

**SHADOW REPORT**  
**TO THE COMMITTEE ON THE ELIMINATION**  
**OF DISCRIMINATION**  
**AGAINST WOMEN**

**42<sup>nd</sup> Session**



**CLADEM**

**Latin American and Caribbean Committee for  
the Defense of Women's Rights, CLADEM  
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This report updates and contrasts the Ecuatorian State's Official Report that, by the time the Alternative Report was being written; it had not yet been submitted.

For this reason, the following credits are recognized:

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# **SHADOW REPORT TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

**ECUADOR, 2008**

## **PRESENTATION:**

The Latin American and Caribbean Committee for the Defense of Women's Rights, CLADEM-Ecuador, brings for consideration by the Committee on the Elimination of all Forms of Discrimination against Women, CEDAW, this Shadow Report.

CLADEM is a network of women and women's organizations of Latin America and the Caribbean engaged in joint efforts to achieve effective defense of women's rights in the region, by means of creating legislative proposals, research, training, legal actions, university education, information, communication and solidarity actions.

This Shadow Report is based on the contributions from individuals and women's organizations of Ecuadorian civil society who monitor the compliance with international and national obligations by the State of Ecuador in the area of women's human rights. It is part of the human rights approach, one of whose premises is to monitor such compliance, as well as follow-up to recommendations made by various UN committees to our country, particularly the CEDAW Committee, in order to ensure the rule of law.

This monitoring work resulted in the Shadow Report submitted in 2003,<sup>1</sup> which was prepared with the participation of institutions and individuals linked to the defense of women's rights.

Subsequently, in 2006, the Andean Human Rights Program at Universidad Andina Simón Bolívar, Ecuador headquarters, in collaboration with CLADEM Ecuador and the Coordinadora Política Juvenil por la Equidad de Género, CPJ, under the auspices of the UN Fund for the Development of Women, UNIFEM, developed a training process for the formulation of alternative reports and on the Convention on the Elimination of All Forms of Discrimination against Women, which resulted in the development of an Alternative Report in 2006. This process took into account the perceptions of various social organizations of women on the situation of women's rights.

This Shadow Report is based on the 2006 Alternative Report and goes further, contrasting it with the Official Report from the Ecuadorian State. The present report describes the main issues of concern regarding the substantive rights of women described in the CEDAW Convention.

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<sup>1</sup> Shadow Report: "An alternative glance to the situation of discrimination against women in Ecuador", 2003.

## EXECUTIVE SUMMARY

The social and political context during the period under review, shows a profound process of deinstitutionalization, fragility of state institutions, economic, political, social and cultural polarization, increasing inequity and spirals of violence, all of which leads to deteriorating the effective observance of human rights, particularly of women.

Therefore, we can say that the objective conditions under which female residents in Ecuador are situated do not contribute to the full exercise and enjoyment of their human rights.

Topics of concern addressed by this Shadow Report are discrimination against women: the case of women deprived of liberty, whose rights to personal freedom and a life free of violence have not been respected, with no constitutional guarantees; intrafamily violence, that affects the rights to physical and psychological integrity, to sexual freedom and a life free of violence; the situation of foreign refugee women and of migrant women workers who suffer discrimination in the exercise of their rights; the difficulties for the effective observance of the right to fair participation of women in politics, the pending matter of changing patterns and socio-cultural stereotypes; state weakness to combat crimes of human trafficking and sexual exploitation; persistent discrimination against women in the exercise of their rights to education, employment and health; and in this last point, the concern for restrictions in the use of emergency contraception.

Concerning these human rights of women, the Shadow Report makes several recommendations to the Ecuadorian State, prioritizing the following as the most important ones:

Concerning the right to non-discrimination, regarding the situation of pregnant women and third age women illegally and arbitrarily deprived from their liberty, it recommends that the Ecuadorian State shall respect the prohibition of depriving them from their liberty, implement effectively the constitutional guarantees; investigate, punish and redress the human rights violations; and training public agents and members of the Judicial System in the observance of these rights.

Also, concerning the rights to non-discrimination, the rights to physical and psychological integrity, sexual freedom and a life free of violence, these will be guaranteed when the Ecuadorian State observes the current legal order, typifies the crime of intrafamily violence, ensures the budget for the efficient functioning of the institutions entrusted with the topic, and adopts efficient measures to modify the socio-cultural patterns that generate intrafamily violence.

It is recommended that the Ecuadorian State shall respect, protect and promote the rights of foreign women: Refugee and worker women in Ecuador, through a migratory policy that eradicates the discriminatory social behaviors against foreign residents. It shall also recognize them clearly as subjects of law and incorporate gender as a cause of persecution and promote regularization processes.

To ensure equal participation of women in the public sphere, the government shall respect the constitutional and legal rules in force; it must observe that movements and political parties respect these rules, guarantee the right to equal representation; and promote measures to remove the structural obstacles – political, cultural, social and economic ones– for the political participation of Ecuadorian women.

In order to eliminate the social and cultural stereotypes, the Ecuadorian State shall adopt measures that promote substantial changes in the traditional conceptions of gender, in the familiar, educational, labor and health spheres, and adopt measures to eradicate the use of sexist messages in the media.

In order to prosecute the crimes of human trafficking and sexual exploitation, the Ecuadorian State shall adopt measures to guarantee a budget that can afford the fully application of the national and international scheme of protection against these crimes and the effective implementation of the National Plan to prosecute the Illegal Traffic of Women and Migrants, Sexual and Labor Exploitation, and other forms of exploitation and prostitution of women, children and adolescents, children pornography and corruption of minors.

In order to ensure the right to education, the State shall design public policies, accompanied by a sufficient budget to achieve a high quality education, free of gender stereotypes and with national coverage: particularly in areas of indigenous population and in the rural area, so as to guarantee education to female children and adolescents and to prevent school desertion.

It is recommended that the Ecuadorian State guarantees the implementation of a correctly funded policy to achieve the application of the right of access and permanence in employment, with no discrimination of women, including equal treatment in salaries, services, social security and safety in labor conditions.

The right to health will be ensured by a national health policy with a sufficient budget, especially for the implementation of Free Maternity Care for rural women and less educated ones, and the prevention and attention of women with HIV-AIDS from the point of view of women's own needs , interests and other factors.

Sexual and reproductive rights, recognized by the Constitution, will be ensured through public policies and programs of sexual and reproductive education, including information with no religious intromission about emergency contraception, implemented through the formal educational system and the society in general, including the official agents from the Judicial System.

It is recommended that the Ecuadorian State, through its national statistical service, collects data disaggregated by sex, nationality, age, ethnic group and marital status, that shows the level of effective respect of women's human rights recognized in the national and international legal arena; the cases of violation of these human rights; the level of efficiency of institutional mechanisms for protection of human rights expressed in the number of legal proceedings initiated, pending and with sentence, and also in the number of cases in which victims were effectively redressed.

## 1. SOCIAL AND POLITICAL CONTEXT:

In the 2003 Shadow Report and in the 2006 Alternative Report was described the political, economic, social and cultural situation of Ecuador, since the decade of 1990 to the start of the current one, highlighting key aspects to understand the objective conditions in which Ecuadorian women act, organize themselves and develop their activities to achieve the observance of their rights.

