

ECUADOR

CEDAW A/41/45 (1986)

226. The Committee considered the initial report of Ecuador (CEDAW/C/5/Add.23) at its 72nd, 73rd and 78th meetings, on 14 and 19 March 1986 (CEDAW/C/SR.72, 73 and 78).

227. The representative of Ecuador, in his introduction of the report, informed the Committee that Ecuador's Constitution guaranteed equal rights for everyone and that the Government promoted the application of all legal provisions to ensure those rights. He stated that the provisions of the Convention were reflected in the national legal system.

228. He stated that, within Ecuador's national development plan, the subprogramme for women and young people reflected the Government's official recognition of the important role that could be played by women in the development of the country, a recognition that had been further reinforced by the establishment of the National Women's Office to monitor, plan, evaluate and undertake activities relating to the status of women.

229. His Government had stressed the importance of education and had provided equal access to education for all, with priority attention being given to the rural population. The full participation of women in human resource development was recognized as an important aspect of economic and social development.

230. It was pointed out that the majority of voters in the last election had been women and there was an increasing number of women in public office.

231. The right to work, the representative continued, was guaranteed by the Constitution and the Labour Code provided for equal pay. Several institutes were collaborating with the United Nations, particularly the International Research and Training Institute for the Advancement of Women (INSTRAW), to enhance the integration of women in the development process.

232. He pointed out that many steps had been taken to implement the provisions of the Convention. However, despite all the achievements made in the various sectors, there was still a need for improvement and strengthening of the legislation to eliminate discriminatory practices. It was hoped that the draft Act on the Legal Equality of the Sexes, when adopted, would be another step towards improving the status of women.

233. The members of the Committee expressed appreciation for the representative's introduction, which complemented the information contained in the written report, and expressed regret that some of the statistical information referred to in that report had not been made available. It was clear, they felt, that the

report reflected the good will and intentions of the Government, but many members expressed concern about the persistence of prejudices and traditional views with regard to the role of women.

234. Some members requested more information on the National Women's Office in terms of its membership and its authority to introduce policies to the Government. One expert referred to the Office's recourse to the mass media for changing the traditional image of women and asked how that was done. Some experts inquired about the placement of the Office within the Ministry of Social Welfare.

235. One member expressed concern about article 525 of the criminal law on rape and requested clarification. Another requested clarification on the term "white slavery". Questions were also raised on prostitution and whether steps were being taken to abolish it.

236. Some members questioned whether women were well enough informed to take advantage of the application of the Convention, whether legal advice was provided to them on their rights and whether legal remedies had been used for violation of those rights. One expert asked if women had access to legal aid and if such legal aid was free.

237. With regard to education, many members expressed concern that certain activities for girls perpetuated the traditional view of the role of women, which, in turn, had grave implications for future employment opportunities. Some members requested more data on the literacy rate, the level of compulsory education, co-educational facilities and vocational training. It was also noted from the report that female teachers were expected to deal mainly with young children. In this context, one expert objected to the words used to describe female teachers. Some experts asked if there were special educational programmes for indigenous women.

238. More statistics and data were requested regarding the labour force, representation of women in the unskilled and skilled labour force and in the professions, income and wages, taxation and unemployment rates, as well as the restrictions on access to certain jobs. It was noted that many of the provisions of the Labour Code and pension rights were discriminatory.

239. Questions were also asked regarding the importance and character of the rural sector of the economy and the situation of rural women with regard to ownership of land, access to bank loans, etc.

240. One member pointed out that the provisions of the social insurance pension reflected the view that men were the bread-winners and asked whether there was any difference in entitlement for a common-law wife. Some members asked if social insurance was compulsory, if it was deducted from the income or if the employer paid for it, and how many women were involved.

241. With regard to maternity leave, many members asked if employers did in fact comply with the Labour Code, particularly in terms of providing child-care facilities for workers. One member noted that maternity leave was not granted to domestic servants.

242. One expert requested more information on the report being prepared by the Ministry of Public

Health, as mentioned in the initial report. Some members noted the high fertility rate and requested information on family-planning programmes and access to contraceptives, as well as statistics on the infant mortality and date on childbirth at home and in the hospital.

