



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

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

**Addendum**

**Information provided by the Government of Ecuador on the  
follow-up to the concluding observations of the Committee  
(CEDAW/C/ECU/CO/7)\***

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

1. With regard to the information requested in paragraph 49 of the concluding observations of the Committee on the Elimination of Discrimination against Women on the seventh periodic report of Ecuador (CEDAW/C/ECU/CO/7) concerning the action taken on the basis of the recommendations contained in paragraphs 13 and 15 of the concluding observations, the following progress may be mentioned:

## **A. Follow-up to paragraph 13 of the concluding observations**

### **1. Background**

2. Since the submission of the seventh periodic report of Ecuador, significant progress has been made with regard to high-level decrees and secondary legislation recognizing women's rights and gender equality. Thus, a genuine process is under way to establish the Council on Gender Equality as a structural part of the Government.

### **2. The new constitutional framework**

3. Through the establishment of the new Constituent Assembly that led to the adoption of the current Constitution of 2008, a new paradigm for development was created, known as the system of good living or *Sumak Kawsay*. This new social pact establishes a direct relationship between rights and the development model. The new Constitution also sets out the principle of equality and non-discrimination, on the ground of gender, among others, and reinforces the progress made in the previous Constitution of 1998 in the field of women's human rights.

4. Another advance was the definition of the State as intercultural and plurinational, in response to the will of the peoples and nationalities.

5. The substantive constitutional advances in terms of equality can be summarized as follows.

#### **(a) Equality and non-discrimination**

6. The principles of formal equality, material equality and non-discrimination are laid out in article 11, paragraph 2, and article 66, paragraph 4, which declare that all individuals are of equal worth regardless of their differences. Individuals are guaranteed the freedom to exercise their rights free of any discrimination. In the field of justice equal treatment is pledged for all individuals. The structural causes of inequality are overcome by promoting substantive equality.

7. Article 1 of the Constitution establishes that Ecuador is a constitutional, democratic and social State based on rights and justice, that must ensure the full enjoyment of those rights and of those set forth in international instruments (particularly the rights to education, health, food, social security and water for all inhabitants), without any discrimination whatsoever (art. 3). Article 11 establishes the constitutional guarantee of the direct and immediate applicability of human rights and enshrines non-discrimination as a guiding principle for Government action.

8. The counterpart of equality is the right to non-discrimination,<sup>1</sup> which is also enshrined in the new Constitution of Ecuador and in the primary instruments of

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<sup>1</sup> The concept of discrimination implies the exercise of any "distinction, exclusion, restriction, preference or physical and mental violence based on reasons of race, skin colour, religion, national or ethnic origin, disability, aesthetic appearance, gender or sexual orientation and identity, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal

international law, such as the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination.

9. The new Constitution of 2008 allows homophobia, sexism, male chauvinism, racism and xenophobia to be considered as hate crimes,<sup>2</sup> which are likely to result in political violence, inequality, exclusion, public mockery and physical mistreatment or aggression.

10. One type of discrimination that is central to public policies in Ecuador is discrimination against persons with special needs or affected by sickness. As in many other countries, such persons have frequently been mistreated, ignored or denigrated. In recent years, legal and social changes have occurred in people's attitudes, thanks to the struggle of persons with special needs for the recognition of their rights and for their integration in public and productive life.

**(b) System of Good Living**

11. The Constitution of 2008 and the National Plan for Good Living 2009–2013 approach the Good Living model as an investment for change that is continuously expanding to reinforce the need for a vision that is different from neoliberalism, that exceeds the narrow quantitative margins of a purely economic focus, and that enables the implementation of a new economic model that is not focused on the processes of mechanically accumulating a never-ending stream of material goods, but instead promotes an inclusive and democratic economic strategy; that is, one that includes: the processes of accumulation and redistribution, the social groups who have historically been excluded from the capitalist market system, as well as the forms of production and reproduction that are based on principles other than those of that market system. This model is also based on the call for reconsideration and reinterpretation of the sustainable relationship between nature and human beings. Finally, Good Living is also founded on demands for equality and social justice, and on recognizing, valuing and dialoguing with peoples and their cultures, knowledge and ways of life (taken from the National Plan for Good Living).

12. Good Living and the Social and Solidary Economy are closely related. “The economic system is social and solidary; it recognizes human beings as its focus and purpose; it tends towards a dynamic and balanced relationship between society, the State and the market, in harmony with nature; and its aim is to ensure the production and reproduction of the material and intangible conditions that make good living possible” (article 283 of the Constitution).

13. In addition to recognition of a social and solidary economy, the definition of the economic system set out in the Constitution of 2008 also recognizes domestic work, non-remunerated work performed in the home to provide for oneself and care for others, family work, and self-employment, which are all central to the needs of women (articles 325 and 333 of the Constitution).

