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**The Implementation of International  
Protection Mechanisms in Ecuador for  
Women Rights**

*An overview of implementation through time of Ecuador to CEDAW and  
Belém Do Pará Conventions*

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## **Abstract**

The following study offers an overview of the recommendation made by the CEDAW Committee to Ecuador and the response of the state to implementation of this recommendations since its first review by the Committee. Followed by the over view on the recommendations and implementation of the Belém Do Pará Convention and the advancements of this mechanisms. As well as the presentation of the Case Against Ecuador in the Inter American Court for Human Right for its Violation to the Belém Do Pará Convention article 7. To conclude that these international mechanisms have contributed to the present legislation, protocols and state plans on Women Rights protection in the state although further efforts are still needed to fully implement the recommendations of the Committees for adequate implementation of the Conventions. With the concluding recommendations on areas that need more focus on part of the state being: decriminalization of abortion, raising awareness of the Convention and women's entitled rights, and developing more inclusive policies for vulnerable groups such as Indigenous, Montubio, and Afro-Ecuadorian women, the need for improved national-level data collection and management. And finally, clear objectives must be established to address and combat sexual violence and harassment in educational institutions.

**Key words:** Women Rights, Belém Do Pará Convention, CEDAW, Ecuador Women Rights

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

**CIM:** Inter-American Commission of Women

**MESECVI:** Systematic and permanent multilateral evaluation methodology

**CEVI:** Committee of Experts

**LOIPEVCM:** Organic Law to Prevent and Eradicate Violence Against Women

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## Introduction

### *Research Questions*

What are the implementation results of international protection mechanisms recommendations from their committees such as the CEDAW Convention? And the regional mechanism Belém Do Pará in Ecuador?

### *Methodology*

The methodology of research is desk research with a focus on a literature review of legal documents such as the Convention on the Elimination of All Forms of Discrimination against Women and the Belém Do Pará Convention. Specifically, the recommendations made over time to the Ecuadorian State. Followed by an analysis of academic journals on previous studies done about the subject for background on this investigation. Also, to analyze the compiled information from diverse sources through time to interpret the overall implementation of recommendations and most pressing themes that are pressed on by the committees to the country to improve on.

### *Literature Review*

Among the main themes of research when it comes to international mechanisms for women's rights protection in Ecuador most of the studies done highlight how instruments such as CEDAW and Belém Do Pará Convention have paved the way for current advancements and the main legislation found about women's rights in the country. The issues they also discuss in different studies are the low advancement in reproductive rights, lack of knowledge among legislators and population of the international conventions, or female population about their rights. As well as the inequality in access to services and exercising their legal rights when it comes to rural Indigenous and Afro-Ecuadorian women. It can be explained by the following studies.

Previous research on the implementation of international mechanisms for women's rights in Ecuador reveals the following. Since its incorporation into the two main mechanisms promoting women's rights in Ecuador the Belém Do Pará Convention and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) the state has had a good disposition in complying with the presentation of periodic reports but also in the formal implementation of recommendations made by the Committees of this instruments. It also reflects on how current regulations, policies, protocols laws, and regulations incorporated with a gender perspective and with the provision of technical assistance in the public sector to eliminate discrimination against women have a rooting effect from the recommendation and technical assistance of the bodies in this mechanisms<sup>1</sup>. Furthermore, other studies highlight

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<sup>1</sup> Viteri, V. (2022). Enfoque de género, violencia de género y políticas públicas: un acercamiento desde las Ciencias Sociales al marco jurídico Ecuatoriano. *Zenodo (CERN European Organization for Nuclear Research)*. [online] doi:<https://doi.org/10.5281/zenodo.6795951>.

legislation the Ecuadorian state has adopted since ratifying the Conventions. Among these key instruments that came after the ratification of the Conventions are: women and families that seek to prevent violence and offer protection for victims of 1995, Ecuador's Constitution Article 66 acknowledges the right to live free from public and private violence and declares that "the state shall adopt the measures needed to prevent, eliminate, and punish all forms of violence, especially violence against women, children and adolescents," services can be found in articles 35 and 78, that refer to specialized services, restitution, compensation, rehabilitation, and victim assistance. Never less, it points out how violence against women and the access to good services for women remains a problem<sup>2</sup>.

Furthermore, a case study looks at the implementation of some of the CEDAW recommendations through public policy in "San Isidro" a rural city in Ecuador. With the knowledge that every public policy conceals a theory of social change. And that there is a cause-effect relationship in the provisions that govern and underpin public action. This normative causality is identified through the objectives, contents, and instruments of action that the government authority is equipped to generate, from their actions, the effects or impacts on the social fabric. Taking into account that Ecuador has made many legislative advances but remains stuck in a process of stagnation about reproductive rights. The legal frameworks do not incorporate advances concerning laws that turn out to be retrograde and patriarchal to our century, such as the articles referring to abortion. Furthermore, the researcher has chosen this city because it represents most of the rural areas characterized by unequal and conservative gender relations and where they are made visible mostly by the practices of a patriarchal society with a population of Montubio and Indigenous women. Where violence against women persists in this space that responds, among other factors, to cultural patterns of behavior sexist, and that tends to naturalize other forms of violence beyond physical and sexual assault. Surveys and analysis of local legislation revealed the omission of women's rights and the protections against violence due to a clear lack of knowledge by local legislators and authorities. The public servant interviewed did not have any knowledge of CEDAW but knew central government implementation to end violence against women which are recommendations from the CEDAW or Belém Committee. The study also revealed that due to cultural patterns one of the causes of the persistence of violence and discrimination against women is that the population is little prepared and informed about the phenomenon, many women do not recognize when they are mistreated, and some acts of violence have become naturalized practices and there are many forms of violence that they do not recognize as such. Therefore, the study concludes to highlight that in rural areas the lack of knowledge both legislators and populations implement the recommendations unevenly depending on the location of the population. This is why the

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<sup>2</sup> Sabina, C. and Figueroa, D.P. (2019). 'Hay que tener suerte': Gender-based Violence Service Provision in Quito, Ecuador. *Health and human rights*, [online] 21(2), pp.295–307. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6927372/#r10> [Accessed 15 Jun. 2024].

main recommendation of the study is to implement media campaigns on women's rights and courses for its legislators and authorities<sup>3</sup>.

Moving on, Rural Indigenous and Afro-Ecuadorian women in Ecuador encounter significant issues of discrimination and inequality. There are no initiatives or measures by the central government to understand the structural barriers that oppress them and restrict their access to health services, social security, and protection and prevention systems against violence. Frequently, there are no budgets or monitoring measures to meet obligations required for the development of policies with a differentiated and intersectionality-sensitive approach. Therefore, as a result Indigenous women disproportionately suffer from abandonment by the state and are the last to access social services and projects. Therefore, Indigenous women are disproportionately affected by state neglect and are the last to benefit from social services and projects. Also, the study points out that Indigenous women and girls continue to struggle with accessing safe and legal abortions there is a severe lack of information on the specific barriers they face due to their cultural context and the absence of intersectional approaches in health services leaving them vulnerable to criminalization for their actions<sup>4</sup>.

## **I. Chapter One - Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)**

### *A. The Convention*

The Convention on the Elimination of all Forms of Discrimination against Women adopted in 1979, defines the meaning of discrimination against women and establishes legal obligations to state parties to the Convention. It is often described as an international bill of women's rights. Furthermore, the Convention covers discrimination in all fields including economic, political cultural, social, or family life. It sets out to achieve equality between men and women. The Convention is assembled by 30 Articles and it establishes a Committee on the Elimination of Discrimination against Women. The Committee is composed of 23 independent experts from around the world who are responsible for monitoring the implementation of the Convention. The implementation of the Convention provides two procedures, firstly the reporting procedure under Article 18 of the Convention indicates that states must submit a report on the implementation of the contents found in the convention. States must indicate in the reports the measures they have implemented to abide by the provisions enshrined in the Convention. Later on, these reports are discussed between the Committee and the state party representatives. The

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<sup>3</sup> Vera, L. (2017). 'Políticas públicas ecuatorianas ante las recomendaciones de la CEDAW. Estudio de caso en la parroquia rural San Isidro, provincia Manabí en el período del 2012 al 2015', *Revista electronica cooperación universidad sociedad*.

<sup>4</sup> Surkuna. (2022). *Aportes para el desarrollo de una recomendación en materia de derechos de la mujer indígenas, por parte del comité CEDAW*.

second one is an inter-state procedure allowing two or more states to refer disputes on the interpretation and implementation of the Convention, this mechanism has never been used<sup>5</sup>.

Furthermore, there is an Optional Protocol that provides implementation procedures which are the individual communications procedure and the inquiry procedure. The Optional Protocol includes 21 Articles and came into force in 2002. Moreover, the Committee also formulates general recommendations which are suggestions and clarifications directed to the states according to certain articles or themes<sup>6</sup>. The Convention is the only international mechanism that reaffirms the reproductive rights of women and targets tradition and culture as push factors in setting gender roles and family interactions. It affirms women's rights to acquire, change, or retain their nationality as well as the one of their children, additionally, state parties commit to taking the appropriate measures against all forms of trafficking and exploitation of women<sup>7</sup>.

Moreover, general recommendations made by the CEDAW Committee are authoritative statements that can be used to clarify obligations to state members of the Convention. They can also be written interpretations and updates on the human rights treaty that would serve as a way to clarify the meaning of a specific provision or highlight a thematic issue. Therefore, an example is General Recommendation 19 on Violence Against Women of 1992. Based on a report that revealed the systemic and widespread occurrence of violence against women across all religions, classes, and cultures. Showing that violence against women was tolerated by states and communities leading to the conclusion that sexism kills women. And that these acts of violence were not random but sustained in structural relationships seeking power. This gave birth to General Recommendation 19 which is a detailed review of violence against women within the human rights framework. It identifies all acts of gender-based violence as a form of discrimination and is a political and comprehensively defined targeting of the root causes within the inequality framework. The recommendation obliges states to take all the appropriate measures to end violence against women. Also, no matter where it occurs or who the

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<sup>5</sup>Inter-Parliamentary Union. (2003). *UNITED NATIONS INTER-PARLIAMENTARY UNION the Convention on the Elimination of All Forms of Discrimination against Women and Its Optional Protocol Handbook for Parliamentarians.*, pp. 8–12.

Retrieved April 9, 2024,

from<[https://www.un.org/womenwatch/daw/public/handbook\\_parliamentarians\\_cedaw\\_en.pdf](https://www.un.org/womenwatch/daw/public/handbook_parliamentarians_cedaw_en.pdf)>

<sup>6</sup>United Nations Human Rights Office of the High Commissioner, 'Introduction to the Committee' (OHCHR2024) <<https://www.ohchr.org/en/treaty-bodies/cedaw/introduction-committee>> accessed 10 April 2024.

<sup>7</sup>UN Women, 'Convention on the Elimination of All Forms of Discrimination against Women' (Un.org2024) <<https://www.un.org/womenwatch/daw/cedaw/>> accessed 10 April 2024.



perpetrators are states must prevent, investigate, punish, and provide adequate reparations for all acts of gender-based violence<sup>8</sup>.

## *B. Case study - Ecuador*

### Context:

Ecuador became a signature party of the CEDAW Convention on 17 July 1980 and ratified the Convention on 9 November 1981. Ecuador did not make any reservations or declaration to the Convention at the time of ratification. Furthermore, it signed the Optional Protocol 5 of February 2002<sup>9</sup>. Ecuador, located in South America is distinguished by its intercultural population of 14.5 million people where 50.4% are women. It is categorized as a middle-income country according to the Human Development Index. Ecuador faces challenges in economic, cultural, and social contexts. Additionally, it has a solid legal framework that enforces the application and validity of women's rights based on two pillars the constitution that addresses gender equality and the CEDAW convention<sup>10</sup>. The first report submitted by Ecuador to the CEDAW Committee was in 1986 from then on, the Committee has called for recommendations in the different areas covered by the Convention. The following section will review the recommendations made by the Committee and the state's response over time.

### Part 1 - Articles 1 to 6 of the Convention

This section will cover articles 1 to 6 regarding measures for the progress of women in society with the reform of constitutional, legislative, administrative, and temporary measures. Including modification of social and cultural patterns as well as suppression of women trafficking and prostitution. The Committee has divided its recommendations for this section into National Machinery for Women, Temporary Measures, the Principle of Equality, Stereotypes and Harmful Practices, Violence Against Women and Trafficking, Sexual Exploitation, and Prostitution.

