



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Twenty-ninth session**

**Summary record of the 623rd meeting**

Held at Headquarters, New York, on Friday, 11 July 2003, at 3 p.m.

*Chairperson:* Ms. Açar

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Convention (*continued*)

*Combined fourth and fifth periodic report of Ecuador (continued)*

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports submitted by States parties under Article 18 of the Convention** *(continued)*

*Combined fourth and fifth periodic report of Ecuador (continued) (CEDAW/C/ECU/4-5, CEDAW/PSWG/2003/II/CRP.1/Add.1 and CEDAW/PSWG/2003/II/CRP.2)*

1. *At the invitation of the Chairperson, Ms. García Alvarado and Ms. Águilar Montalvo took seats at the Committee table.*

*Articles 12 to 14*

2. **Ms. García Alvarado** (Ecuador), speaking on social security and health insurance coverage, said that her Government was considering the creation of a universal health insurance scheme. At present, civil servants were entitled to health insurance but only 60 per cent of private sector employees had health coverage provided by their employers and only 10 per cent of the rural population benefited from any health coverage. Her Government was aware of the risk posed by the creation of a private health insurance system, as was the case in Chile, where a large proportion of the population chose not to pay for health insurance coverage.

3. A fund had been created to facilitate access to credit for rural women and the National Council for Women (CONAMU) was also cooperating within the context of the PADEMUR programme to implement measures to improve the education, health and income of rural women. Agrarian reform had begun in the 1960s and 70s as a means of ensuring a fair distribution of land out of the hands of large landholders to the rural population, especially indigenous peoples, so that the latter could regain control of their ancestral lands. Women's land rights had not been improved and the reform measures introduced had not had the desired effect since the land redistributed was often of poor quality. Further measures to ensure true agrarian reform were therefore being planned. At the municipal level, however, the National Agrarian Development Institute (INDA) had distributed unfarmed municipal land.

4. **Ms. Águilar Montalvo** (Ecuador), speaking on the access of indigenous women to justice, in particular with regard to family violence, said the police

authorities throughout the country were responsible for applying the Law to Combat Violence against Women and the Family. The women's commissariats specializing in dealing with family violence existed only in the provincial capitals and their jurisdiction was limited to the local canton. It was often difficult for indigenous women to have access to the justice system because they found it onerous to travel to a police station. However, in provinces where there were women's commissariats and a large indigenous population, a significant number of indigenous women did make complaints. Women's organizations and indigenous women's organizations were endeavouring to increase awareness of women's rights but the constitutional guarantee protecting the traditional indigenous system of justice meted out by elders and respected leaders meant that there was a great deal of pressure on women not to make or to withdraw complaints and to deal with family violence situations within the indigenous justice system, which tended not to take into account any gender perspective and dealt with violence according to custom and tradition.

5. CONAMU was encouraging indigenous women to have recourse to the justice system and was working with indigenous and non-indigenous women's groups to stress the intercultural and cross-cutting nature of the problem of violence against women. The situation was further complicated by the fact that many women's indigenous organizations were not associated with national women's organizations. Nevertheless two major studies on violence against indigenous women had been undertaken, one with regard to Afro-Ecuadorian women under 15 years of age and another on the effectiveness of programme delivery in provinces with large indigenous populations.

6. **Ms. Morvai** said the situation regarding child labour in Ecuador was shocking and wondered if there had been an international or domestic outcry against domestic and international companies which exploited cheap child labour.

7. **Ms. García Alvarado** (Ecuador) referred the Committee to the statistics on the economically active population contained in pages 16 through 18 of its responses (CEDAW/PSWG/2003/II/CRP.2). There were more men than women aged 10 to 19 who were working because it was customary for girls to stay at home until a later age while the boys left early to work. Child workers could be as young as boys 3 or 4 years old selling chewing gum in the street. There had been

pressure to reduce the number of child labourers, in the form, for example, of boycotts of Ecuadorian bananas or shrimp because of the exploitation of child workers but she expressed concern at the devastating effects such measures could have on the economy and on employment. Her Government was nevertheless aware of the problem and, although there was no high-profile campaign per se, the National Institute for Children and the Family (INNFA) was working to increase that awareness. The Constitution did forbid child labour, especially in dangerous occupations, but for the time being child labour continued to feed the labour market. Her delegation would endeavour to provide more statistical information on the issue in its next report.

#### *Articles 15 and 16*

8. **Ms. Morvai** expressed alarm at the high rate of early sexuality and teen pregnancy and wondered whether that situation was characteristic not only of the poorer segments of the population but also of the middle and upper classes. Statistics on that problem including a breakdown by social class would be welcome.