Regarding official statistics of population, the Census of Population and Housing from 2001 of the Instituto Nacional de Estadísticas y Censos, INEC<sup>2</sup>, expresses that, up to that year, Ecuador had a population of 12.156.608 people; 6.138.255 (50.5%) women and 6.018.353 (49.5%) men. *The percentage of people living in the rural area was 38%. 51.2% from the total of women were living in the urban area and 49.4% in the rural area.*

*According to INEC's Census from 2001, the economically active population, EAP, was calculated in 4.585.575, of which 30% were women. According to the same source, 68.96% of female EAP is concentrated in urban areas, where the index of femininity goes up to 104.9%.*

The administration of the national economy, from different governments since the recovery of democracy (1980-2006),<sup>3</sup> is based on the implementation of **structural adjustment policies**, oriented to the management of macroeconomic variables, the State reform by means of the modernization and decentralization accompanied by privatization processes, opening markets, labor flexibility and a reduction of the State from its traditional functions. The adopted measures met the dynamics of the **neoliberal model's globalization**, under the conditionings of the International Monetary Fund and the prioritization of the external debt payment, absorbing up to 40% of the national budget<sup>4</sup>. The logic of a sustainable development oriented-economy, the improvement of the quality of life and equity, are not the main axis.

Another aspect is the political instability, expressed in impeachment processes, the first one in 1995 was for vice-president Alberto Dahik,<sup>5</sup> then presidents Abdalá Bucaram in February of 1997 and Jamil Mahuad in January of 2000. These events were accompanied by the fall of Lucio Gutiérrez on April 20<sup>th</sup> of 2005, after an outstanding demonstration in Quito. The four dismissals were due to, among other factors, a high pressure from various political forces, accompanied, the last three, for a variety of social mobilizations.

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<sup>2</sup>[http://www.inec.gov.ec/web/guest/descargas/basedatos/cen\\_nac/cen\\_pob\\_nac\\_2001?doAsUserId=p%252Bx9vuBVM9g%253D](http://www.inec.gov.ec/web/guest/descargas/basedatos/cen_nac/cen_pob_nac_2001?doAsUserId=p%252Bx9vuBVM9g%253D)

<sup>3</sup> Political Parties: Concentración de Fuerzas Populares, CFP; Democracia Popular, DP; Partido Social Cristiano, PSC; Izquierda Democrática, ID, Partido Roldosista Ecuatoriano, PRE, and Partido Sociedad Patriótica, PSP.

<sup>4</sup> Acosta, Alberto, *La migración en el Ecuador. Oportunidades y amenazas*, Centro Andino de Estudios Internacionales, UASB, CEN, 2006: 38

<sup>5</sup> Politically prosecuted by the National Congress for alleged illegal handling of reserved funds; in an event that could not be clarified because President Sixto Durán Ballén prevented the Supreme Court to access documentary evidence.

During 15 years, since 1992, when Sixto Durán Ballén became president, until 2006 when Alfredo Palacio completed his presidency, there have been 8 male presidents and only one woman. She occupied the presidency for only one day, and was illegally dismissed, because constitutionally speaking, as a vice president, she should have occupied the presidency after Abdalá Bucaram's destitution (as it had occurred after the death of Jaime Roldós, and it then happened when Jamil Mahuad and Colonel Gutierrez were dismissed). Only Durán Ballén completed the term for which he was elected.

**Corruption** is another constantly growing and complex phenomenon. It crosses the whole society, at the level of public entities, it means more than one third of the General State Budget.<sup>6</sup> This phenomenon confrontation is recent, beginning in 1997 with the creation of the Commission on Civic Control of Corruption (CCCC) and then in 1000, with the adoption of the National Plan for Corruption Prevention. It is worth mentioning that the institutionalization process of the CCCC and its work is slow, with many pressures and constraints; therefore, the important actions, especially for studies, training and citizen compliance are still very punctual.

The nineties end with a crucial event for the country and that will mark the coming years: the “**general crisis**” (1999-2000), resulting from the combination of economic policies and deepening of the multiple economical, political and cultural crises previously lived. Freezing of deposits, bank bailout, dollarization,<sup>7</sup> the not-mitigated impact of "El Niño", among other things were evidenced by the collapse of the financial system.

This provoked an accelerated process of **polarization** between economic elites and the rest of the population. Thus, by 2000, 71% of people were living in poverty when in 1995 the figure was 35%<sup>8</sup>, but at the same time, the process of economic concentration is increasing: per capita income of the riches household decile compared to the poorest decile, went from a ratio of 19.7 times (1990) to 41.2 times (2000); this richest decile went from a total income share of 52% (1990) to 64.32% (2000)<sup>9</sup>. It is clear that the crisis was well-planned for the benefit of economic elites with the consent of the State.

*The System of Social Indicators (SIISE – Sistema de Indicadores Sociales), with the source of the Population Census of INEN, in 2001, established that 3.888.993 people, at national level, were living under conditions of extreme poverty; that is, 31.9% of the national total. Women in this condition are 1.937.162; that is 49.87% of the poor population. Of these women, 678.691 are living in urban areas and 1.258.471 in rural areas. 18.5% of women in urban areas are living under conditions of extreme poverty and in rural areas this figure rises to 53.9%.*

In this context, fast growth of **emigration** breaks in as a response of the population before the collapse of the country. In 2000, 158.359 people left the country and in the next years no less than half a million more<sup>10</sup>. According to the INEC's study, there

<sup>6</sup> CLADEM Ecuador, *Shadow Report*, 2003

<sup>7</sup> Measures mandated by the government of Jamil Mahuad.

<sup>8</sup> Pedone, Claudia, *Estrategias migratorias y poder. Tú siempre jalas a los tuyos*, Quito, Abya Yala, AEI, Plan Migración, Comunicación y Desarrollo, 2006.: 70, City information, 2001.

<sup>9</sup> Ramírez, Franklin y Jaques Ramírez, *La estampida migratoria ecuatoriana. Crisis, redes transnacionales y repertorios de acción migratoria*, Quito, UNESCO, Ciudad, EED, Abya Yala, ALISEI, 2005: 55, SIISE3.0 Information

<sup>10</sup> *Ibid.*, p. 44

would be around 1.571.550 people.<sup>11</sup> The feminization tendency on migration is part of the feminization of the global labor market; in recent flows for the country, it would reach a rate of 50%. However, migration becomes visible due to the importance of remittances in the country's economy which ranks second in national income since 1999 after oil; for example, in 2004, it reached US\$ 1.604,2 million<sup>12</sup>.

Together with this exodus, because of the intensification of the Colombia conflict and operation of Plan Colombia, the country is receiving major population groups from Colombia, combining **refugee** situation, with **cross-border displacement** and **economic migration**. **Aerial glyphosate fumigations** have been another of the Plan Colombia's impacts. These fumigations, on the border regions, have directly affected indigenous and rural populations.

The other side of the dollarization of Ecuador's economy has been to become an economic attraction which led to the entry of many migrant groups, especially from Peruvian nationality searching for jobs; and Chinese people for commercial activities.

In 1999, Ecuador and the United States signed an agreement<sup>13</sup> for the use of Manta Air Base, which has the sole purpose of controlling the operation of illegal drug trafficking. It has also been a reason of concern because of the maneuvers carried out by U.S Coast Guard that ended up sinking Ecuadorian fishing boats<sup>14</sup>.