**(c) Other key rights**

14. The Constitution of the Republic establishes the principle of parity in chapter 5 (on rights to participation), articles 61 and 65, according to which: “[...] the State shall promote the equal representation of women and men in nominated or appointed posts in the civil

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footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

<sup>2</sup> See [www.monografias.com/trabajos6/dehu/dehu.shtml](http://www.monografias.com/trabajos6/dehu/dehu.shtml).

service, in its decision-making and managerial bodies [...] it shall take affirmative action measures to ensure the participation of groups affected by discrimination.”

15. One of the rights to liberty set out in article 66 is the right to integrity of the person, which includes a life free of violence in public and in private. The State must therefore take measures to prevent, eliminate and punish all forms of violence, especially violence against women, children, young people, the elderly, persons with disabilities or anyone in a disadvantaged or vulnerable situation. These measures shall also be extended to slavery and sexual exploitation.

16. Article 32 of the Constitution establishes that the State must guarantee the right to health, in accordance with the principles of equity, inter alia, with a focus on gender and generational equity. Article 43 identifies pregnant women among the persons and groups that should receive priority attention; the State therefore undertakes to provide them with special protection, offering comprehensive health care, including post-partum recovery and care during breastfeeding. Lastly, article 363 establishes that the State is responsible for guaranteeing the provision of facilities and services for sexual and reproductive health and for ensuring the comprehensive health and the lives of women, especially during pregnancy, childbirth and the post-partum period.

17. Article 34 of the Constitution recognizes that it is the State’s responsibility to ensure the right of all persons to social security, and to provide insurance for persons who engage in unpaid work in the home, self-sustaining agricultural field activities or any form of self-employment, and those who are unemployed.

18. Article 26 of the Constitution establishes that the right to education is an unavoidable and inescapable duty of the State, based on principles that include gender equity. Article 347 stipulates that it is the responsibility of the State to ensure that all educational establishments provide education on citizenship, sexuality and the environment, with a rights-based focus, and to eliminate all forms of violence from the educational system and to safeguard students’ physical, psychological and sexual integrity.

19. Article 40 recognizes the right of all persons to migrate and therefore eliminates the concept of persons being considered as “illegal” because of their migratory status. It sets out the State’s responsibilities towards Ecuadorians living abroad. It recognizes asylum and refugee rights and offers persons in that situation special protection. It also eliminates criminal sanctions against persons who have entered or resided in the country by irregular means and have applied for asylum or refuge.

20. Title 2, chapter 3, of the Constitution discusses the rights of persons and groups in need of priority attention. This includes: older persons; children and young people; pregnant women; persons with disabilities; persons deprived of liberty; persons who suffer from very serious or highly complicated sicknesses; persons at risk; victims of domestic and sexual violence, child abuse, and natural or man-made disasters; migrants (human mobility), as well as users and consumers. All of these persons shall receive priority and specialized attention in both private and public spheres. The State shall provide special protection for persons with dual vulnerability (article 35 of the Constitution).

**(d) Collective rights**

21. Chapter 4, articles 56 to 60, recognizes the rights of the communities, peoples and nationalities of Ecuador, and recognizes them as rights holders. In particular the State must ensure the enjoyment of such collective rights without any discrimination, in conditions of equality and equity between women and men.

### 3. Government reforms to achieve equality

#### (a) The system to guarantee rights

22. The new constitutional framework guarantees respect for and protection of the human rights of women and the promotion of full citizenship for women.<sup>3</sup>

(a) Articles 156 and 157 establish which bodies are responsible for ensuring the full enjoyment and exercise of rights;

(b) Article 70 sets out the obligation to formulate and implement policies to achieve equality between women and men;

(c) Title 6 (chapters 1 and 2 – system for development) and Title 7 (chapters 1 and 2 – system of good living) provide for the implementation of policies to effectively guarantee a better life for women.

23. This set of rights is laid out in both the statement of principles and the operative part of the Constitution, in order to ensure their exercise and enjoyment. Systems, policies and public services are being established for this purpose, along with planning for development.

24. The Constitution highlights the national system of social inclusion and equity as a fully integrated and coordinated set of systems, institutions, public policies, standards, programmes and services to ensure the exercise, reinforcement and enforceability of the rights recognized in the Constitution and the fulfilment of development objectives.

25. The system is integrated in all branches of the Government:

(a) The executive branch includes the councils for equal rights, the ministries responsible for implementing public policies, the operation of the comprehensive protection system, and the regulation of the relevant laws;

(b) The legislative branch establishes the legal framework to guarantee and implement the Constitution;

(c) The judicial branch ensures access to justice, in particular for victims of gender-based violence and other forms of discrimination;

(d) The electoral branch ensures the principle of parity;

(e) The social control branch ensures the influence of society on the make-up of State authority and implements social control activities.