243. Some experts noted that the Civil Code had many discriminatory features and many experts asked if the proposed Act on the Legal Equality of the Sexes would ensure the elimination of such discriminatory practices.

244. Some experts requested more information on marriage and divorce rates, the legal status of children (including those born out of wedlock) and property rights upon dissolution of marriage. One expert asked if judicially separated women could remarry and what was the difference between a divorced and a judicially separated women.

245. More information was also requested on the participation of women in promoting peace, the role of the informal sector of the economy and the role of women in that sector, and the sharing of household duties. One member raised the question of the role of the Catholic Church.

246. In view of the many areas requiring urgent attention and to the extent that resources may be limited, one expert asked if the Government of Ecuador had set any priorities for dealing with the elimination of discrimination against women.

247. The representative of Ecuador, in responding to the question raised, explained that women in his country had free access to legal advice and that rural women were provided free of charge with legal defence and interpretation. He said that in his country the bodies dealing with the advancement of women were the National Women's Office, established in 1980, which had also regional offices and training centres around the country, and various other institutes and departments concerned with women and children.

248. Referring to a question about the number of indigenous inhabitants, the representative replied that it was offensive to make such a categorization that did not exist under the law. Ecuador was a melting pot of various indigenous groups. It was a party to all international instruments on human rights and did not tolerate racial discrimination. The majority of the population was bilingual, using Spanish as the main language of education and Quechua as the language for inter-cultural relationships.

249. He said that prostitution was of minor importance in the country and that trading in prostitutes, the white slave trade, was severely punishable.

250. Concerning the political participation of women, he said that women were active in political parties; they were found in the leading professions and also in the legislature. Voting was obligatory for both sexes.

251. Children of Ecuadorian mothers or fathers born abroad could acquire Ecuadorian nationality. By acquiring another nationality women lost their Ecuadorian nationality.

252. The representative was pleased to state that the struggle against illiteracy had been a major achievement of his country. The national literacy campaign had started in 1944, and presently only 5 to 8 per cent of the population were illiterate. Education was administered without discrimination; it was free of charge at the primary, secondary and higher educational levels, and parents and girls were completely free in their choice of education. Education in fields traditionally considered to be women's fields was also administered to boys. The State allocated 30 per cent of its funds to education. Colleges were mixed or unisex and the general policy fostered co-education.

253. There was no discrimination in labour legislation; the representative then enumerated various types of work that were considered as dangerous and prohibited for women and minors. An additional question was asked about the reasons for certain categories of work being considered dangerous for women and not for men and whether such a measure was not meant to keep women away from certain highly competitive industries. The expert said she would welcome a revision of such protective legislation.

254. The representative stated that both sexes took part in household work and that women were also engaged in technical professions. In his country, 20 per cent of the economically active population were women, but as Ecuador was mainly an agricultural country, more than half of the women lived in rural areas, where they performed domestic tasks without remuneration in their own homes, took care of livestock and family plots and were thus chiefly responsible for the country's economic progress. More and more women could be seen in small-scale industry in the agro-industrial field, but they held senior positions in professional and technical trades.

255. For nursing mothers, day-care centres and low-cost food was provided. Under the Constitution and the Labour Law women received equal pay with men and were covered by equal social security. Ecuador experienced unemployment and a high rate of underemployment among women.

256. As Ecuador was a democratic, free and pluralistic society with 90 per cent of the population Catholic, no demographic measures could be imposed upon the population. But progress in promoting conscious parenthood was being made, not through authoritarian measures, but by genuine development activities. Family planning programmes were carried out with full respect for individual concerns. Abortion was prohibited except in case of rape and for therapeutical reasons. In 1977 the State had launched a mother and child food assistance programme.

257. Both women and men could be landowners. In matrimonial relationships both partners were joint owners of property. With the authorization of their parents, girls could contract marriage at 12 and boys at 14. Women could adopt the surname of the spouse or retain their maiden names. As both divorce and separation existed, one expert asked whether a couple could get a divorce without going through legal separation. The representative explained that divorce by mutual consent could be obtained immediately; legal separation existed only in cases where divorce was not wanted because of economic reasons or the children. Specific causes for divorce were provided by law.