The situation in the Justice Administration in the country is of concern as it has always been challenged by its excessive politicization, lack of independence, slow procedures, corruption and disrespect for the judiciary career, which hinders the effective exercise of the right of access to justice of the Ecuadorian population, particularly women. In this context, **unconstitutional removal and replacement of the Supreme Court** in December 2004, by former president Gutierrez, which was one of the reasons for his dismissal later on in April 2005, aggravated the situation. It was resolved with the intervention of social organizations and international agencies for the creation of a new Supreme Court, which will possibly be restructured based on the results of the referendum to approve the new Constitution of Ecuador, to be held on September 28<sup>th</sup> 2008.

Finally, the issue of **autonomy**; it's important to mention it because it demands a follow-up of its debates, transparency in public handling about the implications of proposals and creation of decisional spaces with legitimacy to settle presented demands since they involve a dispute for control of resources, ways to exploit them, forms of government and society organization; all of this with high impact on the living conditions of the whole population.

During the period covered by the Shadow Report, we found a weakness of key institutions for the operation of the Welfare State based on the rule of law and respect of Human Rights, such as the Ombudsman and the Constitutional Court, which have been

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<sup>11</sup> INEC, "Caracterización sociodemográfica y económica de las y los emigrantes ecuatorianos", febrero 2008.

<sup>12</sup> Ibid., p. 120

<sup>13</sup> It was denounced as unconstitutional by Ecuadorian Civil Society Organizations (CSO) for not being ratified by the Congress in accordance with Articles 130, 7 and 161, 2 of the Political Constitution of 1998

<sup>14</sup> <sup>14</sup> Sandra Edwards, American Advanced Operation in Manta. Ecuadorian perspective, <http://www.uasb.edu.ec/padh/revista19/actualidad/sedwards.htm>.

highly politicized and have not contributed to the validity of constitutional guarantees of Human Rights.

The current government of the Party Alianza País has created the Ministry of Justice and Human Rights and a transitional unity of Criminal Public Defense,<sup>15</sup> in addition to offices of the Public Prosecution Office for indigenous peoples and communities; however, the creation of an efficient and comprehensive Public Defender is still an unfinished agenda.

The Alternative Report identified the major **impact** of the socio-political aspects of the Ecuadorian context: **a)** An accelerated and widespread deinstitutionalization process and in particular, a high fragility of the institutions and procedures at the state level, which have direct responsibility for building and guaranteeing the democracy; **b)** Economical, political, social and cultural polarization, increasing inequity and spirals of violence; **c)** Creation of an atmosphere of disenchantment, pessimism, dissatisfaction, skepticism, which limits the generation of proactive actions; and, **d)** Impairment of Human Rights' effective existence.

Also, differential cost for the country were identified, considering particularities such as gender, ethnic/cultural, generational, regional (coast, mountains, jungle, island, border areas), space (urban and rural) and administrative regions (parish, canton, province). The groups more affected are women, indigenous groups, Black people, rural population, children, adolescents and elderly.

Precisely, based on this background of institutional weakness and loss of credibility of civil society in dignitaries, government officials and members of traditional political parties, the current government of the Alianza País party based its proposal on consulting all citizenship about the advisability to convene a National Constituent Assembly with the aim of issuing a new Constitution and reform the institutional framework of the State. In the October 2007 Consultation, the Ecuadorian population endorsed this need, leading to the installation of the Constituent Assembly that introduced a draft for the new Constitution which will be submitted to a referendum on September 28<sup>th</sup>.

With regard to the framework of constitutional rights, the draft for a new Constitution declares that Ecuador is a secular State, recognizes the Ecuadorian women's right already established in the 1998 Constitution while other rights are now also recognized: **a)** Non-discrimination based on gender identity, health status, or carry HIV;<sup>16</sup> **b)** gender equity in education;<sup>17</sup> **c)** promotion services and comprehensive care for sexual and reproductive health with a gender perspective;<sup>18</sup> **d)** ensuring social security to people performing unpaid jobs in households;<sup>19</sup> **e)** specialized humanitarian assistance for girls, adolescents, pregnant women and mothers with minor sons and daughters;<sup>20</sup> **f)** rights of pregnant and nursing women;<sup>21</sup> **g)** life recognition and guarantee, including the care and

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<sup>15</sup> Fulfilling a recommendation of the Grupo de Trabajo sobre Detenciones Arbitrarias, December 2006.

<sup>16</sup> Article 19 of the Draft for the New Constitution.

<sup>17</sup> Article 27 of the Draft for the New Constitution.

<sup>18</sup> Article 32 of the Draft for the New Constitution.

<sup>19</sup> Article 34 of the Draft for the New Constitution.

<sup>20</sup> Article 42 of the Draft for the New Constitution.

<sup>21</sup> Article 43 of the Draft for the New Constitution.

protection from conception;<sup>22</sup> **h**) preferential and specialized treatment for pregnant and nursing women who are detained;<sup>23</sup> **i**) practice of law itself or communitarian law of communities, peoples and nationalities without violating constitutional rights, particularly the rights of women, adolescents and girls;<sup>24</sup> **j**) ensuring implementation of collective rights of peoples without discrimination and in terms of equity between men and women;<sup>25</sup> **k**) criteria of gender equity and parity to ensure participation in public functions and jobs;<sup>26</sup> **l**) promotion of equal representation of men and women in positions of nomination or designation of civil servants, management bodies and political parties and movements;<sup>27</sup> **ll**) guarantee to a life free from violence in the public and private spheres, especially for women, adolescents and girls, taking action against violence, slavery and sexual exploitation;<sup>28</sup> **m**) the right to formal equality, material equality and non-discrimination;<sup>29</sup> **n**) the right to make free and informed choices, on a voluntary and responsible basis about their sexuality, their lives and sexual orientation;<sup>30</sup> **ñ**) the right to make free, responsible and informed decisions about their health and reproductive life and decide when and how many children they want to have;<sup>31</sup> **o**) prohibition of human trafficking in all its forms;<sup>32</sup> **p**) recognition of the family in its various forms;<sup>33</sup> **q**) recognition of stable and monogamous unions between two people free of marriage with equal rights and obligations of those families formed by marriage;<sup>34</sup> **r**) protecting rights of those family members including female heads of household;<sup>35</sup> **rr**) possibility to testify against a spouse or relatives in cases of intrafamily, sexual or gender violence;<sup>36</sup> **s**) prohibition of revictimization of victims of criminal offences;<sup>37</sup> **t**) parity conformation between women and men in political organizations;<sup>38</sup> **u**) alternation and parity between women and men in elections consisting of more than one individual;<sup>39</sup> **v**) creation of national councils for gender equality;<sup>40</sup> **w**) ensuring participation and decision of women in jurisdictional positions of indigenous communities, peoples and nationalities;<sup>41</sup> **x**) ensuring equal rights and opportunities for women and men in access to property;<sup>42</sup> **y**) ensuring women's access to employment, prohibiting harassment of women in the workplace;<sup>43</sup> **z**) respect of reproductive rights of workers, stability without limitations due to pregnancy, number of children, prohibition of dismissal due to pregnancy, discrimination related to reproductive roles;<sup>44</sup> **ai**) recognition as productive labor of housework and progressive extension of social security;<sup>45</sup> **bi**) obligation to develop specific policies to eradicate inequality and discrimination against female producers in access to factors of

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<sup>22</sup> Article 45 of the Draft for the New Constitution.

<sup>23</sup> Article 51 of the Draft for the New Constitution.