26. The national system of social inclusion and equity must be coordinated with the decentralized national system for participatory planning and the National Plan for Good Living, and must be guided by the principles of universality, equality, equity, progressivity, intercultural exchange, solidarity and non-discrimination. The national system of social inclusion and equity encompasses the fields of education, health, social security, risk management, and habitat and housing, among others. (article 340 of the Constitution).

27. According to the Constitution, the State shall: create the conditions necessary for the comprehensive protection of its residents throughout their lives; ensure the rights and

<sup>3</sup> Rights to protection and legal guarantees. The Constitution establishes specific guarantees for civil rights in the chapter on “rights to protection”. Other guarantees for civil rights are part of the “legal guarantees”, which include important rights such as the right to an application for a protective remedy, habeas corpus, habeas data, application for access to public information, action for non-compliance (with the rules of the legal system) and application for a special protective remedy. Title 2, chapter 8.

principles recognized in the Constitution, particularly equality in diversity and non-discrimination; and give priority in its actions to those groups requiring special assistance owing to the persistence of inequality, exclusion, discrimination or violence, or by virtue of their age, health or disability (article 341 of the Constitution). The State shall assign, as a matter of priority and on an equitable basis, sufficient, timely and uninterrupted resources for the operation and management of the system (article 342 of the Constitution).

**(b) Normative process in support of equality**

28. One of the most relevant laws adopted by the National Assembly (in 2009) is the Organization Act on Electoral and Political Organizations of the Republic of Ecuador, known as the Code of Democracy, which, in addition to regulating the implementation of parity between men and women in multi-person electoral lists, also excludes anyone who has inflicted gender-based violence or failed to pay child support from running for office. The Act provides for an affirmative action measure whereby, if there is a tie for the last seat in an election and one of the tied candidates is a woman, the seat shall be awarded to her. The Act promotes equal representation in nominated or appointed posts in the civil service, in decision-making and managerial bodies, and in political parties and movements.

29. Another relevant law is the Code of the Judiciary, which establishes specialized judicial bodies (such as courts for violence against women and the family, courts for violations, and courts for the family, women, children and adolescents) that investigate and punish actions threatening the physical, mental and sexual integrity of women. It also specifies that bail, mediation, arbitration and special privileges are not applicable in cases of domestic violence and, importantly, it provides for a specialized public defender service for women, girls and adolescents through the establishment of courts for violence against women. It provides that membership in all bodies of the judicial branch must be made equal between men and women, if necessary through the use of affirmative action measures. The Code calls for comprehensive reform of the public institutional framework responsible for its implementation. The Ministry of Justice and Human Rights is currently working to design the new system.

30. The Organization Act on the Legislative Branch mainstreams a focus and approach based on women's rights and gender equality by establishing the Legislative Technical Unit, the purpose of which is to facilitate the legislative process and submit a non-binding report to the specialized committees and the General Assembly on issues such as "the language used in legislation and review of non-discriminatory language" and "the gender impact of proposed legislation". The members of the unit shall be professional men or women who are highly qualified to address these issues.

31. The Organization Act on the Council for Citizen Participation and Social Control establishes equality as one of the principles governing the Council's actions. It guarantees for all citizens, individually or collectively, equal rights, conditions and opportunities to participate in, influence and take decisions affecting the public life of the State and society. In an effort to promote diversity, it recognizes and encourages participation processes based on respect and recognition of the right to be different as it applies to the various social actors and their forms of expression and organization. It guarantees parity between men and women in the membership of the Council alternately and sequentially from among the highest-ranked candidates on the basis of merit and competition. Membership is prohibited to those who "have incurred penalties for domestic violence or gender-based violence and have not complied with the rehabilitation measures ordered by the competent authority; those who have been convicted of crimes against humanity or hate crimes; and those who owe maintenance payments".

*Specific mechanism for the promotion of gender equality*

32. In compliance with the State policy to defend the rights of women, and with article 70, which provides for the establishment of a specialized mechanism to draft and implement policies to achieve equality between men and women, on 29 May 2009 the commission of transition towards the National Council on Women and Gender Equity was established through Executive Decree No. 1733, published in Official Gazette No. 601, and Executive Decree No. 3535, the legal basis of the National Council for Women, was repealed.

33. Article 2 of Decree No. 1733 provides for the establishment of a commission of transition to define the institutional framework for equality between men and women. The commission shall comprise the current members of the Board of the National Council for Women and a delegate from the Ministry of Justice and Human Rights. The powers of the commission shall include the following:

- (a) Designing the institutional framework necessary to ensure equality between men and women;
- (b) Drafting bills amending legislation in order to establish the National Council on Women and Gender Equity;
- (c) Issuing the resolutions necessary for the operation and organization of the commission;
- (d) Taking over the assets and liabilities of the National Council for Women.