258. Efforts were being made to modernize agriculture; however, currently, rural women had insufficient access to technical resources.

259. In reply to one request made to make the annexes referred to in the country report available to the Committee, the representative said that the annexes could be consulted in the secretariat. They had been attached to the report, but they were too voluminous to be translated and distributed.

260. The representative mentioned round tables and seminars held in the country in observance of the International Year of Peace.

261. The representative said that all further concerns of the Committee would be considered in the country's subsequent report and further data would be supplied.

262. Members of the Committee thanked the representative of the State party for the replies provided and asked for additional information on the situation of rural women, the incidence of prostitution, divorce and legislation regulating women's work.

263. The representative of the State party replied that trafficking in prostitution had occurred in the past, and informed the Committee that Ecuador had become party to the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (General Assembly resolution 317 (IV) of 2 December 1949). He added that Ecuador was an agricultural country. Extensive developmental efforts had to be carried out in order to modernize agriculture. There were rural schools which taught modern skills and work methods. Rural women, however, worked with traditional, simple tools, and he informed the Committee that in general there was no electricity in the rural areas. Divorce could be obtained by mutual consent or through the court. Regarding protective labour legislation, he stated that women and minors were not employed in certain dangerous work such as the manufacture of explosives, glass and paint.

CEDAW A/49/38 (1994)

499. The Committee considered the second and third periodic reports of Ecuador (CEDAW/C/13/Add.31 and CEDAW/C/ECU/3) at its 244th meeting, on 25 January (see CEDAW/C/SR.244).

500. In her introductory statement, the representative of Ecuador said that discrimination against women was deeply rooted in the socio-economic problems of her country, which had been facing a most serious recession in the last 10 years. She explained that the second periodic report was of a more descriptive nature, whereas the third periodic report contained the drafts of legal amendments.

501. Having confronted a serious recession since 1980, the Government had taken macroeconomic adjustment measures which had had an unfortunate impact on the weaker members of society, in particular on women and children. A growing decrease in GDP per capita and in the volume of imports, together with an increase in external debts, had brought with it a drastic reduction in social security spending. The budget of the Ministry of Social Welfare had been cut by 47 per cent. She explained that only 26 per cent of the population had access to social security, 76 per cent of women through formal employment and 9 per cent of women through informal employment, and that indigenous women had no access to social security at all. The representative explained that according to a UNICEF survey, 66 per cent of families lived below the poverty line. While higher and middle class income levels had increased 50 per cent, the income of the overall population had decreased constantly. Social movements were losing strength and momentum. Unemployment was reported to have reached 12 per cent; of the economically active population, underemployment had reached 56 per cent; 48 per cent worked in the informal sector.

502. In 1988, the "Social Front" was established, combining the ministries of Social Welfare, Labour, Health and Education, and presided over by the Ministry of Social Welfare. Its goal was to eliminate the recurrent problems of bureaucracy and to avoid the duplication of programmes. The National Committee for Planning and Social Development took office in 1989. The representative also reported on the Fund for Social Investment which directed funds to rural development, youth and women.

503. The representative reported on the critical living conditions of children in her country. In many families, children contributed 19 per cent of an average household income. Some children aged 8 to 11 years were working 40 hours a week. School attendance suffered as a consequence, with only 30 per cent of children finishing elementary school. To combat the high rate of illiteracy, the previous Government had launched a campaign entitled "Ecuador estudia", which had decreased the illiteracy rate considerably.

504. Although no exact data existed on the incidence of disability, numbers were expected to be very high, with an estimated 18 per cent of the population having disability problems and frequently living in substandard conditions. However, there existed no specific projects for women with disabilities. Malnutrition was one major cause of disability, as was the lack of adequate health care, in particular prenatal, delivery and postnatal care, as well as the lack of immunization programmes for women and children. In 1982, a law had been adopted concerning disability. A national programme for the disabled

had been launched which included tax exemptions as well as large-scale public campaigns to provide facilities for disabled people in urban structures. The Government had set up eight rehabilitation centres which were concentrated in the cities.