<sup>24</sup> Article 57, 10 of the Draft for the New Constitution.

<sup>25</sup> Article 57, last section Draft for the New Constitution.

<sup>26</sup> Article 61, 7 Draft for the New Constitution.

<sup>27</sup> Art. 65 Draft for the New Constitution.

<sup>28</sup> Art. 66, b Draft for the New Constitution.

<sup>29</sup> Idem.

<sup>30</sup> Art. 66, 9 Draft for the New Constitution

<sup>31</sup> Art. 66, 10 Draft for the New Constitution.

<sup>32</sup> Art. 66, 29, b Draft for the New Constitution.

<sup>33</sup> Art. 67 Draft for the New Constitution.

<sup>34</sup> Art. 68 Draft for the New Constitution.

<sup>35</sup> Art. 69 Draft for the New Constitution.

<sup>36</sup> Art. 77, 8 Draft for the New Constitution.

<sup>37</sup> Art. 108 Draft for the New Constitution.

<sup>38</sup> Art. 108 Draft for the New Constitution.

<sup>39</sup> Art. 116 Draft for the New Constitution.

<sup>40</sup> Art. 156 Draft for the New Constitution.

<sup>41</sup> Art. 171 Draft for the New Constitution.

<sup>42</sup> Art. 324 Draft for the New Constitution.

<sup>43</sup> Art. 331 Draft for the New Constitution.

<sup>44</sup> Art. 332 Draft for the New Constitution.

<sup>45</sup> Art. 333 Draft for the New Constitution.

production;<sup>46</sup> **ci**) obligation to ensure that educational institutions provide education on sexuality, with a human rights approach;<sup>47</sup> **di**) obligation to develop housing programs for women heads of households;<sup>48</sup> **ei**) ensuring financing free maternity.<sup>49</sup>

In the referendum of September 28th, 2008, the Ecuadorian population will decide whether to accept the Draft for a new Constitution, which, as evidenced, has important advances in the field of women's rights and sexual and reproductive rights.

## 2. REPORT SENT BY THE ECUADORIAN GOVERNMENT TO THE CEDAW COMMITTEE IN 2003 AND THE COMMITTEE'S FINAL OBSERVATIONS TO THE ECUADORIAN GOVERNMENT.

The Report of the Committee<sup>50</sup> on the Elimination of Discrimination against Women, for the fourth and fifth reports submitted by the Ecuadorian State, refers to several developments at legal and institutional level and regarding program implementation.

At the legal level, it highlights the issue of the Political Constitution of 1998, especially the incorporation of the principle of non-discrimination based on gender; the Violence against Women and the Family Act (Act 103), adopted in 1995; the Love and Sexuality Act; reforms of the Elections Act (2000), which at that time established a percentage share of 30% of women on electoral lists; Labor Code and Social Security Law regarding the protection of pregnant women; the Free Maternity Care Act; Civil and Criminal codes; the establishment of a share of 20% of women in the administration of justice through reforms of the Employment Protection Act; and the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (2002).

Regarding the creation of specific government agencies to treat women's situation, the following organizations appear: Consejo Nacional de las Mujeres (CONAMU, 1997), Comisión Permanente de la Mujer, el Niño y la Familia del Congreso Nacional (1998), Defensoría Adjunta de la Mujer de la Defensoría del Pueblo, Oficina de la Defensa de los Derechos de la Mujer in the National Police (1995), Comisarías de la Mujer, la Dirección Nacional de la Policía Especializada para niños, niñas y adolescentes, DINAPEN; División Nacional de la Mujer, Juventud y familia Campesina in the Ministry of Agriculture.

Among the intervention actions mentioned are: Plan de Igualdad de Oportunidades 1996-2000 (Equal Opportunity Plan); Programa de prevención de VIH/SIDA (HIV/AIDS Prevention Program) aimed at sex workers; Plan de Lucha contra la Pobreza Rural (Plan to Combat Rural Poverty); Programa Nacional de Desarrollo Rural (National Program for Rural Development), among others.

Beyond advances in this report, there are persistent gender stereotypes in the whole educational system and high rates of pregnancy teens as one of the causes for scholastic drop up (17.5% of women aged 15 to 19 are mothers) as well as persistent illiteracy rates mostly among women; unemployment and underemployment rates are higher for women than they are for men; 80% of women do not have health insurance and

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<sup>46</sup> Art. 334 Draft for the New Constitution

<sup>47</sup> Art. 347 Draft for the New Constitution

<sup>48</sup> Art. 375, 5 Draft for the New Constitution.

<sup>49</sup> Transitional provision 30a., Draft for the New Constitution.

<sup>50</sup> Report Project, July 18th, 2003, CEDAW Committee

persistent limitation in terms of maternal health care; existing disparity de facto and de jure regarding legal protection to women; ignorance and negligence towards women affected by emigration and refuge (38% of economic migrants are women); ignorance and lack of protection towards sex crimes; there's still a gap salary between men and women; low participation of women in politics and public life; lack of a comprehensive policy on institutionalization of a gender approach in strategic priorities; among the groups of women most affected, the most serious one is the group of Indigenous women. Generally, women have assumed the costs of economic adjustment measures that meant budget reductions in the social sphere.

In this context, the Committee urged the Ecuadorian State to:

- a) Revoke discriminatory provisions in the criminal law
- b) Strengthen the stewardship role of CONAMU, which means institutional strengthening, allocating sufficient budget, institutionalization of its actions and expanding the participation of civil society, especially the diversity of women;
- c) To continue and strengthen the Equal Opportunities Program through rapid adoption of its projection to 2007;
- d) To develop a comprehensive policy to eradicate poverty with a gender perspective and prioritizing attention to rural and indigenous women;
- e) To implement care and protection actions for migrant women and those affected by this phenomenon, with a particular concern for those living in the border area with Colombia;
- f) Implementation of legal measure of sanction and effective attention regarding sex crimes;
- g) Establishing effective measures to ensure the implementation of Act 103, which implies the definition of violence towards women as a crime, developing a regulation to implement the law and the establishment of resources for follow-up action and specific campaigns;
- h) To strengthen the actions undertaken for the protection of sexuality, through the implementation of the National Plan for Education on Sexuality and Love, the attention of sexual and reproductive health, a national program of general information regarding contraceptive methods and other ones allowing the exercise of the right to decide freely and being duly informed; prevention of sexually transmitted diseases, prevention programs and teen pregnancy (which shall be reported on specifically);
- i) To intensify steadily programs to eradicate illiteracy, especially in rural and indigenous areas;
- j) Transversalization of the gender approach in the bilingual education plan;
- k) Ensuring salary equality between men and women, through an employment plan and Labor Code with a gender perspective and prohibition of child labor;
- l) Developing policies to eradicate traditional stereotypes within the family, education, employment, politics and society;
- m) Adopting strategies to encourage women's participation in politic life, public and private sector (decision scenarios, management, awareness to society and special measures);
- n) To increase the collection of disaggregated data by gender, ethnic group, regional and on the impacts of programs on women (which must be reflected in the next report to the Committee).