34. In 2010, the commission of transition towards the National Council on Women and Gender Equity focused on carrying out the mandate for which it was established, that is, designing the public institutional framework responsible for equality between women and men, as established in Executive Decree No. 1733.

35. In November 2010 it submitted to the authorities a draft version of the future Organization Act and its supporting legislation, the Preliminary Bill on Equality between Women and Men and Sex and Gender Diverse Persons". The legislative proposal submitted by the commission is currently being considered and analysed by the Constituent Assembly.

36. It is important to mention that prior to submitting its draft legislation, the plenary of the commission of transition devoted several days to analysing, discussing and consulting on the content of the Organization Act and the aforementioned bill. This work was carried out through specific workshops for qualified, collective creation, with specialized support from professional experts in the field.

37. The Organization Act focuses on strengthening three elements of the future National Council on Women and Gender Equity that are key to the full enjoyment and exercise of the rights of women and sex and gender diverse persons: mainstreaming, compliance and changing cultural patterns. These elements have the power to bring about a qualitative step towards a new institutional framework.

38. Furthermore, the proposed Act gives voice to the historic process of accepting the existence of the discrimination suffered by various political groups and communities in the enjoyment, exercise and guarantee of their rights, which are often occulted and denied for various reasons. It is therefore a step forward in the civilizing process of the people of Ecuador.

39. This Act reaffirms the recognition of the diversity present in society, reflecting a change of perspective by establishing that diversity among people is the norm and not the exception, and accepting that diversity embodies the wealth of society and constitutes the

foundation of the State of Ecuador. Being diverse does not have to mean being discriminated against or being unequal.

## **B. Follow-up to paragraph 15 of the concluding observations**

### **1. Background**

40. The National Plan for Good Living 2009–2013 gathers together and seeks to fulfil the revolutionary changes outlined in the Citizen’s Revolution. The proposals contained in the Plan address important technical and political challenges and methodological and structural innovations. However, its deeper significance lies in its conceptual break with the ideology of the Washington Consensus and the more orthodox approaches to the concept of development.

41. This conceptual break encompasses ethical guidelines and principles that pave the way for a radical move towards the construction of a just, free and democratic society. The ethical guidelines address five aspects: social and economic justice, participative democratic justice, intergenerational and interpersonal justice, transnational justice and impartial justice.

42. On the basis of these guidelines, the commission of transition, established by Executive Decree No. 1733, made a proposal for a legislative and structural framework to ensure the exercise of women’s rights.

### **2. Legal basis and implementation of the political goal**

43. With regard to the Committee’s recommendation that Ecuador should adopt the Equal Opportunities Act and implement the Plan on the basis of a legal framework, it is worth reiterating the important work that the commission has achieved in submitting the bill, which is an essential legal support for the establishment of the Council.

44. Along with this transition, however, the Government has also sought to define policies on equality, non-discrimination and good living that flow out of the mainstream reforms enshrined in the new Constitution, as a basis for harmonizing the priorities and democratic challenges that the Government of Ecuador must assume with regard to the status and living conditions of women. As part of this vision, in January 2011 the first strategy was implemented, in line with the National Plan for Good Living, in the form of the conceptual framework, methodology and mainstreaming strategy of the Plan for Equality, Non-Discrimination and Good Living for Ecuadorian Women (2010–2014).

45. This document is designed as a strategic input not only for the development of the new Plan for Equality, but also for initiating the constitutional powers of the councils for equal rights and for laying the groundwork for the transformation of structures that still perpetuate the discrimination, subordination and exclusion of women.

46. This proposal, which seeks to design a broadly participatory plan, bringing women together in their diversity, has been reviewed and approved by the National Secretariat for Planning and Development, the main State body responsible for managing and coordinating the decentralized national system for participatory planning, in order to ensure conceptual and methodological coordination with established planning instruments. In this regard, the development of the Plan for Equality and the focus on women’s rights in Government policies are currently being made part of the Government’s macropolicy and agenda priorities.

47. In keeping with the legal norm calling for the establishment of a specialized mechanism to develop and implement policies promoting equality between women and men (article 70 of the Constitution), the Government has focused its efforts, from an early

stage and in cooperation with the National Secretariat for Planning and Development, on establishing an equality agenda, which will be the Government's main management tool to define priorities in public policy with regard to gender equality and non-discrimination.

48. This agenda, as a technical political instrument, opens the way to implementing the constitutional mandate of equality between men and women. A road map has now been established and is currently being reviewed to incorporate contributions from women's organizations and women from all regions of the country, in order to give due weight to an instrument that reflects their demands.

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