For starters, in regards to **National Machinery for Women**, during Ecuador participation in the second and third cycles of review in 1992, the Committee called for fundamental legal reform to eliminate discrimination against women and it recommended the state strengthen the

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<sup>8</sup> Meegan, J. (2016a). 'General Recommendations'. *Tackling Violence against Women*. Retrieved June 19, 2024, from <[https://blogs.lse.ac.uk/vaw/int/cedaw/general-recommendations/#:~:text=Under%20Article%2021%20of%20CEDAW,report%20obligations%20\(e.g.%20requiring%20information\)](https://blogs.lse.ac.uk/vaw/int/cedaw/general-recommendations/#:~:text=Under%20Article%2021%20of%20CEDAW,report%20obligations%20(e.g.%20requiring%20information)>

<sup>9</sup>'United Nations Human Rights Treaty Bodies' (*Ohchr.org*) <[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en)> accessed 29 March 2024.

<sup>10</sup> 'Ecuador' (*UN Women – Americas and the Caribbean2015*) <<https://lac.unwomen.org/en/donde-estamos/ecuador>> accessed 20 April 2024.

National Agency for Women in the political-administrative and financial terms<sup>11</sup>. In response to these recommendations, the state was commended in the following cycle in 2003 for the proclamation of the state constitution that enshrined the protection and promotion of women's rights as well as the adoption of new laws aimed at achieving equality. On the other hand, for this same cycle, the Committee urged the state to repeal the remaining discriminatory provisions found in criminal, civil, and family law<sup>12</sup>. In the following review in 2008, the Committee recommended that the recently made Council for Equality be integrated into the government structure and given the appropriate legal authority with specific legislation mainstream gender and women's rights in all policies and structures of the state party<sup>13</sup>. In response to this recommendation Ecuador in 2015 created a bill that became an organic act of the National Councils for Equality published in 2014. As well as the reform of the Organic Criminal Code that criminalizes femicide and crimes committed because of gender. Also, the Public Service Act ensures the appointment of men and women as public servants<sup>14</sup>. Furthermore, during the 2008 cycle, the Committee recommended the Equal Opportunity Act be provided with the necessary legal and political basis. The state responded in the 2015 cycle that the institutional council is undergoing changes and that the Constitution empowers the National Council for Equality to draft, mainstream, observe, and monitor policies. In this same cycle, the Committee recommends strengthening the authority of this council and that it implements accountability mechanisms. Moreover, for the cycle in 2021, the Committee points out that the budget allocated for the implementation of gender equality policies was reduced by 25% and therefore, it recommends strengthen the authority and mandate of the National Council for Gender Equality and also ensuring that national and local authorities mainstream a gender perspective into their work in a coordinated manner. As well as incurring systemic participation of women's organizations in the National Council for Gender Equality and decision-making processes for the advancement of women at the national and local level<sup>15</sup>

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<sup>11</sup> CEDAW Committee . (1994). *Concluding observations*. *UN Treaty Body Database*, pp. 100–1. Retrieved April 20, 2024, from

<[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en)>

<sup>12</sup> CEDAW Committee. (2003). *Report of the Committee on the Elimination of Discrimination against Women*. *UN Treaty Body Database*, p. 126. Retrieved April 22, 2024, from

<[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=A%2F58%2F38%28SUPP%29&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=A%2F58%2F38%28SUPP%29&Lang=en)>

<sup>13</sup> CEDAW Committee. (2008). *Concluding observations of the Committee on the Elimination of Discrimination against Women: Ecuador*. *UN Treaty Body Database*, p. 2. Retrieved April 25, 2024, from

<[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en)>

<sup>14</sup> Committee on the Elimination of Discrimination against Women. (2015). *Convention on the Elimination of All Forms of Discrimination against Women*. *UN Treaty Body Database*, p. 2. Retrieved April 11, 2024, from

<[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FECU%2FCO%2F8-9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FECU%2FCO%2F8-9&Lang=en)>

<sup>15</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 4 - 5

Turning to the next category **temporary special measures**, the Committee recommends during the 2003 cycle Ecuador should adopt strategies to increase the number of women taking part in decision-making positions at all state levels with the help of temporary special measures<sup>16</sup>. Accordingly, Ecuador responded in the next cycle in 2008 to implementing the Quota Act which requires a minimum female participation of 30% for candidates in a general election and 20% for women employed in the administration of justice and as candidates for public office. The response to this by the Committee is that in practice this requirement falls short of the required level and to communicate what is being done to overcome the obstacles for the proper implementation of the Quota Acts. Furthermore, in the next cycle 2015, with no advancement in this recommendation, the Committee calls to remind that there has been no answer to this recommendation from the last cycle and recommends its application with clear time frames and targets to accelerate gender equality<sup>17</sup>. For the following cycle in 2021, the Committee congratulates the state on the Democracy Code with provisional measures but calls on the state to comply with the special measures in the Democracy Code stressing government seat allocation and diversity of the composition of lists with 50% females for elections in 2025<sup>18</sup>.

On to the next category, is the **Principle of Equality, Stereotypes, and Harmful Practices**. This section is among the first in Ecuador to receive recommendations. During its participation in the first cycle in 1986 the Committee expressed its concern about the prejudice and traditional views of the role of women in society. It recommended a mass media campaign to the state to promote a change in the image of traditional values<sup>19</sup>. This recommendation was implemented in the 2008 cycle with journalist training and sensibilization workshops in 2007 in content with the adoption of the Organic Act on Health approved by the National Congress all within the implementation of the Plan on Equal Opportunities 2005 - 2009<sup>20</sup>. Furthermore, in the cycle of 2003, the recommendations received in this category were for the state to develop policies and proper implementation of programs for women and men aimed at eliminating stereotypes associated with the traditional roles within family, employment, politics, family, and society<sup>21</sup>. The response to this recommendation in 2008 by the state was that the National Council for Women is working on four lines of action which are the integration of gender perspective in the New Culture Act, Generation of knowledge, investigation, and publications concerning the topics of gender and culture, gender and multiculturalism, gender and communication, gender mainstream development and a plan include media watch aimed at changing sociocultural gender patterns<sup>22</sup>. For the cycle in 2015, the recommendation of the Committee was to develop a comprehensive strategy targeting the population to overcome the patriarchal and gender-based stereotypical attitudes and women's

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<sup>16</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 129

<sup>17</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 6

<sup>18</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 5

<sup>19</sup> CEDAW Committee. (1986). *Concluding observations*. pp. 31

<sup>20</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 2

<sup>21</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 129

<sup>22</sup> Committee on the Elimination of Discrimination against Women. (2008). *Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports.*, p. 16.

roles in the family and society, with a specific focus on marginalized women groups. It will also strengthen the role of the Council on Regulations and Development in charge of training people in the media to combat gender stereotypes. Moreover, it also emphasizes that the implementation of Article 176 of the Comprehensive Organic Criminal Code on discrimination based on gender identity and the legislation prohibiting practices such as de-homosexualization be implemented to establish mechanisms and monitor<sup>23</sup>. Furthermore, in response during the cycle of 2021, the state responded with new legislation that had been adopted under the previous recommendations, like the National Equality Agenda for Women and Lesbian, Gay, Bisexual, Transgender (LGBTI) and Intersex for 2018-2021. They also had an LGBT Inter-institutional round table in 2018, and in 2019, 26 clinics were performing “sexual reorientation of de-homosexualization therapies” as well as proceedings being initiated at the office of the Attorney General against the alleged perpetrators. In response during this cycle, the recommendation of the Committee was to strengthen efforts to eliminate patriarchal attitudes and strictly entrance Article 176 of the Comprehensive Organic Criminal Code on discrimination based on gender identity and legislation that prohibits sexual reorientation or de-homosexualization as well as to ensure perpetrators are prosecuted and convicted. Victims have access to reparations including shelters and support services<sup>24</sup>.

The following category designed by the Committee is **Violence Against Women**, the first recommendation on this subject was made in 1992 with the Committee highlighting that the Government should pay particular attention to preventing and punishing violence against women<sup>25</sup>. In response to violence against women in the cycle of 2003, the Committee welcomes the efforts of Ecuador with the enactment of the Law to Combat Violence Against Women and Family but it notes with concern the absence of regulations for the implementation of the law and the persistent violence against women in the country. The Committee also points out with concern that in the Penal Code violence against women is not considered a serious offense but a minor one. Therefore, it urges the state to implement the law and to take into account the general recommendation of Committee 19 regarding violence against women<sup>26</sup>. The response of Ecuador in the following cycle in 2008 is that the Ministry of Interior Directorate for Gender produced a project to strengthen the gender agenda and a plan for emergency handling of sexual offenses by authorities this is being carried out jointly with the Ecuadorian Center for promotion of the advancement of women since May 2007. To this, the Committee responds that it urges the state to give priority to the design and implementation of a comprehensive strategy with the appropriate resources. As well as the importance of making sure the legislation to combat violence against women is being enforced. It further recommends that domestic violence be included in the Penal Code and that corporal punishment of children is prohibited. The Committee also recommends the state comply with the Belém do Pará Convention and use its indicators to better address violence against women in the country<sup>27</sup>.

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<sup>23</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 129

<sup>24</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 6

<sup>25</sup> CEDAW Committee. (1992). *Concluding observations*. pp. 100

<sup>26</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 127 - 128

<sup>27</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 3

The response of Ecuador to its advancements in 2015 is the implementation of rules governing the operation of judicial units to address violence against women and in the family in several provinces. Also, the judicial council established 30 judicial units specialized in violence against women in 24 cantons located in 19 provinces out of the 24 provinces. These special units are run by 80 judges who are specialized and trained on comprehensive approaches to deal with violence against women and their families. Furthermore, the Ministry of Public Health developed standardized protocols for the investigation of violence against women.

Furthermore, the Committee's response, to these advancements during the review of 2015, welcomes the efforts of strengthening the judicial branch at local levels. Still, it is concerned with the decision to suspend the National Plan for the Eradication of Violence against Women in the institutional reform. It urged the state to expedite the adoption of a comprehensive national plan to respond to the elimination of violence against women. It also called upon the state to establish a system to systematically monitor cases of violence against women and training of judges, police, and other conduct enforcing officers on the equality of women<sup>28</sup>. Ecuador responded to the following cycle in 2021 with the adoption of the Comprehensive Organic Act to Prevent and Eradicate Violence against Women aimed at preventing and eliminating gender-based violence. As well as Executive Order No. 696 that established a grant for children and adolescents up to 18 years who are orphaned as victims of femicide of their mothers and are living in poverty as of 2019<sup>29</sup>. The follow-up recommendations of the Committee during the 2019 cycle where, that the state should ensure the effective implementation of the Comprehensive Organic Act to Prevent and Eradicate Violence and that articles 141 and 142 of the Criminal Code be provided the adequate resources to ensure a systemic recurrent training of judges, prosecutor, police officer, and other law enforcement officers. It also stressed the importance of awareness raising through media campaigns and education. The Committee also highlighted the importance of shelter availability and services to support victims of violence with properly trained staff. It called upon to state to better enforce the Labor Code to Prevent Workplace Harassment and other legislation to ensure victims have access to reparations mechanisms<sup>30</sup>

The following category covers Article 6 concerning **trafficking, sexual exploitation, and prostitution**. During the first cycle in 1986, the Committee already asked the Ecuadorian state what was benign done regarding prostitution and for a clarification on the law regarding rape<sup>31</sup>. The answer of the state in the following cycle in 1992 was that rehabilitation programs had been adopted and mechanisms to provide information on the prevention and health care of prostitutes<sup>32</sup>. In the following cycle of 2003, the Committee recommended that the Penal Code should severely penalize the offenses of sexual exploitation towards children and adolescents, and appropriate measures should be taken to protect and rehabilitate the victims. The

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<sup>28</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 7-8

<sup>29</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 6

<sup>30</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 7

<sup>31</sup> CEDAW Committee. (1986). *Concluding observations*. pp. 31

<sup>32</sup> CEDAW Committee. (1992). *Concluding observations*. pp. 98

Committee also further recommended the penalization of women trafficking particularly in the sex industry<sup>33</sup>. In response to the cycle of 2008, Ecuador introduced and implemented the National Plan of Action against Kidnapping, illegal trafficking of migrants, sexual exploitation, child pornography, and corruption of children. A further recommendation during this cycle by the Committee was that the state should strengthen the protection against discrimination and violence against women and girls wishing to leave prostitution as well as victims of trafficking, therefore there should be awareness-raising programs and research should be done to reach the root causes of trafficking. Not to mention providing women with alternative means of livelihood<sup>34</sup>. Moreover, the response of Ecuador to the 2015 cycle review was to prevent the trafficking of persons the creation of the interagency tasked in this area had used its operational prevention platform to carry out training courses for government officials working in this field such as policemen and prosecutors, also sensitization citizens through social medial and information fairs, billboards in the airport and the bilateral agreements with Peru and Colombia to prevent and investigate this type of offenses. Also, the Ministry of Tourism is committed to preventing the sexual exploitation of children and adolescents by regulating tourist activities. Furthermore, the international Co-responsibility Objectives 2013-2017 National Equality and Human Mobility Agenda established the policy of preventing and punishing smuggling practices and the reparations to the victims of these crimes. Furthermore, the Ombudsperson had conducted surveys of cases involving people engaging in human mobility. The recommendation of the Committee for this cycle in 2015 was to increase the efforts to implement the National Plan to Combat Trafficking of persons and the National Agenda on Equality for Human Mobility and the need for monitoring, data collection, shelter funding and provision for counseling and psychological services for victims<sup>35</sup>.