9. **Mr. Flinterman** wondered whether the reform of the Civil Code had in fact eliminated all discriminatory provisions against women, for example, by allowing a woman's sexual history to be used in paternity suits, reducing the waiting time before a woman could remarry or not allowing prostitutes to testify at divorce proceedings. He was perplexed that the report stated that the minimum age for marriage was 18 (para. 319) yet nearly 32 per cent of women aged 15 to 19 were married (para. 314) with no statistics available for men in the same age group. He wondered whether the de facto marriage age for women was different from that of men if the parents consented and he therefore requested more information in that regard and also with regard to teenage pregnancy rates.

10. **Ms. Gnacadja** welcomed legislative reform but said implementation of reforms still left much to be desired. There was resistance within the legal system and the administration to implementation of women's rights despite such efforts as training for the judiciary. Proceedings involving domestic violence and rape were very long and stereotypes influenced the courts' final decisions. She wondered how the Government intended to ensure respect for women's rights and what role the Ombudsman's Office might play to achieve that goal.

11. It was important to revise the practice among indigenous peoples whereby the man had the sole right to dispose of a couple's property, and ensure that both spouses' signatures were required to sell property. Although it had been stated that common-law spouses had equal rights if the couple met three criteria, those three criteria had not been defined. Finally, although civil contracts required the approval of both spouses, she wondered how that requirement could be fairly applied if one of the spouses was illiterate and whether some other method might be used, such as an oral declaration.

12. **Ms. Patten** enquired whether there were cases where a minor under 18 would not be allowed to marry even if the parents had given their consent and whether, as a rule, the judiciary readily granted permission to girls under 18 to marry. More comprehensive information on social development projects involving the family and their impact on improving the lot of women would be welcome. She also asked whether women had access to legal aid when divorcing; if so, what were the criteria for receiving such aid, was the couple's property divided equally and was a woman entitled to alimony payments even if the couple had no children.

13. **Ms. Simonovic** noted that according to article 272 of the Constitution international treaties took precedence over national law but wondered what mechanisms existed or were envisaged to ensure that the Constitution and international treaties, including the Convention, were implemented. Reform of the Civil and Penal Codes provided an opportunity to bring Ecuador's legislation into line with international standards. She wanted to know whether the State party had been exploiting that opportunity in consultation with non-governmental organizations. She asked, for example, if the new Civil Code, currently on hold, would eliminate the discriminatory practice of requiring a waiting period before women could remarry. Moreover, Penal Code provisions which upheld the concept of defending family honour must also be repealed.

14. **Ms. González Martínez** said that certain provisions which discriminated against women must be removed from the Civil Code. She cited the use of a woman's sexual history when deciding paternity cases and the imposition of a waiting period before they could remarry, especially since modern technology could quickly determine paternity in case of a pregnancy. More information would be welcome in the area of family law in order to determine to what extent married women had achieved true equality. She also requested

information on the grounds for and types of divorce allowed under the Civil Code.

15. **Ms. Tavares da Silva** urged the State party to develop global and comprehensive policies and programmes to deal with clandestine abortion rather than relying on non-governmental organizations such as the Inter-Agency Network For Adolescent Health Care or isolated pioneering projects on sex education. A single programme that dealt with health, education and information, and encouraged the involvement of men and boys, would not only reduce the number of abortions but also the school drop-out rate and various health problems.

16. Noting that women were pressured to withdraw complaints of domestic violence from indigenous courts and institutions, she cautioned that women's fundamental rights should not be diminished in the interest of cultural diversity.

17. **Ms. García Alvarado** (Ecuador), replying to Committee members' questions, said that the Ministry of Public Health had overall statistics on birth rates but they were not disaggregated by urban and rural area, social class or ethnic or racial origin. Naturally, the rates of pregnancy were lower among more highly educated women and girls, who began having children at a later age. She agreed that the problem of teenage pregnancy had less to do with sexuality in Ecuadorian culture than with life patterns — short life expectancy, illiteracy, lack of education and insufficient use of contraceptives. No statistics on clandestine abortions were available. Abortion was legal in certain restricted cases, namely, for rape victims and women with mental disabilities, or where the mother's or child's health was at risk. It was the second largest cause of death among adolescent girls.

18. The National Council for Women (CONAMU) was working with the National Agrarian Development Institute to elaborate a model for joint land title. Prior to the Civil Code reforms of the 1980s, a man, as head of household, could sell his wife's property, and even her inheritance, without her consent. Men and women now had equal rights with regard to the administration of joint property; under a new requirement, both men and women were required to sign for any purchase or sale of land, property or homes, including furniture. Problems arose when the family was illiterate and authorization was oral; CONAMU had even received complaints that women were not permitted to sell

assets without the consent of husbands who had emigrated.

19. **Ms. Águilar Montalvo** said that, under article 65 of the Children and Adolescents Code recently adopted by the National Congress, the age of marriage for both boys and girls without their parents' consent was 15 years.

20. Women preferred to have domestic violence characterized as a misdemeanour in order to obtain a verdict in 48 hours at no cost. CONAMU had submitted a proposal to the National Judiciary Council and the President of the Supreme Court to house a family court and a magistrate court in one location and maintain common files for the convenience of female complainants. The President of the Supreme Court had promoted the idea in a national videoconference. If all went well, it would become a reality in the course of the year.