505. Concerning the situation of rural women, the representative reported on the existing gap between urban and rural areas. Many development programmes focused on the cities, while the rural areas were abandoned and neglected. With the migration of the male population from rural to urban areas, women and children who were left behind took over the agricultural activities. The Ministry of Agriculture and Livestock carried out projects on appropriate agricultural technology for women.

506. The representative described the environmental sanitation situation both in urban and rural areas, which was very poor; there was a lack of safe drinking water. As a consequence, infant mortality was one of the highest in Latin America. Half of the children below five years of age suffered from malnutrition.

507. Concerning legal reform, the representative indicated that considerable legislation aimed at enhancing women's status had been introduced but some measures had faced opposition in the Congress. Congress had given serious consideration to the discussion of the draft amendment of the Code of Criminal Procedure. A draft of the first Code of Family Law was submitted to the Congress in January 1994 by the Parliamentary Committee for Women, Children and the Family. Following the ratification of the Convention on the Rights of the Child in 1992, a new Code for Minors had been elaborated.

General observations

508. Members of the Committee thanked the representative of Ecuador for providing a frank report committed to the advancement of women and expressed their concern about the alarming living conditions of the majority of women. They noted that the economic situation and the structural adjustment measures had affected her country more than others. Women and small children were the major victims. While recognizing the progress made in legal reform and in socio-economic programmes, in particular in combating illiteracy in the female population and in the elimination of stereotypes in education, members were concerned about the number of remaining obstacles to equality. While Ecuador had already given women the right to vote in 1929, and was in fact one of the first countries in the region to do so, women still faced discrimination in 1994.

509. Members of the Committee noted the need for the Government to define modern, up-to-date criteria for development and to improve what was deemed to be a kind of medieval situation for women, which was the result of a patriarchal structure in which women were denied basic rights. Before enjoying legal rights, women needed to be given basic human rights, such as safe drinking water and better nutrition. Half of the population of the country could not participate with pride in the life of the country. Members emphasized that, despite the economic problems, many programmes related to women's equality could be carried out with few resources.

510. The Committee expressed the feeling that the prevailing attitude in Ecuador was that the Government was not giving serious consideration to the advancement of women. There was a de jure and de facto gap

in the attainment of women's equality. Moreover, members asked whether the women in Ecuador themselves wanted to change their current situation. If such was not the case, women's consciousness about their situation and their rights needed to be raised. Solidarity among all women was a prerequisite for leading a successful struggle for women's equal rights.

General questions

511. In reply to a question on the National Institute for Women, the representative said that the institute had not yet been established. The National Directorate for Women was still part of the Ministry of Social Welfare. There was strong opposition to the setting up of an independent national machinery for the advancement of women, in order not to weaken the Ministry. The representative informed the Committee about a hot line pilot project for women that had been warmly welcomed by women in Ecuador. Many women called and reported on cases of sexual abuse and violence. Although there was no political support from the National Directorate for Women, that project, which could only function with outside assistance, was very successful.

512. Regarding the National Development Plan for 1988-1992, which devoted a whole chapter to women, there had been no assessment of its implementation. No statistical data and consequent evaluation had been provided.

513. Asked whether more information could be given on the areas of competence and the activities of the Parliamentary Committee for Women, Children and the Family, the representative stated that the Committee, which was not permanent, had introduced all of the legal amendments that had received support from the Government, in particular, the Code of Family Law, since no definition of the family had existed prior to the introduction of the Code.

Questions related to specific articles

Article 2

514. With reference to the status of approved legislative changes and draft laws, the representative replied that there had indeed been more proposals for legal changes than reforms accomplished. The delay in promulgating the laws could be attributed to the mandatory respect for the agenda of the Congress, where discussions in recent years had focused on political and economic issues.

515. She mentioned the legal reforms contained in the reform of the Civil Code, which had been put into force within law 43 in 1989. Those reforms contained important improvements: recognition of the juridical equality of women and men in marriage; administration of joint estates; responsible and joint parenthood of the spouses; marital obligations and the termination of marriage. The changes in the articles related to marriage had encountered considerable resistance, including opposition from women.