The response of Ecuador in 2021, to the recommendations was that they had adopted an Action Plan to Combat the Trafficking of Persons 2019-2030. Also, the implementation of the Mobility Act which strengthens the inter-agency coordination in the areas of prevention, investigation, and punishment of human trafficking<sup>36</sup>. The recommendations for this cycle from the Committee where to continue with its efforts in combating human trafficking as well as to allocate preventing trafficking measures, adequate financial and technical resources for the Action Plan 2019-2030. Furthermore, to address the root causes of trafficking by enhancing educational and economic opportunities for women to reduce vulnerability for them to be exploited as well as funding shelters and rehabilitation as well as reintegration services for victims<sup>37</sup>.

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<sup>33</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 127

<sup>34</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 3

<sup>35</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 8-9

<sup>36</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 7

<sup>37</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 8

## Part 2 - Articles 7 to 9 of the Convention

This section will cover articles 7 to 9 regarding measures for the **progress of women in the area of state responsibility to guarantee the protection of women's rights in public and political life**. The recommendations of this section are divided between participation in public life and poverty and empowerment.

In the area of **participation in public life**, the first recommendation made during the 1992 cycle review was that the government should consider bringing together women active in non-governmental organizations, political parties, academic women, and grass-roots movements to join a coherent national effort to deal with the critical situation of women in the country and reach possible solutions which would depend on women's solidarity and determination to bring change. Ecuador's response to this recommendation in 2003 was the establishment of the National Council for Women in 1997 as the lead agency for public policy aimed at the inclusion of gender perspective in the public sector agencies where the board included representatives of civil society<sup>38</sup>. The following recommendation made was in 2008, when the Committee asked the state to ensure the consistent application of legislation aimed at ensuring the participation of women in public life and to take measures in this direction taking into account special attention to Indigenous and Afro-Ecuadorian women, it also urged the use of special temporary measures<sup>39</sup>. The response of the state in 2015 was that regulations regarding registration and qualification of candidates for election by the people provide multi-person lists as a temporary measure to include women in the decision-making process of the state. The Committee in this cycle recommended the state increase the participation of women in single-person positions and political bodies, especially at the local level. Also to implement temporary measures to increase the participation of Indigenous and Afro-Ecuadorian women in public life including statutory quotas and providing specific training on how to conduct public affairs<sup>40</sup>. The response to this recommendation comes in 2021 with the reform to the Democracy Code in 2020, where 50% of candidates on the electoral list of political parties were required to be women by the 2025 elections<sup>41</sup>. The recommendations made by the Committee during this cycle were to adopt strategies and programs for gender-based violence and to prevent harassment that women politicians and candidates experience online and in office. To require all political parties to develop policies that promote gender equality. Highly suggesting the adoption of temporary measures including statutory quotas for equal representation as well as providing female candidates capacity building for leadership skills paying special attention to underrepresented groups of women such as lesbians, bisexuals, transgender, and indigenous women<sup>42</sup>.

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<sup>38</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 125

<sup>39</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 5

<sup>40</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 9

<sup>41</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 8

<sup>42</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 9

Furthermore, in the following category regarding **poverty and empowerment**, the Ecuadorian state received recommendations in 2003 from the Committee urging them to develop a general poverty eradication policy that incorporated a gender perspective with a focus on rural and Indigenous women<sup>43</sup>. For the cycle of 2008, the Committee urged the state party to ensure social and economic policies take into account the situation of women. And to strengthen initiatives such as the “Promujeres Fund” keeping in mind the situations of different groups of women<sup>44</sup>. In 2015 the Committee recommended the state adopt a temporary special measure to increase the number of women who are beneficiaries of the microcredits and loans granted under the development funds<sup>45</sup>. During the 2021, review the Committee recommended Ecuador establish a legal and operational framework to increase the participation of women in entrepreneurship and to assist women in finding suitable markets and obtaining a fair price for their products. As well as loan schemes to help female entrepreneurs grow and be self-employed.

### Part 3- Articles 10 to 14 of the Convention

The following section will cover articles 10 to 14 regarding measures in the areas of education, health, employment, social, economic, and cultural life.

In the area of **education**, the Committee made its first recommendation in the 1986 cycle, where it expressed its concern about the activities taught at school that perpetuated the traditional view on women's role<sup>46</sup>. The next recommendation was made in 2008 when the Committee asked to state to commit to eradicating illiteracy, particularly among rural women as well as to address the root cause of school dropouts and gender discrimination with stereotypical gender role promotion. It further recommended to promote higher education through scholarship funds<sup>47</sup>. The Ecuadorian government responded with the project implementation consisting of three educational schemes under the Literacy and Cultural Perspective project. This allows for greater flexibility in both learning and teaching which has already benefited women in ethnic groups. This project adopts a gender perspective and allows participants to continue their education. A further recommendation by the Committee in 2008 was the state should strengthen its efforts to provide an education environment that is free from discrimination and violence including through awareness raising and training of school officials. As well as establishing reporting accountability mechanisms to ensure perpetrators are prosecuted<sup>48</sup>. The response by the Ecuadorian state was in 2015 with the implementation of the National Plan to Eradicate Sex Crimes in Schools adopted in 2011 in an action to undertake the entire educational community. This agreement made it possible to punish

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<sup>43</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 127

<sup>44</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 2

<sup>45</sup> Committee on the Elimination of Discrimination against Women . (2015b). *Concluding observations on the combined eighth and ninth periodic reports of Ecuador.*, p. 12.

<sup>46</sup> CEDAW Committee. (1986). *Concluding observations*. pp. 31

<sup>47</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 4

<sup>48</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 4



teachers and officials denounced under criminal and administrative law. Furthermore, in this cycle, the Committee recommended the state design and implement a nationwide campaign for the elimination of sexual violence against girls and women and for them to have access to effective remedies, complaint mechanisms, and reproductive rights. Also to establish multidisciplinary working groups in schools to prevent cases of sexual violence and harassment, as well as provide mandatory training to judges, prosecutor teachers, and police officers on prompt proper, and effective investigation, prosecution, and conviction of perpetrators of sexual violence in schools <sup>49</sup>.

The Ecuadorian representatives responded that it had been working to eliminate discrimination against women and gender-based stereotyping in the education system through awareness campaigns targeting young people including girls and young women on harassment in educational settings. The Ministry of Education updated its protocol in January 2020 and issued a handbook for district dispute settlement boards and officials in handling cases of sexual violence in the education system the user manual was also approved as mandatory registration of cases of sexual violence in the education sector at all levels, this effort where welcomed by the Committee <sup>50</sup>. Another recommendation in the 2015 cycle was to strengthen the quality of education in rural areas, provide free transport for women and girls in rural and remote areas, and ensure Indigenous women receive instructions in their languages <sup>51</sup>. During the 2021 cycle, the Committee recalled its previous recommendation made in 2015 about strengthening the educational infrastructure in Indigenous communities in rural areas and providing free transportation to schools. A further recommendation was to continue to encourage women and girls to choose non-traditional fields of study as career paths such as the sciences. Also, to encourage pregnant girls to continue their education and facilitate their reintegration into the education of young mothers<sup>52</sup>.

Moving on, in the area of **employment** Ecuador received its first recommendations during the 1986 review when the Committee noted many provisions of the labor code and person were discriminatory and in need of reform<sup>53</sup>. Further into the recommendations of 2003 with the recent ratification of the International Labor Organization (ILO), there were still concerns with the prohibition of discrimination in employment, the prohibition of child labor, the equal pay for women and men it therefore recommended the adoption of a gender-sensitive employment plan and labor code and the prohibition of child labor<sup>54</sup>. The response of the state was in 2008 the Labor Code Reform Act done with the technical assistance of the ILO. Furthermore, in the 2008 cycle, the Committee called upon the state to enhance women's access to employment in the formal sector by increasing opportunities for education and training. Also, the Committee recommended the adoption of measures to narrow the wage gap between men and women

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<sup>49</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 9 -10

<sup>50</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 9

<sup>51</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 10

<sup>52</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 10- 11

<sup>53</sup> CEDAW Committee. (1986). *Concluding observations*. pp. 31

<sup>54</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 129

suggesting job evaluation schemes in the public sector<sup>55</sup>. Further recommendations from the Committee included 2015 the consultation with the private sector to adopt a national plan to increase the coverage of social security schemes for women who work in the informal sector. Also, the work conditions of women domestic workers should be monitored, including regular workplace inspections and the implementation of co-parenting programs that reinforce joint parental responsibilities<sup>56</sup>. In the recommendations done in 2021, the Committee recalls its previous recommendations about co-parenting schemes now known as the “violet economy”. It asked for further reports on the implementation of breastfeeding facilities in the workspace as part of the proposed national care system and on the further implementation of the Workers Convention into the national legislation. Moreover, to look into the exploitative labor conditions of children and adolescents in domestic work without working permits. Also, it called upon the state to eliminate occupational segregation including towards migrant women and women of ethnic minorities. And to strictly enforce the principle of equal pay to narrow the gender gap as well as conducting regular labor inspections<sup>57</sup>.

Moving to the **health sector**, the first observation from the Committee to the state was regarding information on family planning and the access to contraceptives needed<sup>58</sup>. The next recommendation on this subject from the Committee came in 2003 with the urge for the state to strengthen healthcare programs including sexual and reproductive health as well as health care programs. And to implement the Plan for Love and Sexuality it has on plans. It also urges information for the next report on programs to limit and prevent teenage pregnancies<sup>59</sup>. The response of Ecuador was in 2008 review that it had created a National Plan for the Prevention of Teenage Pregnancy aiming to reduce pregnancy in adolescents by strengthening institutions such as health education and social welfare services and the participation of civil society including adolescents and media. It further responded that it had created a new Health System Organization Act and a National Plan on Health and Sexual Reproductive Rights and the implementation of Sexual Health for Love that aimed at promoting sex education in educational institutions at the basic and secondary level with the focus of eliminating gender-based violence and sexual offenses as well the prevention of teen pregnancy and STIS and HIV/AIDS<sup>60</sup>. The response of the Committee in this cycle was to keep strengthening measures to address teenage pregnancy with special attention to Indigenous and Afro-Ecuadorian women and girls. It also urged the state to look into the growing issue of unsafe abortions and their impact on women's health particularly regarding maternal mortality. It further recommended that the state allocate resources to implement the Free Maternity Act fully<sup>61</sup>. The response to this recommendation in 2015, the Ecuadorian state responded that since 2014 reducing maternal mortality at the first

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<sup>55</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 4

<sup>56</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 11

<sup>57</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 11-12

<sup>58</sup> CEDAW Committee. (1986). *Concluding observations*. pp. 31

<sup>59</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 128

<sup>60</sup> Committee on the Elimination of Discrimination against Women. (2008). *Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports.*, p. 15.

<sup>61</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 5

level in healthcare units has been the priority. Furthermore, Comprehensive Health Care was implemented as the maternal mortality strategy to ensure vital medicines are available.