Also, the Committee requests that for the report's development to Committee, the Ecuadorian State to observe:

- a) Considerate the conception of equality between men and women, as suggested in the Convention, which is not synonymous with equity;
- b) To place as soon as possible the instrument of acceptance of the amendment on paragraph 1, 20<sup>th</sup> article of the Convention;
- c) That the next report responds in preciseness to the Committee's concluding observations and to submit the sixth and seventh reports in combination in December 2006;
- d) That the next report relates data on the implementation of aspects related to the Convention of initiatives approved during conferences, summits and extraordinary sessions of United Nations (as on populations and development, childhood, racism, xenophobia, ageing, among others); and,
- e) That the Ecuadorian State spreads widely throughout all the population and specially to government employees, politicians and media, concluding observations and adopted measures to guarantee de jure and de facto measures to ensure women's equality. Also, the spreading of the Convention, its Optional Protocol, the Committee's general recommendations, The Beijing's Declaration and Platform for Action, the document "The woman in the year 2000. gender equality, development and peace for the XXI century"

Based on these recommendations the Committee on the Elimination of All Forms of Discrimination against Women, CEDAW, we presented the situation analysis of relevance of the main rights for women contrasting the information presented in the Ecuadorian's State Official Report.

## **DISCRIMINATION AGAINST WOMEN IN ECUADOR**

### **Articles 1, 2, y 3**

*Pregnant women deprived of their liberty.*

*Rights to personal freedom and a violence-free life:*

*Ecuadorian legislation states the prohibition on arresting pregnant women and the obligation of replacing prison custody by house arrest in the case of pregnant women and Senior citizens.<sup>51</sup> However, the police practice of detaining pregnant women has systematically persisted, with the aggravating factor that the resource of the habeas corpus has not established an effective constitutional guarantee for all women. It has been shown cases in which, relating to detained Senior men of political sectors and/or economically influential, it has been granted habeas corpus, not so in the case of women, which constitutes discrimination, under the terms of Art. 1 of the CEDAW.*

*Some of these cases have been brought before the Intern-American Commission on Human Rights, IACHR.*

**Information not provided by the CEDAW official report:**

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<sup>51</sup> Articles 58 of the Criminal Code; and 171 of the Code of Criminal Procedure.

The State report does not provide any information on the status of women deprived of their liberty, or concerning the specific group of pregnant women and the elderly ones.

### **Recommendations:**

The Ecuadorian State shall adopt measures to guarantee the respect of rights to personal freedom and violence-free life for pregnant women and the elder ones, and ensure the efficiency and suitability of habeas corpus constitutional guarantee, without discrimination, in the cases where is brought when they have been illegally and arbitrarily deprived of their freedom.

The Ecuadorian State in accordance with General Recommendation N°. 12 of the CEDAW Committee must submit information to the Committee on a regular basis regarding the services it has rendered to women who have experienced this situation of violence.

The Ecuadorian State in accordance with General Recommendation N°. 19, 24, b) of the CEDAW Committee shall provide training for judicial, law enforcement and other public agents to implement the Convention in order to eradicate violence against pregnant women detained.

The Ecuadorian State, according to the same General Recommendation, shall inform about the legal, prevention and protection measure that have been taken to overcome the problem of violence against pregnant women detained and about the effectiveness of these measures, in order to determine whether it has promoted research processes, punishment and redress in cases of violation of their human rights.

### **Intrafamily Violence**

*Rights to physical and psychological integrity, sexual freedom and a violence-free life.*

*The Violence against Women and the Family Act defines intrafamily violence and establishes the violations and procedures for trial and protective measures for people assaulted. The intrafamily violence reports till 2005 show a growth of 47.132 cases presented in 1999 to 60.789 complaints filed in 2005.<sup>52</sup>*

*However, they have not yet been categorized as crimes of domestic violence. Infringements of the protection measures are not penalized; and the necessary budget is not allocated for the institutions in charge of this matter.*

### **Information not provided by the official report to the CEDAW:**

The governmental report makes a recount of progress at the level of overall policy formulation, adaptation to International standards of the legal and institutional framework, which represents a corrective element of the initial inequality of women. However, this report does not present statistics and analysis to show the level of access

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<sup>52</sup> Dirección Nacional de Género, Complaints filed in Comisaría de la Mujer y la Familia. Table elaborated by Miriam Ernst, Centro para la Promoción y Acción de la Mujer, CEPAM, for the 2006 Alternative Report, February, 2006.

by women victims to institutional mechanisms addressing domestic violence. It does not present either statistical data regarding the level of efficiency of the institutional mechanisms that could be reflected in the number of trials, pending and on sentence; and number of cases in which there has been an effective redress to victims.

At the same time, the state report refers to the work done with district governments to eradicate violence; however, it does not provide statistical data to verify the levels of effectiveness of these programs regarding the number of cases handled; level of resolution and restoration rights to victims.

The ENDEMAIN<sup>53</sup> quoted by the state report refers to data for women who sought care or help for physical or sexual violence. It does not have data regarding the effectiveness of judicial or administrative mechanisms that had been used.

The publication “Violence against Women” (CEPAR 2006),<sup>54</sup> quoted by the state report, reveals that “few women sought the assistance of an organization or institution (women police stations, police or other organizations).” “Among women affected by physical or sexual violence recently. Only 7.4% of them sought the help of an organization or institution (Figure 18). Among them, 4% sought help from any women police station, 3% went to the police, and 2% or less sought help from the church, women’s organizations or a health facility.”

This official finding of the reality facing women victims of intrafamily violence evidence a lack of women's confidence in state institutions because of the limitations that these institutions have in order to become efficient and effective methods to prevent, investigate and punish acts of intrafamily violence.

In regards to the issue of Sex Crimes in the field of education, the state report refers to the process of training official agents of the Ministry of Education, but it does not show verifiable data regarding the number of participants in training and especially the follow-up for the beneficiaries of these trainings as a way to reflect the effectiveness of the training provided.

### **Recommendations:**

The Ecuadorian State shall take measures to fulfill its obligation to protect women against intrafamily violence.

The Ecuadorian State must promote support services for women victims who suffer aggression or violence in each province, with adequately trained personnel.

The Ecuadorian State shall maintain and submit statistics regarding the frequency of acts of violence against women and shall also conduct research about the causes of violence as well as measurement of the impact of effective judicial protection.

The Ecuadorian State shall act with due diligence to prevent violations of women's rights and to investigate, punish and repair acts of violence.

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<sup>53</sup> [http://www.cepar.org.ec/endemain\\_04/nuevo05/informe/violencia/violen1.htm](http://www.cepar.org.ec/endemain_04/nuevo05/informe/violencia/violen1.htm)

<sup>54</sup> [http://www.cepar.org.ec/endemain\\_04/nuevo06/violencia/violencia\\_m.htm#v16](http://www.cepar.org.ec/endemain_04/nuevo06/violencia/violencia_m.htm#v16)

The Ecuadorian State shall adopt measures to eradicate gender stereotypes that encourage and promote violence against women.

The Ecuadorian State shall adopt measures to prevent violence against women and girls in rural areas, in communities, and indigenous peoples and nationalities.

The Ecuadorian State shall adopt measures to promote the co-responsibility of men and women in family rights and obligations.

### ***Foreign women: Refugees and Migrant workers***

#### ***Rights of foreign women in Ecuador:***

***The legal protection that Ecuador provides to women recognized as a refugee is limited to granting and identification card containing the visa. Although it's an important document, given the situations of discrimination and xenophobia they're facing in Ecuadorian society, it can lead to stigmatizing effect for those carrying such cards. In addition, this card is of little practical value because carriers cannot open bank accounts, access to credit or to the social security.***

Between January 2000 and December 2007, there were 55.035 applications for refugee status, of which 98% are Colombian people and 44% of them are women.<sup>55</sup> While the number of applications has been increasing each year, the number of acceptances has presented a gradual decrease. The overall rate of applications during 2000-2007 is about 26,97% and it has experienced abrupt changes going from a rate of 82% in 2000 to one of 12,88% in 2007. Although there is no official data disaggregated by gender, the percentage of negative resolutions might be equal to that of applications and therefore it has a serious impact on refugee women.