516. The representative reported on a number of other legal amendments, including the introduction of the Code of Family Law. Another proposal was for the establishment of family judges and of accelerated oral

and summary proceedings. The Electoral Law was still under debate, since no agreement could be reached on the suggested quota of 25 per cent of women to be included on the electoral lists of political parties. That amendment was contested in the sense that it contradicted democratic procedures. Further resistance was expressed to the idea that 10 per cent of State funds allotted to political parties should be used for the political training of women. The law on complimentary nutrition was meant to give rights to abandoned women who could not provide for their children without their husband's support. According to the proposed law, fathers who did not pay support for their children for two months would be imprisoned for eight months. That proposal, which was not included in the Code of Family Law, had been rejected. The law on the reform of the Code of Civil Procedure dealing with the special retirement benefits for women passed but, owing to the lack of liquidity in the social security fund, payments were not assured. A draft law on giving special retirement benefits to women who had been in formal employment for 25 years and were mothers of five children was not adopted. A law on the registration of a child born out of wedlock under its father's name was unanimously rejected. That reform would have given legal recognition to children born out of wedlock without entitling them to support by the father or inheritance rights. It would have devolved upon the father to prove that he was not the father. Public reaction to the proposal had been fierce; women were accused of being prostitutes searching for fathers for their illegal children. Another draft law in favour of an obligatory yearly examination for uterine cervical cancer, to be undertaken by the employers, was rejected because of the costs involved.

517. The representative stated that under another draft legal provision, concerning domestic violence, women would be enabled to take legal action against their relatives. In criminal law, the provision that women be more severely treated than men for the offence of adultery had been abolished, although adultery remained a cause for divorce in the civil code. If a spouse was found in flagrante delicto, no charges were brought against a person inflicting harm on the spouse.

518. The Committee questioned the importance attached to the father's name, which had nothing to do with paternity.

519. Members reminded the representative that in ratifying the Convention without reservation Ecuador had made a commitment to make its national laws comply with the Convention. Parliament and Congress had the responsibility for achieving compliance and were obliged to implement the Convention. The Convention on the Elimination of All Forms of Discrimination against Women should not be considered a second class convention requiring less persistence. Members expressed their concern that a third periodic report of a State party still contained only drafts of legislative reforms.

520. The representative was asked to transmit the concerns of the Committee to the Government, which was responsible for protecting the rights of all women in the country. Members expressed the hope that the country would immediately conduct a systematic review of national law and make it conform to the Convention. The Committee said that it might ask for a specific report on legislative changes, which should be presented at a set time. The Committee expressed its full support for the endeavours undertaken to introduce legal amendments. If the country required advisory services and technical assistance for that purpose, as others had done before and as suggested in the plan of activities of the Centre for Human Rights for the implementation of the Vienna Declaration and Programme of Action, the Committee would

seriously consider that request.

Article 4

521. The representative regretted to report that no laws or measures "of positive discrimination in favour of women" had been taken by the State aside from the one mentioned on the protection of pregnant female workers.

522. In additional comments, members expressed concern that the Constitution of the country did not allow temporary specific measures as provided in the Convention.

Article 5

523. In reply to a question on the success of programmes aimed at promoting change of attitudes of men and women, the representative referred to Ecuadorian law, which was based on Roman law and gave the patria potestad the leading role in law and in reality. Discrimination against and subordination of women formed part of the patriarchy, which rested on the principle of a division of labour. Greater awareness of stereotyped gender roles and cultural obstacles to the elimination of discrimination against women was needed. As long as stereotyped roles persisted in education and mothers encouraged their sons to adopt macho attitudes whereas girls were brought up to be docile and obedient, no change was imminent.

524. In additional comments, the Committee noted the prevailing attitude of machismo in the country, which affected women in all walks of life and expressed itself also in violence against women, which was largely accepted. Members emphasized that attitudes and behaviour could be changed if there was political will and broad support. It was hoped that the subsequent report would contain information on this issue.

Article 6

525. In reply to a question related to the problems of prostitutes and whether the interest of the National Directorate for Women and its social rehabilitation programmes had resulted in any specific measures or studies, the representative replied that two associations of prostitutes had been formed which called themselves "associations of free working women". Their first congress had been held in November 1993 and had brought together women of all ages and from different regions of the country in an atmosphere of solidarity. The representative pointed out that prostitution in Ecuador was not an offence. Owing to double standards, prostitution in a brothel was allowed, but not prostitution in the streets.

