020, there is no information in regards to the Criminal Justice courts granting comprehensive reparations (articles 77 and 78 COIP).
26. The AAMPETRA case is one example of the lack of compliance.

◆ **Measures of reparations for women victims of distinct forms of violence, with the inclusion of the criteria for the judicial application of measures**

27. Executive Decree No. 696, subscribed by the President of the Republic, on March 2019, created an allowance for orphaned children of victims of femicide. It shows the limits that they impose on accessing reparations. They need a judicial ruling that certifies the femicide plus prove they are poor. This is why the Decree needs urgent reform.
28. As of August 2020, only 34 boys, girls and teenagers receive the allowance when more than a thousand are in the same situation of unprotection.

Recommendations

To the National Council of the Judicature:

- Strengthen reparation measures in the COIP and promote the signaled by the American Convention of Human Rights.

To the Secretariat of Human rights:

- Formulate and implement the policy on comprehensive remedies of rights of the victims of violences, together with the entities of the justice administration: Council of the Judiciary, National Court, Public Defender Office, and the Prosecutor Office.



To the Legal Department of the Presidency:

- Pass the reform proposed by MIES to the 696 Decree.

To the National Assembly:

- Draft and approve a comprehensive law that includes the femicide allowance and specific legislation on remedies for orphans of victims of femicide.

◆ ***Unified Register of violence (RUV)***

30. The RUV has to contain “the unified national information of acts of violence against women and will have to characterize the problematic and update the information generated by the members of the System. It will serve for planning and the set-up of policies and strategies that reinforce the prevention and the eradication of VAW” (Art. 11).
31. Since 2017, the Ministry of Government has begun to established the RUV. There are some advances in designing a technological platform, and identified variable keys for the Register. There is no more information about it.
32. There is no dialogue with organizations, social, community and other social actors for the construction and feedback of the RUV.

Recommendations

To the Secretariat for Human Rights, Ministry of Government, INEC:

- Establish a specific diagram that incorporates the flow of information that will feed the System, the managers of each activity, and the role that each entity has to have in the RUV.
- Give transparency to the information on the indicators and the methodology which will be used to feed the system. As well as its processing and the operation of early warnings with the organizations of civil society.

To the Ministry of Finances and the Secretariat of Human rights:

- Secure the budget of implementation of the LOIPEVCM, including the continuity of the System of Unified Register of Violence.
- Fund the activities of research and follow-up of the Observatory of Violence, as the LOIPEVCM mandates.

◆ **Second National Survey of Family Relations and Gender Violence against the Women 2019**

33. The main results of the survey reveal that 64.9% of women in Ecuador have lived some act of violence along their lives; 56.9% have experienced psychological violence, 35.4% have lived physical violence; 32.7% they have suffered sexual violence and 16.4% have experienced violence patrimonial.



◆ **Femicides (Art. 141 COIP)**

35. The official Register of femicides has as a base, the crime of femicide. This crime is interpreted by operators of justice, or by the Police, influenced by gender stereotypes who address the investigation as if they were part of other crimes rather than investigation as femicide.
36. Official data does not incorporate femicides whose perpetrators committed suicide and there are several femicides that were tried as homicides or murders.
37. The system of Early Warning, has partially worked. It is tied to the Unified Register of Violence, which is not active yet.

◆ **Official figures of Femicides**

40. Until September of 2020, officially 100 homicides against women have been reported. 41 have been registered like femicide inside the judicial system—the organizations of the civil society register 75 femicides. The difference between official data and the ones of civil society varies notoriously.
41. Since 2014, when the femicide crime was passed in the Criminal Code, civil society organizations report 748 femicides (February 2014- March 2020).

Recommendations

To the National Council of the Judiciary, Office of the Prosecutor, National Institute of Statistics and Censuses INEC, to the National Council of Equality of Gender - CNIG, to the Ministry of Social and Economic Inclusion -MIES, to the Secretariat of Human rights SDH, National Police, DINASED and DINAPEN, Ministry of Government:

- Strengthen the work of the Technical Table to establish dialogues with Civil Society organizations. This will allow us to generate an unified protocol to register femicides avoiding the enormous disparity between the official figures and those that civil society registers.

To the Secretariat of Human Rights:

- Immediate implementation of the LOIPEVCM in the axis of prevention, to modify the sociocultural patterns that promote and reproduce VAW and allow to diminish the femicide rate.
- Develop messages, with clear protocols headed to the civil population and victims of violence, as those who can loan a concrete support and prevent femicides.
- Develop effective actions of prevention of femicide violence.
- Speed up implementation of the RUV and the System of Early Warning.
- Deepen analysis of the data of register of ECU -911 and improve the understanding of VAW during the sanitary emergency.

◆ **System of systematic surveillance of the cases of gender violence and guarantee that the authors are brought to justice and sanctioned**

49. The LOIPEVCM, states: *“The Autonomous Decentralized Governments through the Cantonal Boards of Protection of Rights, as well as the Ombudsperson Office will have specialists in gender, [...] and follow-up of the administrative measures of protection” (Art 23).*



50. While the RUV does not exist at the local level, the GADs do not register measures of protection awarded by local authorities such as cantonal boards of protection of rights, commissariats, and political lieutenants, the task of the follow-up is almost impossible.

Recommendations

To the Ombudsperson Office:

- Follow up reports on administrative measures transparent, in compliance with Art. 37, g) of its Organic Law.

To the Autonomous Decentralized Governments:

- Follow-up and do a transparency exercise about the administrative measures of protection, as stated in the Comprehensive for the Prevention and Eradication sections of the VAW Law.