Another recommendation from the 2008 cycle was the assessment of HIV/AIDs in Indigenous and Afro-Ecuadorian women as well as migrants. It was urging the state to strengthen the preventive approach for the disease as well as for cervical, uterine, and breast cancer <sup>62</sup>. The response from the state to this recommendation in the 2015 cycle was they had implemented a flagship project to lower adolescent pregnancy and mortality by providing access to education on sexuality and better equipping the reproductive health services offered. The Ministry of Public Health was working to ensure that access to healthcare services had a gender-comprehensive approach. Also in 2013, it issued regulations for access to contraceptive methods, so health teams provided full information regarding contraceptive methods, family planning, contraception, emergency oral pills, and prevention of sexually transmitted diseases as is the right of the citizen to have this information and access to these methods. Furthermore, treatment is provided free of charge to all individuals living with HIV/AIDS. Pregnant women with the disease were monitored and provided with breast milk substitution formulas for babies up to 18 months of age looking to prevent mother-to-child transmission. Moreover, the final recommendation of the Committee in the 2015 cycle was for the state to decriminalize abortion in cases of rape, incest, and severe fetal impairment in line with the Committee's general recognition regarding women's health. Also, to ensure all women have access to affordable modern contraceptive methods and age-appropriate information and education on sexual and reproductive health, and to urgently implement the clinical practice of therapeutic abortion and train all health actors so that therapeutic abortions are implemented equally throughout the country<sup>63</sup>. The state responded in 2021, with the Constitution being modified to decriminalize abortion in the case of rape<sup>64</sup>. The recommendation of the Committee for the 2021 cycle was, to legalize abortion in cases of threat to life, incest, or severe fetal impairment. As well as, to decriminalize it in all other cases and provide women with access to safe abortion and post-abortion services. In particular in cases of complications resulting from unsafe abortions. Also, to intensify inclusive awareness-raising programs ensuring women and girls have confidential access to modern forms of contraceptives and information on sexual and reproductive health. And to ensure that girls with insufficient means have access as well to free health care including sexual and reproductive services <sup>65</sup>.

Moving on, the following category is **vulnerable groups** of women and minorities, the first recommendation comes in the 1992 review with the Committee calling for efforts to guarantee basic services for the survival of women in the most vulnerable categories. And the urgent need to develop and promote programs <sup>66</sup>. The Ecuadorian state responded that literacy campaigns

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<sup>62</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 5

<sup>63</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 12

<sup>64</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 12

<sup>65</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 12

<sup>66</sup> CEDAW Committee. (1992). *Concluding observations*. pp. 100

had been implemented, training rural women to keep young girls from dropping out of school<sup>67</sup>. Further on in the review of 2003, the Committee expressed concern to the persistent problem of illiteracy with a special focus on rural areas and the high rate of school dropouts in the female Indigenous population. Further efforts should be made for rural women to stay in school with sustained implementation of programs and plans<sup>68</sup>. The state's response in 2008 was the implementation of national gender-focused campaigns for adult literacy and basic education<sup>69</sup>. In the 2008 review, the Committee commended the state for the implementation of registering Indigenous women and providing identity cards to all women including the high percentage of rural women who were not registered and did not have one<sup>70</sup>. For the 2015 review, the Committee recommended the state speed up the implementation of the “SigTierras” program to register the land tenure and property of rural women and adopt a national program aimed at regularizing the tenure which allows the effective participation by rural women organizations in the process<sup>71</sup>. The next recommendation from the Committee to the state regarding Indigenous rural women was in 2021 calling for the integration of a gender perspective into other agricultural policies projects and programs so that the needs of Montubio and rural women are addressed and further ensure that they can meaningfully participate in development and implementation of agricultural policy with regards to land use. As well as the micro credits at a low rate, income-generating opportunities should be expanded to combat poverty and promote the advancement of rural women<sup>72</sup>. As for Afro-Ecuadorian women, the Committee expressed it required significant action to address poverty among afro-Ecuadorian and Indigenous women including access to free sexual health services<sup>73</sup> It also called upon the state on 2015 review to address the consultation process for exploitation of natural resources to rural and afro-Ecuadorian women and about their rights and interest since this tends to be the population most affected on this type of projects<sup>74</sup>.

Regarding **migrant and refugee women**, in 2003 the Committee asked the state to implement measures to protect migrant women and those who remain in Ecuador when their spouses migrate as the women living on the Ecuadorian-Colombian border<sup>75</sup>. The response of the state in 2008 was that the response they had to the rising migration flows they have developed a migration policy based on respect and the exercise of human rights and the economic, social, and cultural rights of all people. Therefore, they were developing policies to convince

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<sup>67</sup> CEDAW Committee. (1992). *Concluding observations*. pp. 99

<sup>68</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 128

<sup>69</sup> Committee on the Elimination of Discrimination against Women. (2008). *Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports.*, p. 16.

<sup>70</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 1

<sup>71</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 13

<sup>72</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 14

<sup>73</sup> CEDAW. (2008). *Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports.*, p. 30.

<sup>74</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 13

<sup>75</sup> CEDAW Committee. (2003). *Concluding observations*. pp. 127

Ecuadorians to stay in the country and also promote a multicultural environment for the incoming communities. All in all, to promote intercultural exchange and citizenship building. The Committee called upon the state on the subject in 2008 highlighting that the Ecuadorian state speaks of inclusion and protection in legislation on issues related to migrants and refugees with special attention to women but the Committee urges the state to take concrete measures to ensure their protection and integration as well as to ensure access health and other social support services. It does recognize the state efforts of the current campaign of registration and documentation of all persons in the northern border but calls upon them to accelerate the process of registration and refugee status determination<sup>76</sup>. A further recommendation in 2008 was that the Ecuadorian state should adopt concrete, targeted, and time-bound measures to improve the conditions of Indigenous and Afro-Ecuadorian women and guarantee they have access to health and education services that can fully participate in decision-making processes. The state responded in 2015 that one of the main programs they invested in was the improvement of small farm irrigation techniques, which were still being executed and widely promoted at the time. Also, participation mechanism had been implemented to enable citizens to take part in the formulation of policies such as public events, fairs, and workshops. In this cycle, the Committee recommended the state should adopt a protocol to determine refugee status in a gender-sensitive manner such as allowing refugees to choose to be interviewed by female interviews and interpreters as well as establishing mechanisms to protect them from reprisal from their communities or family and be protected from sexual and labor exploitation<sup>77</sup>. Moreover, in 2021 the Committee asked the state to ensure the process of refugee status had a gender-responsive aspect and that women and girls are addressed as priorities throughout the asylum process and to ensure they have adequate access to education and health care services regardless of their status<sup>78</sup>.

#### Part 4 - Articles 15 and 16 of the Convention

This section will look over the implementation of the recommendations made by the Committee to the state regarding equality for women under the law and in the area of **marriage and family life** which are articles 15 and 16 of the Convention.

The first request from the Committee was during the first cycle in 1986 when it requested more data regarding marriage and divorce rates and property rights to be included in the next report<sup>79</sup>. Further into the 2015 review, the Committee asked the Ecuadorian state to accelerate the repeal of the provisions in the Civil Code concerning child marriage to ensure it complies with article 16(2) of the Convention following marriage age and registration of marriage. Furthermore, it asked the state to research the economic consequences of divorce for both spouses taking into account the length of marriage and the number of children. Also, to accelerate amendments to

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<sup>76</sup> CEDAW Committee. (2008). *Concluding observations*. pp. 4

<sup>77</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 13

<sup>78</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 16

<sup>79</sup> CEDAW Committee. (1986). *Concluding observations*. pp. 31

the civil code with the view of repealing the provisions that designate the husband as the administrator of the marital property, and consider adopting measures to provide child support payments in cases where former spouses fail to pay<sup>80</sup>. Later into the review of 2021, the Committee reiterates its previous recommendations, which have not been answered or action had been taken on them since the previous review regarding expediting the amendment in the civil code where the husband is designated as administrator of the marital property and adoption of measure to provide child support payments in the cases where the father fails to do so as well as research on the consequences of divorce for men and women after the marriage. Further on, it also called upon the state to raise awareness among community and religious leaders as well as the media about the harmful effects of child and forced marriages. And to do so with the collaboration of civil society and women's organizations <sup>81</sup>.

## **II. Chapter Two- Regional Instruments for the Protection of Women's Rights**

### *A. Regional Mechanisms for Violence Against Women*

As it stands there is no global treaty to address violence against women which is an issue because violence against women has become a silent epidemic that takes the lives of millions of women around the world. In response to this public health silent crisis there can be found two regional treaties that address in a more direct and tailored way this issue, the Istanbul Convention in the case of European countries and the Belém do Pará Convention for Latin America and the Caribbean. The CEDAW Convention is an anti-discriminatory instrument for women's rights, but it does not contain specific provisions for violence against women, therefore the Committee adopted the General Recommendation 19 on Violence against Women<sup>82</sup>, from the umbrella of the CEDAW Convention known as the Women's Bill of Rights regional instruments have been developed. The following points will review the two regional mechanism for violence against women and the regional one for Latin America and the Caribbean will be developed with Ecuador's case.

### *B. Istanbul Convention*

Istanbul Convention adopted by the Council of Europe in 2011 explicitly defines violence against women as a violation of human rights and a form of discrimination against women. The Istanbul Convention was born as an instrument inspired and aligned with the CEDAW and Belém Do Pará conventions. The scope of the convention is based on a gendered understanding of violence against women and domestic violence. It provides definitions of gender-based violence, violence against women, domestic violence, and due diligence something new for legally binding instruments. Furthermore, it contains detailed provisions relating to measures of prevention, protection of the victims, and the prosecution of the perpetrators. Defining gender-based violence as violence directed against women is one further step that develops the

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<sup>80</sup> CEDAW Committee. (2015). *Concluding observations*. pp. 14

<sup>81</sup> CEDAW Committee. (2021). *Concluding observations*. pp. 16

<sup>82</sup> Šimonović, D. (2014). 'Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions on JSTOR', *Human Rights Quarterly*, 36: 10. Retrieved from Jstor.org.

CEDAW general recommendation 19 regarding violence against women. The Istanbul Convention has been praised for going ever further by defining violence against women as both a human rights violation and a form of discrimination against women. The goal set by the Convention is the condemnation of all forms of violence against women and domestic violence and to contribute to the elimination of all forms of discrimination against women<sup>83</sup>. The Convention comprises 81 articles divided into 12 chapters based on the four Ps “prevention, protection and support of victims and prosecution of offenders and integrated policies. It also has a monitoring body set up by the convention to assess the provisions being put into practice. The two bodies are the independent expert body named the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) made up of 15 members. This body publishes reports on evaluating legislative and other measures taken by states to put into effect the provisions set out in the Convention. On the other hand, the second body is a political one, which is the Committee of Parties composed of representatives from the Parties to the Istanbul Convention. Based on the reports from GREVIO the committee adopts recommendations on measures to be taken for the implementation of the GREVIO findings. It also supervises the implementation of its recommendations<sup>84</sup>.

### *C. Belém Do Pará Convention - Ecuador*

The Belém do Pará Convention is a regional treaty adopted by the Organization of American States specifically by its Inter-American Women Commission in 1994. It is the first international legally binding instrument to criminalize violence against women. The convention defines any act or behavior based on gender that leads to the death of a woman or sexual, physical, or psychological harm or suffering in the public or private sphere of a woman's life. The Convention established a monitoring mechanism in 2004 after the realization that it was not being implemented correctly by member states. Furthermore, the Convention is made up of 5 main sections with a total of 25 articles. The first chapter of the Convention defines violence against women and covers the scope of the convention. Moving on, the second chapter describes the rights that are protected. Among the protected rights are the right to enjoy a life free from violence in both the public and private spheres, the inner dignity of women and their families, equality in the participation decision-making process, and the use of public services. Later on, chapter three underlines the duties of state parties to the Convention. This includes measures to ensure, respect, and protect the enjoyment of women's rights. With the appropriate legal and administrative tools that must be developed by the states. It also points out the duties of the state to prevent, punish, and eradicate violence against women and apply the appropriate due diligence as well as the implementation of specific measures such as programs, training, and laws to all civil servants' personnel, especially police and justice department. The fourth chapter covers the mechanisms of the Convention which has two parts. The first one is the functions under the capacities of the Inter-American Court and as for States Parties the Inter-American Commission of Women (CIM) may request advisory opinions from the court

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<sup>83</sup> Šimonović, D. (2014). ‘Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions on JSTOR’, *Human Rights Quarterly*, 36: 13-15. Retrieved from Jstor.org

<sup>84</sup> ‘The Istanbul Convention. What is it, how is it structured, it’s main goals. - Europe on Track’. (2022). *Europe on Track - We are back on track with the tenth edition!*. Retrieved May 26, 2024, from <[https://www.europeontrack.org/the-istanbul-convention-what-is-it-how-is-it-structured-its-main-goals/?doing\\_wp\\_cron=1719350218.9431350231170654296875](https://www.europeontrack.org/the-istanbul-convention-what-is-it-how-is-it-structured-its-main-goals/?doing_wp_cron=1719350218.9431350231170654296875)>

regarding the interpretation of the convention. Secondly, the functions under the Inter-American system consist of the Inter-American Commission on Human Rights faculty to receive and transmit complaints of violations presented by persons groups of people, or non-governmental entities. Finally, the last chapter covers the obligations of states to report on their progress to implement what is outlined in the convention every two years<sup>85</sup>. Adding on about the monitoring mechanism created in 2004 goes by the acronym MESECVI (*metodología de evaluación multilateral sistemática y permanente*) is a systemic and permanent multiple-lateral evaluation methodology, based on exchange and technical cooperation between states parties and the (CEVI) Committee of Experts. It is based on sovereignty, non-intervention, and legal equality of states.