526. Concerning the HIV/AIDS pandemic, she stated that prostitutes were regularly screened for infection. Prostitutes that had contracted the HIV/AIDS virus were badly treated by the authorities and there had been many negative articles in the media on street prostitutes discovered to be HIV-positive.

527. In additional comments, experts noted that prostitutes with HIV/AIDS infection were the first patients to require compulsory medical care, regardless of how and where they had been infected.

Article 7

528. Asked whether there had been any law or measure designed to increase the number of women in the Parliament and in the Executive branch, the representative replied that no such measure had been taken. No political party had encouraged female participation through a quota system or by any other means.

529. However, a number of women had been assigned to high-level positions. The president of the Monetary Association and the Minister for Education were women. There were three women secretaries of state and five women deputies in Parliament.

530. In an additional comment, the Committee noted that the example of Ecuador showed how important it was to have more women at the decision-making level to achieve qualitative and quantitative change. Resistance in the Government to legal reform had increased because there had been little support for the reform within the legislative bodies. Endorsement of the legal reform process also had to come from the highest executive level.

Article 10

531. Concerning the illiteracy rate, the representative stated that the figures were still high although a governmental literacy campaign, carried out four to five years earlier, had been very successful and had decreased female illiteracy from 60 per cent to 38 per cent. That campaign had been undertaken with the direct collaboration of secondary educational establishments in particular, as well as the National Directorate for Women. No measures had been taken to reduce the school drop-out rate for girls, particularly in the rural areas. With regard to modifying the sexist content of curricula and textbooks, the representative reported that that reform was being carried out. A teacher training programme also existed along those lines. No statistics broken down by sex were available on the receipt by women of educational awards or on their integration in the ranks of administration in higher education. One positive development, however, was that a woman had recently been appointed Minister for Education.

Article 11

532. The representative informed the Committee that men and women had equality of access to all occupational training programmes. Asked whether women had recourse to the courts or any other tribunal when they suffered discrimination in their work, the representative replied that very few cases of discrimination were taken to court. Male and female workers could have recourse to the courts, but there were no legal provisions on discrimination.

533. The legal minimum age to enter the labour market was 12 years; no distinction was made between girls and boys. The labour law prevented the exploitation of minors. The Code for Minors did not allow children to work in jobs that deprived them of their normal development. In general, however, child labour

was not prohibited and hundreds of children could be seen working in the street and thus contributing to family income.

Article 12

534. On the question whether measures had been developed that would improve the situation of rural women in particular, the representative replied that only the Ministry of Agriculture was managing a project for women in rural areas, which unfortunately could not be implemented because of flooding. There were no projects to improve the rural hygiene situation, which was very bad. In particular, access to safe drinking water was unavailable in many areas.

Article 14

535. The representative was asked about the participation of women in the preparation and implementation of development plans generally, and in agriculture in particular. In general, women in Ecuador took part in the elaboration of development programmes and policies, but their presence in public life was still very small and insignificant. However, women did not really shape the future of the country and their contributions were not always recognized by the changing Governments.

Concluding comments of the Committee

Positive aspects

536. The Committee congratulated the representative of the Government of Ecuador on the timely submission of the reports, which gave a clear and frank description of the current difficult situation in the country, particularly for women.

537. While congratulating Ecuador on having ratified the Convention on 9 November 1981 without any reservation, the experts of the Committee noted that not all legislation had been brought into line with the Convention.

538. They congratulated the Government of Ecuador on its successful literacy campaign and the development of legislation which had made it possible to overcome some forms of discrimination.

Principal subjects of concern

539. They expressed deep concern at the serious discriminatory conditions affecting Ecuadorian women and regret at the steady reduction in the capacities of the agency concerned, the National Directorate for Women of the Ministry of Social Welfare, as demonstrated by the fact that, over the past three years, officials had held only provisional appointments and had lacked any support. The Directorate was short of economic resources, enjoyed little political support and had only very limited capacity in terms of coordinating programmes with other bodies. The fact that the few programmes it operated were dependent

on international cooperation resources was a cause for concern.