This situation was even more complicated when the United Nations High Commissioner for Refugees, UNHCR, had publicly acknowledged that ***there might be in the country approximately 250.000 people in need of international protection.***<sup>56</sup> ***This shows that the formal system of recognition barely arrives to 16% of the population in need of protection. On its part, the Ecuadorian State has publicly acknowledged that in Ecuador there would be approximately 500.000 Colombian people in irregular situation***<sup>57</sup>. ***Although there's no official data, it also estimated that 45% of them are women. They can be deported at any time and are subject to constant discrimination in the exercise of their rights.***

***The civil society organizations have established that the country has a so-called "gray zone", constituted of denied asylum seekers and/or refugees, many of them are women, who, due to ignorance or fear, have not accessed to the recognition system. These women are helplessness of state protection, and there's no clear definition regarding the kin of legal treatment given to them: whether migrant workers or refugees.***

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<sup>55</sup> Ministry of Foreign Affairs of Ecuador, Refugee Bureau, Statistical Report 2000-2004.

<sup>56</sup> Statements issued by Marta Juarez, Director of UNHCR – Ecuador, 2006.

<sup>57</sup> Statements issued by the Ministry of Government Gustavo Larrea in January 2007.

*The recognition system has difficulties to incorporate a gender perspective in its assessment and decisions. Refugee women are treated based on the concept of vulnerability and non-recognition as a subject of law.*

*Along with Colombian women, since 2005, there's an increasing number of Peruvian women who entered the country as labor migration and live in an irregular situation. There have been cases of Peruvian and Colombian women who, despite having Ecuadorian children, have been deported.*

**Information not provided by the CEDAW official report:**

The state report provides very limited information regarding the status of migrant and refugee women. It makes reference to Mesa de Migraciones Laborales (Bureau of Labor Migration) and to the publication of "Manual de la Mujer en situación de Refugio y el Derecho al Trabajo ("Handbook of Women in situations of Refuge and the Right to Work", an initiative of the civil society organizations, CSO, Fundación Regional de Asesoría en Derechos Humanos, INREDH, published under the auspices of the Ministry of Labor and employment and UNIFEM. However, it does not explicit the existence of a comprehensive migration policy.

**Recommendations:**

The Ecuadorian State shall create public policies to guarantee the Rights of migrant women, particularly for refugee and migrant workers.

The Ecuadorian State shall take measures to recognize the status of refugee, incorporating gender as a cause of persecution and changing the concept of vulnerability for the exercise of rights.

The Ecuadorian State shall promote regularization processes in favor of women whose applications for refugee status was rejected, who have not accessed to the recognition system or undocumented migrant workers.

The Ecuadorian State shall arbitrate migration policies that ensure the principles of protecting the family unit in cases of undocumented migrant women who have family ties in the country.

The Ecuadorian State shall set the national protection standards in the area of migration to international standards, particularly on the issue of deportation.

The Ecuadorian State shall maintain statistics about migrants disaggregated by gender, nationality, age and ethnicity.

***SPECIAL TEMPORARY MEASURES. WOMEN'S POLITICAL PARTICIPATION.***

**Article 4**

*The Political Constitution of 1998, in its Article 102, stipulates that the State has the obligation to promote and ensure equal participation of men and women as*

*candidates in popular elections processes, management and decision-making bodies in the public sphere, in the administration of justice, in the control agencies and in political parties.*

*In addition to the Article* 102 of the Political Constitution quoted above, the Organic Act on Elections and its Regulations<sup>58</sup> stipulate the obligation for the nominations lists, in elections consisting of more than one individual, to include at least 30% of women as candidates and major alternates, alternately and sequentially. Act 581 of 2000, Quota Act,<sup>59</sup> sets a progressive quota for women in multi-person candidate lists that, starting from 30%, shall increase by 5% in each process; so in the electoral process from 2002 till now, there's been a progress up to 50% in 2007 elections.

However, this recognition of the legal constitutional framework was not respected in practice by the Supreme Electoral Tribunal (TSE) that, in March 2000, when regulating the Elections Act, conducted an interpretation on the alternation and sequence which fail to recognize the spirit of the constitutional provision.

Therefore, women's movement<sup>60</sup> develops an intense legal battle: a claim of unconstitutionality of Article 40 of the Elections Act and Electoral Instructions to the Constitutional Court (TC); and an administrative appeal for reversal by the Supreme Electoral Tribunal. In June 2000, the Supreme Electoral Tribunal disregarded the instructive; but this decision was untimely because the electoral process of May 2000 was over.

From its part, in July 2000, the Constitutional Court replies the claim stating that a decision would be by far useless since the Supreme Electoral Tribunal had deleted the instructive. In August 2002, a new claim of unconstitutionality arrives by Coordinadora Política de Mujeres Ecuatorianas and Congresswoman Anunziata Valdez against the Article 40 of the Regulation of the Elections Act.

In November 2002, there's a new favorable pronouncement of the Constitutional Court to the demand, though this decision was also untimely because the electoral process took place in October 2002.

In July 2004, a resolution from the SET stipulated that the mechanism through which women shall be included in the candidate lists, both alternately and sequentially had to be defined by political parties.

As evidence shows, the effective observance of the right of women to participate as candidates in lists both alternately and sequentially had to overcome another obstacle. The opposition of the male members of the political parties that were not willing to respect the regulation; therefore, in August 2004, women movements presented impingements and other legal and political actions.

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<sup>58</sup> Articles 61 and 54, respectively.

<sup>59</sup> Article 58.

<sup>60</sup> Coordinadora Política de Mujeres and Congresswoman Anunziata Valdez.

In the following electoral processes, citizen observatories of women were conformed for the impingement of lists that did not respect the percentages for women. Permanent activities were developed in order to alert the public opinion.

Finally, the movement of women achieved the outcome of this struggle when the SET decided to apply the 2002 resolution from the TC, about the alternation and sequence, finally achieving equity.

**Information not provided by the official report to the CEDAW:**

The obstacles for the political participation of Ecuadorian women, despite the advances in the legal aspects, persist. They are structural, political, cultural, social and economic. The official report does not mention these obstacles, or any public policies that may have been developed and implemented to overcome them.

**Recommendations:**

*The Ecuadorian State shall inform the range and effectiveness of the special temporary measures of the legal scheme to ensure the participation of women in decision making ambits and determine the sanctions in case of any violation.*

*The Ecuadorian State shall inform about the state of effective observance of the Women Labor Amparo Act.*

The Ecuadorian State shall design a state policy in order to overcome the structural, political, cultural, social and economic obstacles that limit women's political participation.

*The Ecuadorian State, according to General Recommendation 23 from the CEDAW Committee, shall inform about:* the legislative resolutions that make effective the rights in article 7; provide details about the limitations of those rights, whether they derive from legislative resolutions or if they are consequence of traditional, religious or cultural practices; describe the measures applied to overcome the obstacles to the exercise of these rights; include statistical data, divided by sex, regarding the percentage of women and men that enjoy them; provide information about the insufficient representation of women as members or responsible of political parties, trade unions, commercial chambers and professional associations and analyze the factors involved in all that.