Furthermore, Ecuador signed the Convention on the first of October 1995, and came into force on September 15, 1995. It has participated in three multilateral evaluation rounds from 2004-2008, 2008 - 2014 and 2016- 2020<sup>86</sup>

#### *D. Evaluation of Ecuador's Implementation of the Convention*

Ecuador has participated in 3 rounds of review by the follow-up mechanism to the Belém Do Pará Convention. The review periods are from every 4 years, therefore, Ecuador has participated since the first review that consisted of a survey member states had to answer for the Committee to determine the steps to improve for each country moving forward. It has participated in the reviews of 2004-2008, 2008 - 2014 and 2016- 2020. The categories from which states are evaluated are divided into 5 categories: Legislation, National Plans, Access to justice, Statistics and information, and Diversity<sup>87</sup>.

##### Part 1 - Legislation and Regulations Articles 1,2,3,4 and 7 c.e.g

This section focuses on the legislation, regulations, or legal reforms that have contributed to preventing, sanctioning, and eradicating violence against women. With a special focus on domestic or family violence, marital rape, human trafficking, and forced prostitution.

For the first evaluation based on the regional survey, the answers from Ecuador to existing legislation in the subjects pointed out for this section the answers were the following.

- **Domestic or family violence:** Yes
- **Marital rape:** Not specifically, but it is an aggravating factor if the perpetrator is the spouse or partner.

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<sup>85</sup> Sarac, E., & Cinar, M. (2021). 'MAIN FEATURES OF THE INTER-AMERICAN CONVENTION ON VIOLENCE AGAINST WOMEN', 4–11.

<sup>86</sup> 'Ecuador - MESECVI\_EN'. (2023). *MESECVI\_EN*. Retrieved June 3, 2024, from <[https://belemdopara.org/cim\\_mesecvi/ecuador/](https://belemdopara.org/cim_mesecvi/ecuador/)>

<sup>87</sup> Organización de los Estados Americanos Comisión Interamericana De Mujeres Mecanismo De Seguimiento De la Convención de Belém do Pará. (2011). *INFORME DE SEGUIMIENTO A LAS RECOMENDACIONES DEL CEVI REALIZADAS DURANTE LA ETAPA DE EVALUACIÓN DE LA PRIMERA RONDA DE EVALUACIÓN MULTILATERAL*. Retrieved from <[https://belemdopara.org/cim\\_mesecvi/ecuador/](https://belemdopara.org/cim_mesecvi/ecuador/)>



- **Human trafficking:** Yes
- **Forced prostitution:** Yes
- **Sexual harassment:** Yes
- **Reparations for women victims of violence:** Yes
- **Mandatory programs for perpetrators:** No
- **Mandatory training for officials:** No, but it is conducted
- **Sanctions for officials:** Yes for commissioners, for others it is general prevarication.
- **Policies against femicide/feminicide:** No
- **Violation of sexual and reproductive rights:** The Organic Health Law contemplates sexual and reproductive health.
- **Violence against women deprived of liberty:** Not stated

To this, the CEVI observed that states persistently use the terms "domestic violence" and "family violence," which do not align with the convention as they do not address sexual violence, torture, trafficking, or state-tolerated violence. Therefore, it recommends States should include provisions for reparations, programs for perpetrators, mandatory training for officials, and sanctions for non-compliance with violence against women norms.<sup>88</sup>

#### a) **Penal Code and new regulations**

For the following review cycle 2008-2014 the two main recommendations concerning the incorporation of the connection into the national judicial system integrating the concept of gender-based violence following the Convention. The Committee notes that the constitution has given the treaty a constitutional hierarchy. Articles 11.4, 35, and 66.3 directly point out what is described in the Convention by establishing such as the right to equal opportunities and no discrimination, special attention priority in private and public spheres to vulnerable groups including girls, pregnant women, and women in jail. As well as protecting the integral fiscal, moral, and sexual rights of women. It has implemented into the national legislation the definition of violence against women partially found in the constitution and the law of women and family. The Ecuadorian state is working on data gathering on violence against women therefore there is no sufficient data at the present moment to determine the status of the state<sup>89</sup>. The CEVI Committee requested a legislative change regarding the Penal Code since it does not include all the concepts of what should be punished in the Convention. Therefore, there is a need for harmonization of legislation with special attention to the Penal Code. The Committee recommends the needed harmonization of criminal regulations in the areas of the classification of crimes of sexual violence including oral sexual violence and with objects. Secondly, the classification of crimes of forced prostitution following the Rome Statute. And finally the

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<sup>88</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará- Primera Etapa de Evaluación. (2011). *Ecuador* .pp. 30

<sup>89</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 2-3

classification of sexual abuse in girls and teenagers<sup>90</sup>. Furthermore, it recommends the amendment to legislation concerning crimes of sexual violence, their types, and the penalties, including rape within marriage and the cases where the victim is underage. The Committee also emphasizes the need for clear regulations that establish criminal responsibilities in cases where there is a lack of due diligence by the officials responsible for enforcing set laws to protect women and girls. Taking into account Ecuador's revision Penal Code the Committee considers it relevant to reiterate its recommendation on the criminalization of offenses such as femicide, forced sterilization, obstetric violence, and common crimes that can lead to genocide war crimes, and crimes against humanity. Such as non-consensual artificial insemination, forced prostitution, and human trafficking<sup>91</sup>.

In regards to the Penal Code and other legislation for the third-round review 2016-2020, the State of Ecuador informed about the approval of the Comprehensive Organic Law to Prevent and Eradicate Violence Against Women (LOIPEVCM) in November 2017, which came into force in February 2018. And the typification of femicide into the Penal Code in 2014. The Committee commends Ecuador for this significant progress, recognizing this law as a central framework for implementing its recommendations and ensuring women's right to a life free from violence in the country. Some of the key points in this recently approved legislation are establishing a national intersectoral system for the implementation of comprehensive actions for prevention, care, protection, and reparation, with violence being broadly defined to include symbolic and political violence. Furthermore, LOIPEVCM also includes political violence against women, aligning with the Committee's concerns and recommendations. The Committee encourages Ecuador to review the Model Law on Political Violence and consider incorporating specific regulations to address this issue. Also, legislative advances in other areas where reported include the Organic Law on Reforms to the Public Service Law and the Labor Code to Prevent Workplace Harassment (2017), the Organic Law on Human Mobility and its regulations (2017), and the Communication Law (2019) prohibiting hate speech and discriminatory content<sup>92</sup>.

## **b) Abortion**

Furthermore, for the second cycle, in the area of abortion and its decriminalization in the cases of therapeutic abortion and cases of sexual violence, incest, and fetus malformation. To which the state pointed out that the only legal reason for abortion is in case of sexual violence where the victims suffer from dementia/idiocy or risk to the mother's life. Therefore, the recommendation from the Committee is that abortion should be legalized in any case of sexual violence and the cases of therapeutic abortions. It also highlights to the state the negative impact

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<sup>90</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 4

<sup>91</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 6

<sup>92</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp. 2-4

laws condemning women for having abortions have on them not to mention the life-threatening risk of illegal abortions. The Committee emphasizes its recommendation for decriminalizing abortion, especially in the instances previously mentioned<sup>93</sup>. On the subject of abortion for the third review, Ecuador reported on discussions in the National Assembly regarding COIP reforms, including the criminalization of incest and the decriminalization of abortion in cases of rape and incest. The Committee also notes that in September 2019, the National Assembly rejected the modification to the COIP regarding the decriminalization of abortion for women victims of sexual assault and in cases of incest or non-consensual insemination. The Committee reiterates its call to Ecuador to take the necessary measures to guarantee the physical and psychological integrity of women victims of sexual violence, as well as their sexual and reproductive health and their right to life, eliminating unsafe abortion and establishing laws and public policies that allow the termination of pregnancy in certain cases<sup>94</sup>.

### c) **Harmonization and regulation of other normative**

In this regard for the second cycle, the Committee welcomes the incorporation of other forms of preventive contraceptive methods such as the oral emergency pill established in 2013. The Committee also calls upon the state that it had indicated there were no laws on mediation in cases of violence but after a review of the law regulations, Art 29 allows conciliation in cases of domestic violence. The CEVI has explicitly reiterated the need to prohibit the use of mediation, probation, conciliation, or suspension of trial in cases of violence against women and girls. Therefore, the CEVI Committee expresses its concern and reiterates the need to harmonize this regulation the what is established in the Convention<sup>95</sup>.

- **Action plan or strategy:** Has an Equal Opportunities Plan
- **Evaluation conducted / Periodic review planned?:** Yes
- **Mechanism / Body for monitoring Belém do Pará:** No
- **Information for legislators:** No
- **Legislative gender committees:** Women's, Children's, Youth, and Family Commission.

### d) **Educational Efforts, Budgetary Commitments, and State Capacities**

These categories were touched upon by the Committee on the third-round review, Ecuador reported regulations ensuring education free from violence and discrimination, including reforms to the Higher Education Law (2018) and various programs aimed at preventing gender violence and promoting human development. New Mechanisms to evaluate sexist content in

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<sup>93</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 5-6

<sup>94</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.4

<sup>95</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 7-8

media and advertising are reported, highlighting the Communication Law's self-regulation mechanisms for media content. The Committee favorably observes the "Integral Human Development Hours" program, which, according to information provided by the State, is part of the educational institutions' curriculum to achieve full personal development aimed at building a harmonious community free from violence. Ecuador reported carrying out numerous training sessions between 2016 and 2019 including introductory courses on gender and gender violence; seminars on Police Procedures Against Violence against Women and Family, and their respective updates; on Violence against Women directed at police personnel; courses on homicide investigation, evidence, assessment, and criminalistic processes; a course on "Awareness of Justice and National Police Operators on gender violence. In ministries to legislators and decision-making personnel<sup>96</sup>.

On the other hand, regarding budgetary commitments Ecuador has several normative tools, including the National Budget Law, which identifies funds allocated for women's mechanisms, specialized offices, the health sector, and the education sector; and the Organic Code of Planning and Public Finance (COPFP), which provides that the exercise of planning and public policy will incorporate gender, ethnocultural, generational, disability, and mobility approaches. The adoption of LOIPEVCM included the obligation of the state to provide resources and budget for the implementation. The Committee favorably observes the existence of a regulatory framework with provisions related to the budget, identifying funds allocated for women's mechanisms, specialized offices, the health sector, and the education sector. However, it notes that no further details have been provided on the specific budget for mechanisms dedicated to promoting and guaranteeing women's rights. Additionally, there has been no information on the evolution, whether an increase or decrease, of the funds allocated for this purpose compared to previous years<sup>97</sup>. Moving on, in the case of state capacities, Ecuador reported its state capabilities and approved several protocols during the evaluation period. Among said protocols are: Police Protocol for the detention or apprehension of people from priority attention groups and the LGBTI community; General Protocol of Action against Violence towards Children, Adolescents, Women, People with Disabilities, and Elderly Adults, Guidelines and action parameters for the prevention and care of physical, psychological, and sexual violence in public or private services regulated by the Ministry of Economic and Social Inclusion (MIES), aimed at children, adolescents, elderly adults, and people with disabilities at the national level; Instructions for Emergency Attention in Cases of Violence against Women and Domestic Violence for the 911 line, among other new protocols. The Committee welcomed these new mechanisms adopted and called upon the state to widespread and socialize these protocols<sup>98</sup>.