540. The members of the Committee emphasized the fact that, despite the country's current economic problems, initiatives could be developed in favour of equality at minimal expense, and indeed must be developed. An analysis of the report submitted showed that legislation was still marked by serious discriminatory features; customs tended to stereotype gender roles in a way that was detrimental to the advancement of Ecuadorian women; and State initiatives, far from expanding, had undergone a serious decline. Those factors combined to create an extremely serious situation with regard to the human rights violations addressed in the Convention.

Suggestions and recommendations

541. The Committee called for the implementation of fundamental legal reforms to eliminate legislation discriminating against women and to promote their advancement. It therefore requested that the Government take the appropriate measures and report on progress made in that regard in the next periodic report.

542. It recommended that the Government strengthen the national agency for women in political, administrative and financial terms, upgrade its status and give it the capacity to coordinate initiatives for the advancement of women.

543. Every effort should be made to guarantee the basic services required to ensure the survival of women in the most vulnerable categories. Programmes should be developed to promote awareness among Ecuadorian men and women of the need to modify cultural values which perpetuate discrimination in any form.

544. The Government should pay particular attention to preventing and punishing violence against women.

545. The Government should consider the possibility of bringing together women active in non-governmental organizations, political parties and grass-roots movements, academic women and whomever else it might deem appropriate. They could then join in a coherent national effort to deal with this critical situation, the solution of which would, to a great extent, depend on women's solidarity and determination to bring about changes.

CEDAW A/58/38 (2003)

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

Introduction by the State party

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

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

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

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

287. Other legislative advances included the Labour Code and Social Security Law which guaranteed

the rights of pregnant women to work and to enjoy maternity benefits. The Ley de Maternidad Gratuita aimed at enhancing women's sexual and reproductive health. The revised Ley de Amparo Laboral established a minimum quota of 20 per cent representation of women in the administration of justice. A Solidarity Bonus had been established in 1998 for poor women with minor children, persons with disabilities and the elderly living below the poverty line, with some 85 per cent of beneficiaries being women. However, those social protection programmes had not significantly ameliorated their situation.

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

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

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

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

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

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

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

Concluding comments of the Committee

Introduction

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

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

Positive aspects

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

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

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

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

Principal areas of concern and recommendations

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

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

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

304. The Committee urges the State party to strengthen the regulatory and normative role of the National Council for Women by adopting a law institutionalizing and regulating its activities and giving it a more active role in monitoring the enforcement of standards to promote gender equality, and to allocate to it the financial

resources necessary for its operation and the exercise of its functions. Furthermore, the Committee encourages the State party to appoint a director to head the National Council for Women. The Committee encourages the State party to ensure the participation of civil society in the Council and to promote the participation of movements of indigenous women and women of African descent.

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

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

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

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

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

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

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

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

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

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

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

316. The Committee urges the State party to take steps to implement the aforementioned legislation, taking into account the Committee's General Recommendation 19 on violence against women, and to monitor its application and assess its effectiveness. The Committee likewise considers it particularly important that violence against women should be penalized under the Ecuadorian Penal Code. Similarly, it urges the State party to draft and implement regulations to implement the Law to Combat Violence against Women and the Family and recommends that the State party should conduct training and awareness campaigns on domestic violence, mainly for staff in the judicial sector and police officers. It urges the State party to provide sufficient funding for programmes to protect the victims of violence against women, in order to ensure their implementation.

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

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

teenagers and teenage mothers and sexual education programmes to prevent pregnancies among the teenage population. The Committee requests the State party to include in its next periodic report information on the impact of programmes to limit and prevent teenage pregnancies.

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

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

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

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

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

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

325. Despite the existence of awareness-raising programmes, the Committee is concerned at the persistence of traditional stereotypes relating to the roles and responsibilities of women and men within the family, in the education system and in society in general.

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

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

328. The Committee recommends that the State party should adopt strategies to increase the number

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

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

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

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

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

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

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

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

336. The Committee requests the wide dissemination in Ecuador of these concluding comments in order to make the people of Ecuador, in particular government administrators and politicians, aware of the steps that have been taken or remain to be taken to ensure the de jure and de facto equality of women. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations and the

Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled Women 2000: gender equality, development and peace for the twenty-first century .