21. The rights and duties conferred in marriage were also upheld for common-law marriages where witnesses could testify that a couple had been living together under the same roof for at least two years. In both legal and de facto marriages, joint property or "conjugal society", as it was known in Ecuador, could be managed by either partner but the modalities for doing so were not spelled out in any legislation or guidelines. A civil judge performing a marriage was supposed to ask which partner would be administering the joint property. However, in 90 per cent of cases, the question was not asked and it was assumed that the husband was the administrator.

22. There were no constraints on the dissolution of marriage, and the proceedings were egalitarian. Some reforms to the draft Family Code had been proposed with regard to earnings. However, the Code had not yet been revised at a second reading. On first reading, it provided that all property and assets should be equally divided between the parties. Grounds for divorce were, inter alia, adultery, brutality, mental cruelty or serious threats, attempt on a spouse's life, drug or alcohol addiction or the contraction of a serious communicable disease. Other causes included voluntary abandonment for an entire year, giving birth, in the woman's case, to a child who had not been fathered by her husband, or attempt to corrupt a spouse or harm a child. Prenatal care and subsidies were provided even where paternity could not be proved.

23. The Ecuadorian Constitution clearly established the precedence of international instruments to which it was a party over domestic legislation. The Parliamentary Commission for Women, Children and the Family was responsible for adapting national legislation to the provisions of international instruments, including the Convention, a process which would take about four years. In the meantime, international treaties and conventions were invoked in relation to domestic violence and sex crimes handled by women and family commissariats (*comisariías*) and certain criminal courts where female judges presided, or in the legal opinions of prosecutors trained in the content of international treaties and conventions.

24. **Ms. García Alvarado** (Ecuador) said that one of the first tasks of the Parliamentary Commission for Women, Children and Family had been to brief female deputies on the provisions of the Convention, the Programme of Action of the International Conference on Population and Development, held in Cairo, and the Beijing Declaration and Platform for Action. Even the reform of the Civil Code had not completely eliminated many forms of discrimination, which persisted in secondary regulations. For example, the requirement that a woman could not remarry until one year after divorce, or the limitations on women's participation in agricultural cooperatives and water and resource management remained in force.

25. The Office of the Ombudsman offered support and assistance in criminal cases only, but non-governmental organizations (NGOs) provided similar services throughout the country in civil divorce proceedings. Under the Constitution, mediation was the responsibility of the Office of the Attorney-General but many mediation centres were operated by NGOs.

26. She said that crimes of honour were permitted and acknowledged the failure to amend the relevant legislation (which had not been invoked in 35 years) in 1998 reforms to the Criminal Code despite lobbying by the Parliamentary Commission for Women, Children and the Family. The issue would be addressed under a broader reform exercise involving the Office of the Attorney-General. The Public Prosecutor would be responsible for implementing the new Code of Criminal Procedure.

27. **The Chairperson** commended the State party for its efforts to implement the Convention despite economic and political hardship and natural disaster. Especially praiseworthy were Ecuador's great strides in the

legislative area, including Constitutional reform, amendment of its Criminal and Civil Codes and adoption of such new legislation as the Law to Combat Violence against Women and the Family and the Employment Protection Act providing for temporary special measures. Greater efforts must be made to portray violence against women as a human rights issue and the most blatant form of discrimination.

28. She expressed concern about inconsistencies and discrepancies between national legislation and its implementation, particularly with regard to education and employment, which had a particularly severe impact on women in vulnerable groups. The Committee was also concerned about the low literacy rate of women in the rural areas.

29. Clearly, there was a need for stronger sanctions and more vigorous implementation of existing legislation to protect women and girls from the exploitation of prostitution. She also urged Ecuador to adopt proactive legislation to overcome stereotyping and traditions that discriminated against married women. Constitutional rights with regard to property administration must also be enforced.

30. Every effort should be made to sensitize the judiciary to those issues. She hoped that, in its next periodic report, the State party would provide information on the effect of measures it had undertaken to deal with the persistence of de facto gender discrimination, and offer gender-disaggregated data on employment and the impact of educational reform and literacy programmes for rural and indigenous women. Ecuador should also address the problem of early pregnancies and girl child labour, and drive home the message that they constituted a violation of women's human rights.

31. She hoped that the Committee's concluding comments would be widely disseminated, including non-governmental organizations. She congratulated the State party on its ratification of the Optional Protocol to the Convention and urged it to ratify the amendment to article 20, paragraph 1, of the Convention as well.

32. **Ms. García Alvarado** (Ecuador) thanked Committee members for their understanding of the internal and external difficulties confronting her country. Ratification of article 20, paragraph 1, was currently under discussion. Her Government's decision would be communicated to the Committee as soon as possible.

*The meeting rose at 4.15 p.m.*