**MODIFICATION OF SOCIAL AND CULTURAL PATTERNS**

**Article 5**

*The CEDAW Committee recommended clearly that the State should develop policies and implement programs that help ensure the elimination of stereotypes associated to traditional roles of family, education, employment, politics and society.*

**Information not provided by the official report to the CEDAW:**

The State report limits its references to a workshop on gender for social communicators of Quito and Guayaquil, the Citizens Observatory on Communication of the city of Cuenca and the conformation of a network of radio producers in three provinces of the country; that means, isolated activities, without any reference to public policies effectively implemented, as the CEDAW Committee recommended.

**Recommendations:**

*The Ecuadorian State shall adopt measures to eradicate the use of sexist messages in the media.*

*The Ecuadorian State shall adopt measures to promote substantial changes in traditional conceptions of gender in the familiar, educational, labor and health spheres.*

**WOMEN TRAFFICKING AND SEXUAL EXPLOITATION.**

**Article 6**

*Ecuadorian Criminal Code typifies as a crime human trafficking and sexual exploitation of youngsters under 18 years old. A qualitative report from the International Labor Organization, ILO – Ecuador, regarding children and adolescents trafficking<sup>61</sup> establishes that the patterns of trafficking detected are commercial sexual exploitation, mendicancy, labor exploitation, trade for sexual purposes and forced work. Most victims of trafficking for sexual purposes were teenage girls. These studies establish that one of the most affected groups were the formed by foreign teenagers and girls.*

**Information not provided by the official report to the CEDAW:**

*The State report does not provide statistical data regarding the level of incidence of these crimes, the number of criminal proceedings initiated and the sanctions certified, in case they exist.*

**Recommendations:**

The Ecuadorian State shall adopt measures to ensure a permanent budget for full application of the National Plan to combat Human Trafficking, Illegal Traffic of Migrants, Sexual and Labor Exploitation and other ways of exploitation and prostitution of women, children and teenagers, children pornography and corruption of minors.

The Ecuadorian State in accordance with General Recommendation N°. 9 from the CEDAW Committee shall ensure that its national statistical service in charge for planning national census and other social and economic polls create questionnaires that allow data to be divided by sex, regarding absolute numbers and percentages, in order to obtain easily information about women situation regarding the incidence of human

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<sup>61</sup> International Labor Office, ILO-Ecuador, Estudio Rápido sobre causas, consecuencias, magnitud, mecanismos, circuitos, fines y otras importantes características de la trata de niños, niñas y adolescentes, Quito, Ecuador, 2006.

trafficking.

## ***RIGHT TO EDUCATION.***

### **Article 10.**

***Political Constitution establishes the right to education as inalienable and as an inexcusable duty of the State, the society and the family. Establishes that the education is a priority for public investment.<sup>62</sup> However, the State has not assumed the obligation of developing public policies to reach such purposes; consequently, the quality and coverage of the education have impoverished.***

### **Information not provided by the official report to the CEDAW:**

In the State report it is recognized that from 9.02 % of full illiteracy, that represents 732.089 people, 58 % are women and the highest level of illiteracy appears among indigenous women from rural areas. At the same time, the official report recognizes an unfavorable situation for the education of indigenous women, especially at high school education. However, the report gives no detail about the public budget for literacy programs and public education, in order to analyze the permanence and effectiveness of these programs. It does not present any data either about the levels of access to school, permanence and grade repetition in women, with disaggregated data according to ethnic group, gender and age.

### **Recommendations:**

The Ecuadorian State shall inform about the percentage of total current incomes of the central government assigned to education.

The Ecuadorian State shall inform about the measures of affirmative action chosen to ensure education for girls and teenagers, and avoid desertion at schools, especially of indigenous and afro-Ecuadorian women.

The Ecuadorian State shall inform whether it has adopted a system of statistical registration with data disaggregated by sex, ethnic group and nationality that also shows the level of permanence of students in the educational system.

The Ecuadorian State shall inform about the measures adopted to eradicate illiteracy, especially of resident women of Ecuador.

The Ecuadorian State shall inform about the measures adopted to ensure an education free of gender stereotypes.

***The Ecuadorian State shall inform about the measures adopted to prevent, investigate and sanction sexual crimes in the educational sphere.***

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<sup>62</sup> Article 66 of the Political Constitution, 1998.

*The Ecuadorian State shall inform about the measures adopted to ensure the access and permanence in the educational system with no discrimination based in nationality or migrant condition of parents.*

*The Ecuadorian State must present statistical records of access and permanence and grade repetition in education, divided by nationality, gender, ethnic group and age.*

*The Ecuadorian State shall inform whether the public academic programs contemplate respect for diversity, inclusion and humanitarianism.*

## **RIGHT TO EMPLOYMENT.**

### **Article 11**

*The Constitution establishes that employment is a right and a social duty that will be protected by the State, which shall ensure respect for the dignity of the worker, a decent existence and a fair salary for him and the necessities of his family. It establishes the obligation for the State to eliminate unemployment and underemployment.<sup>63</sup> It specifically establishes labor guarantees for the incorporation of women to paid work with same rights and opportunities. At the same time, recognizes the productive labor of non paid housework.<sup>64</sup>*

### **Information not provided by the official report to the CEDAW:**

The State report does not mention the situation of non observance of the obligations derived from the Women Employment Protection Act,<sup>65</sup> since the percentage of women to be hired by the private sector has not been determined. It does not mention the existing gaps between monthly incomes of men and women, nor the discriminatory labor practices against women, especially indigenous women, afro-descendents and migrants.

### **Recommendations:**

*The Ecuadorian State shall inform about the measures adopted to ensure the observance of Women Employment Protection Act.*

*The Ecuadorian State shall inform about the measures adopted to correct inequity regarding salaries, including services, of men and women in public and private spheres.*

*The Ecuadorian State shall inform about the measures adopted to eradicate the discriminatory labor practices against women.*

*The Ecuadorian State shall inform about the measures adopted to ensure the application of equal criteria of selection of employees.*

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<sup>63</sup> Article 35 of the Political Constitution, 1998.

<sup>64</sup> Article 36 of the Political Constitution, 1998.

<sup>65</sup> It makes it obligatory for employers to hire a minimum percentage of female workers.

The Ecuadorian State shall inform about the measures adopted to ensure the right to select freely the profession and job, the right to get a promotion, to stability at work and to all social benefits and conditions of service, and the right to access to professional training and re-training, including periodic professional training and capacitating.

The Ecuadorian State shall inform about the measures adopted to ensure equal treatment regarding a job of the same value, and also equal treatment regarding the evaluation of quality at work.

The Ecuadorian State shall inform about the measures adopted to ensure the right to social security, particularly in cases or retirement, unemployment, illness, handicapped people, third age, or any other inability to work, and also the right to paid vacations.

The Ecuadorian State shall inform about the measures adopted to ensure the right to health protection and security in labor conditions.

The Ecuadorian State shall inform about the measures adopted to forbid, and sanction if necessary, the dismissal due to pregnancy or motherhood licenses and the discrimination in dismissals when based in marital status.

The Ecuadorian State shall inform about the measures adopted to promote the co-responsibility of men and women in family rights and obligations.