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<sup>96</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp. 5-6

<sup>97</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.6- 7

<sup>98</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.8

## Part 2- National Plans Articles 1,2,7, and 8 c,d

States with action plans on violence against women, evaluations of these plans, mechanisms for monitoring the Convention, and information for legislators and legislative Committees on gender were the questions Ecuador had to answer for the first review. The Committee checks on the implementation of the National Plans in the areas that impact women's lives, funding allocated to set plans, and groups of the population benefiting from them to reflect on progress made by the state according to what has been stipulated in the Convention for the second and thirds review.

- **Action plan or strategy:** Has an Equal Opportunities Plan
- **Evaluation conducted / Periodic review planned?:** Yes
- **Mechanism / Body for monitoring Belém do Pará:** No
- **Information for legislators:** No
- **Legislative gender committees:** Women's, Children's, Youth, and Family Commission<sup>99</sup>.

### **a) Multisectoral Measures and Plans**

For the second review, the Committee first recognized the progress made by the evolution of the Equal Opportunities Plan to the National Plan for Eradication of Gender-Based Violence against Women, Children, and Adolescents which was established in 2007. It is one of the fundamental tools implemented by the Ecuadorian state to advance the right to a life free from violence, including mechanisms for inter-institutional coordination with all levels of the State. The Committee commends the state with this program with the transformation of socio-cultural patterns, an integral protection system, access to justice, a registration system, and institutional development. Its execution has been carried out by five ministries that have incorporated a transversal policy and it does not have a fixed duration period. Furthermore, the Committee pointed out it did not receive information on the requested indicators to determine the evolution of the program. It wished to highlight the importance of monitoring the evolution of the implementation of plans such as the one mentioned before. It also wanted to congratulate the state on expanding the first reception rooms for women in rural and urban contexts victims of gender-based violence in 15 public hospitals<sup>100</sup>.

Moving on, to the third review period Ecuador reported on the new national plan for the Prevention and Eradication of Violence against Women, Children, and Adolescents 2013-2017 (whose validity was extended to 2018), which was, at the time of the report, under evaluation to construct the subsequent Plan 2019-2021, which the LOIPEVCM should govern. At the time of the evaluation, there was no information available on the results of the previous plan or the Plan 2019-2021. Moreover, the Committee was informed about the "Agreement for Non-

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<sup>99</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará- Primera Etapa de Evaluación. (2011). *Ecuador* .pp.35

<sup>100</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 9-10

Violence" (2019) in which the Secretariat of Rights has established the National Plan for Integral Response in cases of violence against women, girls, boys, and adolescents. The Integral Response Plan provides for early action mechanisms to immediately disrupt the dynamics of the cycle of violence from the first moment of the emergency report, and indirect follow-up for the protection of the right to life and personal integrity of victims of violence against women or family members. Furthermore, it reported on other plans in different sectors such as the National Plan for Sexual and Reproductive Health, the Investment Project for the Prevention of Adolescent Pregnancy (2019-2022), the National Program for the Prevention of Violence in the Education System, the Investment Project for the Prevention of Pregnancy in Girls and Adolescents (2020-2022) aimed at fulfilling the Policy for the Prevention of Pregnancy in Girls and Adolescents (2018-2025), the National Program "Girls in ICT, My Data is Me" (2018-2021) to promote safe internet use among girls and adolescents, and the Gender Equality Policy of the Ministry of Foreign Affairs and Human Mobility. The Committee welcomed and encouraged the state Ecuadorian effort in the creation of so many gender-related projects but noted that despite previous recommendations there is no information on civil society participation and that Indigenous women are not specifically highlighted as subjects of rights and obligations by the state. Therefore, it recommended mechanisms for the participation of civil society to strengthen coordinated work and ensure the active permanent and structured participation of women movements<sup>101</sup>.

#### **b) Financial Context, Coverage, and Budgetary Commitments**

Furthermore, during the second review period, the Committee consistently emphasizes the need for sufficient budget allocation to implement public policies and plans for the prevention, care, sanctions, and the progressive eradication of violence against women. The Committee acknowledged Ecuador's efforts in being among the few states that report budget allocations dedicated to policies aimed at preventing and eradicating violence against women and girls. It positively noted the expenditure guidelines catalog which established Gender Equality Policies with detailed categories and subcategories based on strategic guidelines proposed by the Transition Commission into Gender Equality Policies and the Promotion and Guarantee of a Life Free of Violence. But, it noted there where no specifics on what money gets put into what programs the lack of elements to compare whether there was a significant increase in budget for the National Plan on Eradication of Violence, therefore, the Committee reiterated the importance of maintaining the tool and its evolution for women expenditures and objectives for national plans<sup>102</sup>. Furthermore, based on the data provided by the Ecuadorian state on coverages it wanted to emphasize to the state the importance of continuously expanding coverage of services while evaluating the causes, circumstances, and reasons why women seek special services and how have they impacted their lives of women that use the services. Among the services the Committee looks at data on are shelters and refuges; the number of services providing psychological care; the number of hotlines, and the number of public health

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<sup>101</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.8-9

<sup>102</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 15-16

programs for women victims of violence and more. Ecuador's report shows a slight variation in coverage of care centers for women victims of violence but there was no information if all the 196 cantons have these services which was asked in the previous evaluation as well. It urged Ecuador to implement the periodic evaluation processes established by the Regulations of the Women's and Family Commissariats and to inform the results<sup>103</sup>.

Moreover, the advancements are based on what was presented for the third review period, in this round of review, the Ecuadorian state provided data on the budget director to gender issues. Among the budgets reported on is the social Spending Budget for the year 2019, amounting to USD 12.794,08 million (codified as of June 2019); the Annual investment budget related to projects for the prevention and eradication of violence, totaling USD 14.524 million, which includes projects for Strengthening the comprehensive approach to violence situations detected or committed in the system (MINEDUC); Project for the Prevention of Adolescent Pregnancy (MSP); and project for the prevention of gender violence and strengthening of services for victims (SDH); Budget of the Sub-Secretariat for the Prevention and Eradication of Violence against Women, Girls, and Adolescents, with a total investment for the year 2019 of USD 4.491 million, including the payroll of the Sub-Secretariat team, coordination activities, prevention, and care; A total amount of USD 3.020,273 million in spending related to the health sector, codified as of June 2019. The Committee observes that the State reported not having a distribution of spending to ensure a life free from violence by jurisdictions. Despite the information provided, it is noted that the information communicated by the State does not provide a comprehensive overview of public spending aimed at guaranteeing women's rights that would allow the Committee to deepen its analysis. Adding on, the data related to 2019 had been provided without comparative figures, indicating an increase or decrease, compared to previous years. The Committee has emphasized the importance of having a basic financial context and sufficient budgetary commitments to ensure the implementation of these policies<sup>104</sup>.

### **c) Prevention, Education, and Training**

The Committee also indicated recommendations in this area for the third-round review, it recommended the state establish permanent training plans on violence against women and information on women's rights within the Belém Do Pará Convention for authorities, policymakers, and legislative officials that apply lead to prevent sanctions and eradicate violence against women. The advancements regarding this previous recommendation have been the development and implementation of standards and protocols for comprehensive care for victims of gender-based, domestic, and sexual violence within the network of the Health Ministry. A total of 700 health operators in 18 provinces were trained in these standards and protocols. Among other measures, human rights modules for judges and police officers guide public officials on gender-sensitive language, codes of conduct prevention for training

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<sup>103</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 13-14

<sup>104</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.10

community police officers, review of human rights manuals for the police and protocol as well as for Armed forces, Indigenous and Ordinary Coordination law. The Committee appreciated the training but wished to know if they were systemic training that would be carried out systematically or if it was a one-time training in order to be able to evaluate it as a continuous progress. Therefore, the Committee reiterates the importance of evaluation mechanisms and that training becomes systemic and sustainable in an evolving way and recommends the participation from civil society and women's organizations to ensure a diverse and inclusive perspective that reflects the realities and needs of Ecuadorian women. It also acknowledged training efforts on gender violence issues within the LGBTI community notably the Transgender Project “different bodies, equal rights” aimed at Police officers. Furthermore, the Ombudsman office initiative implemented training programs on Human Rights and Gender Equity the Gender Programs established but the Armed Forces provided training on human rights, gender, and interculturality which included the module for prosecutorial training in Gender and criminal law<sup>105</sup>.

### Part 3 - Access to Justice Articles 7 d and f, 8 c and d

Moving on, access to justice mechanisms in case of violence. Despite its importance, this is the area that has received the least attention from the states. Negotiation or mediation mechanisms should not be used in any process when it comes to violence is highlighted by the CEVI. Among measures that should be taken by the state are protection measures, free legal advice, professional groups, and intervention models for perpetrators. As well as access to support systems to address the immediate needs of women victims of violence.

- **The authority receiving the complaint / Adequate caseload:** Prosecutor's Office, Police, Women's and Family Commissioners / Not Adequate
- **Commissions or services with profiles and action protocols:** No
- **The time between complaint and adoption of protection measures:** Measures executed between 15 days and 2 months after the complaint.
- **Security measures for women, family, and witnesses:** Yes, but does not mention family or witnesses.
- **Free legal advice:** Yes
- **Professional groups / Intervention models for perpetrators:** Not answered
- **Free emergency hotlines:** No, only general emergency lines
- **State or civil society shelters:** 7 shelters, with state and civil society support
- **Self-help groups:** Not answered
- **Free family counseling:** Not answered
- **Rehabilitation/social programs:** Not answered
- **Presence of interpreters for Indigenous women in judicial proceedings:** No

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<sup>105</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 10-13



- **Number of legal/forensic doctors per 100,000 women and girls:** Approximately 30 doctors in total<sup>106</sup>

**a) Formal component**

On the second review on this subject, the Committee reminded the state that in the previous report it drew attention to the lack of information on two subjects regarding the right to justice for women victims of violence. The first information regarding the number of entities that received complaints, especially in non-urban indigenous and Afro-Ecuadorian populations. Secondly, the quality of services these centers provide with attention to effective protective measures. The six characteristics asked to report on are first, Civil infrastructure, in which Ecuador reported existing buildings were remolded and new infrastructures for judicial functions were being constructed. Also, the Judicial Council implemented 32 specialized units for violence. On the other categories: Human Talent; Management Model; Technological Infrastructure; Interinstitutional Cooperation, and Equitable Financial Management there was not enough data provided for the Committee there is a significant deficit in records on judicial proceedings for gender violence in the country. Therefore, the Committee concludes it two main areas of concern for access to justice first, the high rates of impunity in purported cases and second the low number of units receiving and processing cases of violence this represents obstacles for women to be able to fully exercise their rights. Concluding that due to the lack of information, the Committee can't determine if progress has been made to overcome obstacles<sup>107</sup>.

For the third review, the state started by reporting on the existence of criminal investigation protocols for crimes of violence against women, femicides, and violent deaths of women, with a gender perspective. And shows progress through the adoption of several protocols and resolutions such as Resolution No. 110A-2018, declaring the pre-procedural and procedural treatment of crimes against the sexual and reproductive integrity of children and adolescents as a top priority; The Ecuadorian Forensic Interview Protocol (2018), utilizing specialized listening for children and adolescents who are victims of sexual violence; The protocol for judicial management, action, and expert evaluation in the substantiation and judgment of femicide and acts of violence against women or family members (2018); The protocol for interpreters and translators acting in cases of gender-based violence. Furthermore, the Committee viewed positively that, starting in 2019, the Council of the Judiciary planned to use the Latin American Protocol Model for the investigation of violent deaths of women due to gender reasons (femicide) in training processes for personnel in Specialized Judicial Units on Violence against Women. Also, the Committee noted that for this cycle Ecuador had figures on femicide cases, offering comparative information between 2015 and 2018. Notably, a significant decrease in the number of femicide cases and direct victims of femicide was

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<sup>106</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará- Primera Etapa de Evaluación. (2011). *Ecuador* .pp.39

<sup>107</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 17-18

observed between 2017 and 2018, according to the Prosecutor's Office records. Concurrently, there was a decrease in the total number of femicide cases under treatment, from 64 in 2017 to 15 cases in 2018, as well as a decrease from 60% to 27% in femicide cases with sentences. On the other hand, the Committee pointed out the absence of information on other forms of violence such as unreported violence rates, access to emergency kits in care centers, or the number or percentage of cases known to the investigating body on violence against women in its various manifestations<sup>108</sup>

#### **b) Protective Measures and Combating Impunity**

For the second round of review, the Committee highlighted that it did not obtain quantitative or qualitative information that would allow it to evaluate and monitor the application of legislation. The only information provided by the Ecuadorian state was about the formation of technical offices responsible for issuing the special measures these offices are composed of at least three specialists: doctors, psychologists, and asocial workers that are responsible for attending to victims and issuing technical reports that serve as inputs for judicial analysis. But there was no information on the number of technical offices currently in operation. Furthermore, implementing protective measures the information obtained regarding protocols where Protocol in cases of Domestic and Sexual Violence Emergencies, Police Protocol for Attention in Cases of Domestic Violence, and Attention Guide on Gender Violence aimed at officials and individuals that attend to the population victimized by gender-based violence, a specialized forensic protocol for the application of Criminal Law through comprehensive attention system of the attorney general office, a protocol for domestic violence, sexual offenses, and injuries, roadmaps for sexual offenses in the education sphere<sup>109</sup>.