The Ecuadorian State shall inform, according to General Recommendation 16 from CEDAW about the legal and social situation of women that work without a salary at familiar companies; keep statistical records about women that work without a salary, nor social security and social benefits in companies that belong to relatives.

The Ecuadorian State shall adopt the necessary measures to ensure a salary, social security and social benefits for women that work without those benefits in companies that belong to a relative.

The Ecuadorian State, according to General Recommendation 17, shall promote and support the investigations and experimental studies that measure and value unpaid domestic work of women; develop actions to measure the unpaid domestic work of women in order to include it in the GDP.

The Ecuadorian State shall adopt measures to ensure respect of labor benefits and social security of migrant worker women, both legal and illegal.

## ***RIGHT TO HEALTH***

### ***Article 12***

***Political Constitution establishes the obligation by the State to ensure the right to health;<sup>66</sup> therefore, it must develop the national health policy and supervise its application<sup>67</sup>. The State has not allocated sufficient budget for the area, what has***

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<sup>66</sup> Article 42 of the Political Constitution, 1998.

<sup>67</sup> Article 44 of the Political Constitution, 1998.

*resulted in worse coverage and benefits of the system. According to unofficial data, since the State does not keep statistics about this matter, the incidence of maternal mortality keeps very high. The Free Maternity Care Act presents problems in its implementation, especially for women in rural areas; and for low qualification women. The incidence of IVH-AIDS puts women particularly at risk.*

#### **Recommendations:**

The Ecuadorian State shall inform the sum of the budget allocated for the area of health and specifically the allocated to ensure the observance of Free Maternity and Childhood Protection Act.

*The Ecuadorian State shall keep reliable statistics about the situation of maternal mortality in the country.*

*The Ecuadorian State shall inform about the mechanisms used to promote observance and citizen control over the Act by the Committee of Users.*

*The Ecuadorian State shall inform about the mechanisms that has arranged to observe traditional medicine in the benefits of the Free Maternity Care Law.*

*The Ecuadorian State shall inform about the measures arranged to lower the inequity in health benefits in the rural area, at quintiles 1 and 2 of the population, and for low qualified women.*

*The Ecuadorian State shall inform, according to General Recommendation 15 from the CEDAW Committee about the measured adopted to prevent the transmission of HIV/AIDS, especially to meet the needs of infected women.*

The Ecuadorian State shall intensify the propaganda so that public opinion get to know the risk of infection of HIV and AIDS, especially for women and kids, and also their effects.

The Ecuadorian State shall ensure that women take part in primary health care and adopt measures to increment their role as care providers, health workers and educators for prevention of HIV.

The Ecuadorian State, according to General Resolution N° 24 from the CEDAW Committee, shall inform about the way in which understands how policies and health care are in relation to women rights in the area of health from the perspective of women needs and interests. And also regarding the way in which medical attention observes factors that are particular to women, as the biological, socio-economic and psycho-social ones.

*Restrictions to the access to the emergency contraceptive pill.*

*The Political Constitution from 1998 guarantees the right to take free and responsible decisions about sexual life<sup>68</sup> and the right to decide about the number of children to*

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<sup>68</sup> Article 23.25 of the Political Constitution, 1998.

*be procreated, adopted, raised, and educated, in relation to the obligation of the State to inform, educate and provide with the means that help exercise that right.<sup>69</sup>*

*The concluding observations from the CEDAW Committee urge the Ecuadorian State to develop public policies and programs for the observance of these rights. The emergency contraceptive pill, ECP, prevents the unintended pregnancy, but it does not interrupt it, as it has been highlighted by World Health Organization, WHO.*

*However, the Ecuadorian Constitutional Court, when resolving about a remedy of amparo presented that required the suspension of the inscription of a medicine and its sanitary registration certificate (a ECP), contrary to scientific evidence, accepted this amparo, mentioning its “abortive” function and, therefore, its violation of the right to life since the conception.*

#### **Information not provided by the official report to the CEDAW:**

Even though the official report considers that the resolution from the Constitutional Court is unconstitutional, it does not express clearly that that resolution violates sexual and reproductive rights national and internationally recognized, and constitutes discrimination against women.

#### **Recommendations:**

The Ecuadorian State shall inform about public policies regarding sexual and reproductive education that have been arranged.

The Ecuadorian State shall inform about the measures adopted to avoid the religious inherence in sexual and reproductive policies, including the information about ECP.

The Ecuadorian State shall inform about the measures adopted to ensure the same rights to men and women to decide freely and with responsibility the number of children and the interval between births and to have access to information, education and means that let them exercise these rights.

#### **CONCLUSIONS**

As described in the social and political context, objective conditions in which women residents in Ecuador are situated, do not contribute to the full exercise and observance of their human rights.

In the economic area, decades of application of structural adjustment policies, with their recent palliatives: implementing them with "a human perspective", through targeted subsidies that stigmatize, in the context of the general crisis of 1999-2000, have determined that more women enter in the statistics of poverty and extreme poverty.

In the political aspect, instability and progressive deterioration of the institutions, due to corruption and lack of independence of officials, have contributed to generate the

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<sup>69</sup> Article 39 of the Political Constitution, 1998.

general perception of mistrust in the system and politics by population. This has led to popular demonstrations that have dismissed rulers.

In the legal aspect, despite the Political Constitution of 1998, recognized the human rights of sectors traditionally marginal, among them women, this normative advance does not meet the observance of constitutional and institutional guarantees that allow the effective exercise of these rights.

In the structural, the Constitutional Court and the Supreme Court of Justice, and their tribunals, have not used the principles of constitutional interpretation, but the ones of literal interpretation, dismissing the content of human rights recognized in the Constitution. They never incorporated the gender perspective in the analysis and resolution of cases.

In the cultural aspect, Ecuadorian society keeps influenced by gender stereotypes that reproduce attitudes and behaviors that violate women human rights, without any effective measure of the Ecuadorian State that changes these conceptions.

In this sense, the topics of special concern for CLADEM Ecuador, gain special interest, like the case of pregnant women deprived of their freedom illegally and arbitrarily. In this case the Ecuadorian State does not meet its obligation to respect and protect their rights. Despite the law, the institutional behavior of National Police, the Public Prosecutor and the Judicial System do not guarantee de observance of the rights to personal liberty and security, and to life, physical integrity and a life free of violence.

In the case of women that are victims of intrafamily violence, even though there is a structural and normative scheme of protection, it is still slow the advance in the full and effective protection of women, since intrafamily violence has not been defined as a crime yet. At the same time, there is no sufficient budget allocated for the entities to meet their obligations and for their staff to be trained.

Ecuador has become a country of origin, transit and destiny for a migrant wave, a characteristic of this period of globalization. However, the Ecuadorian State has not managed to fulfill effectively its obligations of respect, protection and promotion of human rights in the human groups in migrant situation. Even worse deficiencies appear in the protection of children, teenage girls and women, especially regarding the risks of being victims of human trafficking and illegal trafficking of migrants.

Concerning the right of women to political participation, in spite of the normative advance in the legal and constitutional levels; for this advance could be turned into practice, women movement had to overcome multiple structural and political and cultural obstacles to its effective observance. However, it is still necessary to reach equity in the representation.

Finally, it is a cause of great concern the fact that economic, social and cultural rights to health, education and employment for women are not ensured on the basis of equal conditions, without discrimination and observing specific needs of women.

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