Furthermore, in the area of combating impunity during the second review, The Committee pointed out that it had received information about the existence of formal protocol mechanisms provided by the law but it has not received data allowing for the evaluation of the existence of investigation protocols for the application of measures, and judicial resources available to women to demand the guarantee of said rights. The Committee reiterated the importance of collecting and maintaining reliable data that can allow for the evaluation of the application of the laws at hand. There where was no data number of sentences issued in the application of the law, the number of reparation resolutions for victims, or information relating to the ruling using standards of the convention<sup>110</sup>.

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<sup>108</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.10-11

<sup>109</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 19

<sup>110</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 20

### c) State Capacities, Financial Context, and Budgetary Commitments

For the third review on state capacities, for this category the only information provided was on two indicators the existence of public or state-supported legal aid services specialized in women affected by violence; and the existence of nationwide toll-free telephone lines for women victims of violence. Regarding public or state legal aid, the Public Defender's Office has had Free Legal Clinics (CJG) since 2016 that handle cases of domestic violence. Furthermore, there had been a progressive increase in the number of female public defenders assigned annually by the Public Defender's Office for various services within its competence, including legal advice to victims of violence, from 56 defenders in 2016 to 72 in 2018. On the other hand, the free toll lines for women of violence reported on the 151 Public Defender's Office hotline, which had provided legal orientation and advice since 2013; the ECU-911 hotline, which handles emergency calls, including cases of domestic violence, categorized as gender-based violence since 2019; and the 171 hotline, option 2 of the Ministry of Health, which provided information on gender violence services in the health system and other institutions such as the State Attorney General's Office, deactivated in 2018 to channel calls through ECU-911. To conclude, the Committee found it challenging to have a complete overview of the total services available for women in situations of gender-based violence and thus evaluate the progress made in this area with the information provided<sup>111</sup>.

In the third review Financial Context and Budgetary Commitments, Ecuador did not include further information on the financial context and budgetary commitments related to access to justice. The only information communicated referred to the number of public defenders handling violence cases and the percentage of resources allocated for care, about the total budget. With the data provided the number of defenders increased from 100 to 131. Likewise, there is an increase in the resources allocated for care, from 12% in 2016 to 17% in 2018. Therefore, the Committee concluded the information presented did not provide a comprehensive, clear, and evolving overview of budgetary commitments regarding access to justice, as no additional information was provided to contextualize the figures presented<sup>112</sup>.

#### Part 4 - Statistics and Information Articles 8 h

This section is based on statistics concentrated in five areas: collection of judicial procedures and complaints of violence against women, assistance to women victims of violence, deaths of women due to violence, and other data regarding the situation of women.

- **Existence of records on complaints and publication of data by the police:** Yes
- **Existence of records on complaints and publication of data by courts and prosecutors:** Yes

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<sup>111</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.12-13

<sup>112</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.12

- **Existence of records on complaints and publication of data by health systems:** No
- **Number of women victims of violence in the year by age, marital status, types of violence, and geographic location:** Between 220,000 to 270,000 women have been affected by some form of physical partner violence. Between 76,000 and 104,000 have been affected by penetration rape by a partner (ENDEMAIN, 2006).
- **Number of violence cases against women compared to the total number of complaints:** No information available
- **Number of sentenced cases of violence against women compared to the total number of complaints made:** No information available
- **Number of women victims of femicide by age, marital status, cause of death, and geographic location:** In the Metropolitan District of Quito, from 2000 to 2006, there were 1,831 recorded violent deaths of women. No information was available on other provinces.
- **Number of sentenced femicide cases per year compared to the total number of recorded cases:** No information available<sup>113</sup>

#### a) Formal component

For the second review, the Committee emphasized the need to comply with the obligation of collecting statistics. Like surveys that would allow women to know their rights and have knowledge of the existing services. Moreover, the Ecuadorian state reported that the National Institute of Statistics had formed a special inter-institutional commission to work on the National Survey on Violence against Women. Furthermore, the Committee appreciated the survey conducted on Family Relations and Gender Violence against Women in 2011 and 2012, which provided insight into the situation of violence against women in the private and public relationships of women aged 15 and older. This survey provided input for the systematic development of qualitative information. The data allowed public and private institutions to develop and implement general and sectoral policies. The data also brought some alarming results about the situation such as: Of the total number of women who have experienced physical violence, 87.3% have done so in their partner relationships, In Ecuador, 1 out of 4 women has experienced sexual violence, but psychological violence is the most recurrent form of gender violence, at 53.9%; Of the total number of women who have experienced some form of gender violence, 76% have experience violence by their partner or ex-partner. The significant data facilitates the understanding of the phenomenon of violence, not only by age groups but also by socioeconomic strata, violence in rural and urban areas, ethnicities, and types of violence. Furthermore, the Committee wishes to again highlight the importance of this exercise, as it allows for evaluating the gaps between the high incidence of violence and the low percentage of legal cases initiated for this reason. Moreover, the information regarding the reasons why women decided not to go to specialized care centers, would be relevant to understanding the gap between the formal recognition of women's rights and access to justice. It further recommends maintaining a statistical count of the advances and setbacks in the field

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<sup>113</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará- Primera Etapa de Evaluación. (2011). *Ecuador* .pp.55-58

of justice, compliance with sentences, the number of decisions issued, and the effectiveness of the penalties and sanctions imposed on the offenders<sup>114</sup>.

Furthermore, in the third review, in these areas, the Committee commented that there is improvement by the state compared to previous reports seeing that the LOIPEVM has come into force since the last report. The LOIPEVM establishes the creation of a single Registry of Violence Against Women in coordination with the regulatory body of Citizens Security and the Public Order of Judiciary branch. This includes variables to characterize this issue standardize the process, and update information generated by the organizations that make up the National Integral System for the Prevention and Eradication of Violence against Women. Furthermore, the law outlines the obligations of the regulatory bodies in various sectors to implement information collection systems on cases of violence against women and report them to the body responsible for public policies on justice and human rights, to periodically update the Single Registry of Violence against Women. Also, there is an establishment of the Technical Committee for the Construction of the Single Registry of Violence (RUV) in April 2018. The Committee positively acknowledges that the Sub-Secretariat for the Prevention and Eradication of Violence against Women, Girls, Boys, and Adolescents, in compliance with the LOIPEVCM, created in 2019 by the Directorate of Studies, Monitoring, and Evaluation of Public Policies for the Prevention and Eradication of Violence against Women, Girls, Boys, and Adolescents. Moreover, some other studies were undertaken by the Ecuadorian state where in 2017, with UNFPA's support, research was conducted on gender-based violence (GBV) in adolescents and women with disabilities, its relationship with adolescent pregnancy, and its impact on caregiving from a gender perspective, highlighting the need for comprehensive public policies; additionally, INEC published the Gender Atlas in 2018, the Public Defender's Office released the Annual Statistical Bulletin 2018, and CORDICOM conducted a specialized study in 2019 on discrimination, representation, and appropriate treatment of information about women in the media<sup>115</sup>.

#### **b) State Capacities, Financial Context, and Budgetary Commitments**

In regards to financial and budgetary commitments for the third review period, the LOIPEVCM defined the Orienting Classifier of Expenditure for equality policies. The Committee highlighted that it does not have substantive or updated information that allows it to assess public spending aimed at developing information based on various forms of violence, nor their potential results<sup>116</sup>. Furthermore, on state capacities for this cycle the existence and availability of databases or other resources with periodic information on violence, the

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<sup>114</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 20-23

<sup>115</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.13-14

<sup>116</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.14

Committee entirely received administrative records and national surveys. Some of the contents found in these administrative records where: The Health Care Registration Platform (PRAS), which included a variable for presumed victims of gender violence, the Public Defender Management System, ECU911, and the Violence Registration System (REDEVI) are integral components of Ecuador's public safety infrastructure. Additionally, the Public Media Registry collects information from the media to conduct qualitative and quantitative studies on the Social Communication System. The National Council for Intergenerational Equality (CNII) prepares biweekly monitoring reports on cases reported to the institution, with 22 reports produced by June 2019, facilitating the monitoring of protection measures issued to protect victims. About surveys, the State reported on the development and application by INEC, in December 2018, of the Multipurpose Survey for Monitoring the National Development Plan (EPSPND), which will be used as a technical tool for evaluating and monitoring 33 indicators of the 2017-2021 National Development Plan and 13 Sustainable Development Goals of the 2030 Agenda<sup>117</sup>.

#### Part 5 - Diversity Article 9

Taking into account the diversity of the country, women, and the multicultural reality of the societies, various mechanisms are necessary to ensure access to justice for Indigenous women, who are doubly affected by the gender gap and the ethnic-cultural gap. In the Committees report on access to justice for women victims of violence in the Americas, the IACHR had already recommended, among other measures, creating free, impartial, culturally relevant, and sensitive translation services that respect the users' worldview. Therefore, the CEVI recommended that State Parties ensure that Indigenous women have access to translator services to enter the judicial system and obtain justice and reparations in cases of violence<sup>118</sup>.

#### **a) Formal Component**

Furthermore, in the second review period, the Committee reminds Ecuador to take into account the multiple factors of discrimination that women may suffer due to race, ethnic origin, migrant, refugee, or displaced status, or any other condition that warrants special attention. Therefore, the State reported that the National Policy for Women had incorporated various expressions of diversity, making special mention of Indigenous and Afro-Ecuadorian women. Also, reported on the Subprocess of Intercultural Medicine, the Intercultural Health Policy has been implemented for rural women, Indigenous women, and Afro-Ecuadorians, which involved the implementation of a differentiated public health policy. This represents a significant advancement for these women to have full access to health services. Under the reproductive health area of Indigenous and Afro-Ecuadorian women, the Committee also received information about the discussion of the Intercultural Practice for Accompanied Child Birth Bill within the National Health System, which proposes the recognition of intercultural childbirth

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<sup>117</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.15

<sup>118</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará- Primera Etapa de Evaluación. (2011). *Ecuador* .pp.15

as a State-guaranteed option<sup>119</sup>. Lastly, during the third cycle, the Committee started by thanking Ecuador for the information provided in follow-up to the indicators for this topic. Furthermore, regarding the existence of a law or national policy guaranteeing a life free of violence that considers diversity, Ecuador reported that LOIPEVCM integrates interculturality and intersectionality approaches. This mechanism recognizes different communities, peoples, and nationalities that make up the country. The LOIPEVCM prohibits discriminatory practices that favor violence and/or hinder the effective enjoyment of rights for all people and includes measures aimed at specific groups of women. The data reported showed that 70% of women with an education level from a Literacy Center had experienced some type of violence, compared to 52.8% of women with a postgraduate education level. Furthermore, the percentage of women who had experienced some type of gender-based violence by self-identified ethnicity is 67.8%, and 66.7% of indigenous and Afro-Ecuadorian women, respectively had experienced some type of violence, compared to 59.7% of white women. Also, it is noted that in March 2016, the fulfillment of the objectives and goals of the International Decade for People of African Descent (2015-2024) activity program was declared a national policy. This includes the goal of having implemented a Prevention and Eradication Plan for Violence against Afro-Ecuadorian Women by 2021. The Committee welcomed this initiative as a way to consider the specific vulnerability of Afro-Ecuadorian women and hopes to obtain more information on the results of this national policy. Moving on, the Committee regrets that no information has been provided in follow-up to the indicators related to guaranteeing a life free of violence for women in all their diversity, including girls and adolescents, and older women. To conclude, the Committee reiterates its call to Ecuador to strengthen its efforts to advance the protection of the rights of all women, particularly older women, women with disabilities, migrant women, and women deprived of liberty. It also renews the importance of producing updated, comparable, and properly disaggregated data to advance the adoption of public policies according to the specific needs of each group of women<sup>120</sup>.

#### **b) State Capacities, Financial Context, and Budgetary Commitments**

The State did not provide information in this regard.

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<sup>119</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2014). *Ecuador* .pp. 23-24

<sup>120</sup> Mecanismo de Seguimiento de la OEA-Convención Belém Do Pará. (2020). *Ecuador* .pp.16-17

### *E. Inter-American Court of Human Rights Case Against Ecuador*

The following section will review a case against Ecuador where the Inter-American Court found the state in violation of article 7 of the Belém Do Pará Convention.

#### The Case of Guzmán Albarracín et al. vs Ecuador

#### **Case Background**

The background of the case involves teen Paola Guzman in 2001 when she was 14 years old and in the second year of basic secondary education in a public school in the city of Guayaquil. When she began to have problems with some subjects and risked losing the school year the Assistant Principal of the school offered to let her pass, on the condition that she have sexual relations with him. This developed into continuous sexual acts between them that the other authorities and personnel of the school knew of, as recorded in testimonies. This repeated acts of sexual violence led to an unintended pregnancy. To which the vice-principal urged her to interrupt the pregnancy and requested the school doctor to carry out the procedure. The school doctor agreed to carry out the procedure but put pressure on Paola to have sex with him as a condition to perform the abortion. Then on December 11, 2002, the Inspector of Paola's course sent a summons to her mother, to report to school the next day. On Thursday, December 12, 2002, the same day of the summons and two days after her 16th birthday Paola ingesting pills containing white phosphorus that she told her classmates when she started feeling bad. The school transferred her to the infirmary, where she was urged to pray, afterwards, they contacted her mother in the afternoon and managed to get to school. Her mother took Paola to the Hospital and on December 13, 2002 where she died. Paola had left three letters explaining why she had taken the pills, one addressed to the Assistant Principal, where she expressed that she felt "cheated" by him and that she decided to take poison because she could not bear the suffering. Upon Paola's death, her family learned of the harassment, coercion, and sexual abuse she had suffered. And despite filing numerous complaints against the vice-principal and the school the Ecuadorean justice system neglected the case and failed to conduct an appropriate investigation and deliver justice. Leading her mother to file in October 2006 a petition to the Inter-American Commission of Human Rights claiming the responsibility of Ecuador regarding Paola's case. On October 17, 2008, the Commission deemed the petition admissible<sup>121</sup>.

Moreover, on October 2018, the Commission found Ecuador responsible for violating Paola's rights to life; physical, mental, and moral integrity; privacy; special protection as a child; equal protection; and progressive development, consecrated by the American Convention on Human Rights. Furthermore, the Commission indicated that Ecuador violated the right to education, protected by the Additional Protocol to the American Convention on Human Rights in the Area

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<sup>121</sup> Universidad Andina Simón Bolívar. (2020). *Caso Guzmán Albarracín y otros Vs. Ecuador - Universidad Andina Simón Bolívar*. [online] Available at: <https://www.uasb.edu.ec/caso-guzman-albarracin-y-otros-vs-ecuador-ID2994606/> [Accessed 01 Jul. 2024]



of Economic, Social and Cultural Rights (Protocol of San Salvador). And in regards to Paola's family, the Commission concluded that Ecuador violated their rights to humane treatment; fair trial; and judicial protection. Finally, the Commission stressed that Ecuador failed to observe article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women - Belém do Pará Convention.

#### Reparations indicated by the Court

Afterwards, the court order reparation measures which where the following:

#### **Rehabilitation**

1. Provide free psychological and/or psychiatric treatment, differentiated as needed, for as long as necessary.

#### **Satisfaction**

2. Publication of the sentence.
3. Conduct a public act acknowledging international responsibility.
4. Posthumously award Paola del Rosario Guzmán Albarracín her High School Diploma.
5. Declare an official day to combat sexual violence in the classroom.

#### **Guarantees of Non-Repetition**

6. Identify additional measures beyond those already implemented to correct and remedy the identified deficiencies.

#### **Compensatory Damages**

7. USD \$70,000.00 (seventy thousand dollars) for material damage.
8. USD \$210,000.00 (two hundred ten thousand dollars) for immaterial damage.

#### **Costs and Expenses**

9. USD \$57,300.00 (fifty-seven thousand three hundred dollars) for costs and expenses<sup>122</sup>.

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<sup>122</sup> Caso Guzmán Albarracín y otras Vs. Ecuador Corte Interamericana de Derechos Humanos Sentencia de 24 de junio de 2020. (n.d.). Available at: <https://www.scjn.gob.mx/derechos-humanos/sites/default/files/resumenes-sentencias-coidh/2022-02/Serie%20405%20Caso%20Guzm%C3%A1n%20Albarrac%C3%ADn%20y%20otras%20Vs.%20Ecuador.pdf>.

### Implementation of reparation measures

In the process of monitoring compliance, the Ecuadorian state had by September 2021, the state had held a public act in recognition of its responsibility with the participation of high level state authorities including the president that acknowledge responsibility and made a public apology in name of the state. The event was widely publicized in the national media and as indicated by the court the mother of Paola received the posthumous high school diploma for her daughter. Furthermore, the president signed a decree declaring August 14 the official day against sexual violence in the classroom in order to recognize as well as bring awareness about the seriousness of sexual violence. It also complied with the payment of compensation for damages. The only measure remains to be applied was for the state to provide psychological and/or psychiatric treatment for the family also victims to what they have gone through in the process. The Ecuadorian state shows willingness to begin the provision as soon as requested by the family<sup>123</sup>.

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<sup>123</sup> Inter-American Court of Human Rights - Stories on the Monitoring Compliance with Judgment. (2020). *Inter-American Court of Human Rights - Stories on the Monitoring Compliance with Judgment*. [online] Available at: [https://www.corteidh.or.cr/supervision\\_de\\_cumplimiento\\_testimonios.cfm?lang=en](https://www.corteidh.or.cr/supervision_de_cumplimiento_testimonios.cfm?lang=en) [Accessed 01 Jul. 2024].

### **III. Chapter Three - Discussion and Conclusions**

#### *Summary of Recommendations and State Implementations*

The implementation of international protection mechanisms for women has had a positive result with the good disposition of the Ecuadorian state to take on most of the recommendations made by these Committees. Most of the legislation related to women's rights in the country can be traced back to recommendations of the conventions. Nevertheless, there is still a lot of work to be done by the Ecuadorian state for women in the country to live a life free from violence and discrimination.

#### Convention on the Elimination of all Forms of Discrimination Against Women

##### Part 1- articles 1 to 6

National Machinery for Women, in terms of legal reform since its incorporation into the Convention. It changed its constitution and the new one enshrined the protection and promotion of women's rights. Recommendations on Women-related institutions within government were among the recommendations throughout the years by the Committee. This is something the state put into practice with the Council of Equality which years later changed into the National Council for Gender Equality. Furthermore, some of the recommendations that were made in one cycle like the one of changing provisions found discriminatory by the Committee on Criminal, Civil and Family Law in 2003 see a response of changing them later on in further cycles. With the modification of the Organic Criminal Code that criminalized femicide. Looking into legislative changes the most important one is the incorporation of women's rights into the new constitution, therefore, putting women's rights at the most important legislature the country has. For the next category regarding temporary special measures, a mechanism highly encouraged by the Committee to achieve gender equality in the case of Ecuador it was pressed on to take this initiative to involve women in politics as decision-making bodies. The state responded that it had created the Quota Act to which the Committee responded that it had information that in practice it was not being implemented, the following cycle with no changes or updates in this measure the Committee had to remind once again the state of the importance of enforcing this procedure. Finally, for the 2021 review, the Committee congratulated the state for taking this special measure into the new Democracy Code that included a mandatory quota for government seat allocation of 50% by 2025 elections.

In the case of the Principle of Equality, Stereotypes, and Harmful Practices is one of the sections the state has received recommendations since its first participation in 1986 regarding the culture and the traditional views of the role of women in its society. To which the Committee recommended the use of mass media campaigns to change the traditional view of women. Throughout the cycles the state has conducted mass media campaigns, training of

journalists and sensibilization workshops, the implementation of a Culture Act a plan aimed at changing the socio-cultural gender patterns, and media watch. Furthermore, on other harmful practices, the implementation of Article 176 of the Criminal Code on discrimination based on gender identity and prohibition of practices such as dehomosexualization be implemented. To which the state responded, having closed 26 clinics that were performing sexual reorientation and dehomosexualization therapies, and the perpetrators were being processed. As well as the creation of an LGBTI inter-institutional round table. Moving on, on the subject of Violence Against Women, the Committee called upon the state to prevent violence against women and implement General Recommendation 19 as well as to comply with the Belém Do Pará Convention. The responses of the state throughout the cycles were mainly the enhancement of a new Law to Combat Violence Against Women, a Gender Project, a Protocol for the investigation of violence against Women, Creation of judicial units for gender violence run by judges trained and specialized to deal with violence against women. Further recommendations from the Committee where the need to see legislation is being complied with, the need to change the penalty in the criminal code for violence against women from a miss demeanor to a heavier penalty, and a proper systematization to monitor the number of cases as well as further training personnel.

Moving into the category, that covers trafficking, sexual exploitation, and prostitution throughout the evaluation cycles. The Committee asked was being done regarding prostitution, the need to add penalization in the Penal Code for offenses of sexual exploitation, victims should be taken to rehabilitation centers, strengthening the protection of women deciding to leave prostitution, and implementing proper national plans. To which the response from the Ecuadorian state where: The creation of an Action Plan to Combat Trafficking of Persons in 2019, Billboards in the airport, the Mobility Act, the Human Mobility Agenda, social media campaigns, training courses for government officials working in the field, bilateral agreements with Peru and Colombia among others.

#### Part 2- Articles 7 to 9

In the area of protection of women in its participation in public life through the cycles, the main recommendations in this area from the Committee have been: to make sure legislation aimed at improving women's participation in public life is being implemented, increase the participation of women in political bodies especially at the local level, to implement measure to protect women politicians and candidates from harassment and the adoption and implementation of the temporary measure in the form of quotas for equal representation as well as capacity building leadership skills for underrepresented women groups. In repose, the state implemented measures by creating the National Women's Council as lead the agency to policy in civil society, implementing of multiperson list as a temporary measure in the election to public office, adopting the Democracy Code in 2020 making it mandatory that 50% of candidates on an electoral list are women from 2025 elections. Moving on, to the category of poverty and empowerment the recommendations throughout cycles made by the Committee were to develop a poverty eradication policy with a gender perspective, to ensure social and economic policies take into account women, increase women entrepreneurship as well as

micro-loans for entrepreneurship. The response of the Ecuadorian state was the creation of the Promujer Fund to help with entrepreneurship.

### Part 3- Articles 10 to 14

For starters in education, through the cycles, the CEDAW Committee made recommendations on the implementation of illiteracy eradication programs with special attention to ethnic groups, the promotion of higher education with scholarships, and enforcement of an educational environment free from discrimination and violence, elimination of sexual violence in the education system. The response from the Ecuadorian state was the implementation of education campaigns in rural areas for illiteracy, awareness campaigns on harassment and sexual violence in schools, protocols, and handbooks for handling cases of sexual violence in the education sector at all levels, projects that allowed women to work and study at the same time. On the other hand, for the section on employment, the recommendation received where to change many provisions in the labor code, to enhance the access to employment in the formal sector for women, to narrow the wage gap between women and men, the work condition of domestic workers should be monitored, and adoption of social security schemes for women working in the informal sector, cooperating schemes, and breastfeeding stations in workplaces. To this, the state responded with the reformation of the labor code with the assistance of ILO.

In the health sector, the recommendations during the participating review cycles were on family planning and access to contraceptives, information on programs to prevent teen pregnancies, special attention to Indigenous and Afro-Ecuadorian women in exclusion of services, growing unsafe abortion data, strengthening preventing approach for HIV/AIDs, cervical uterine and breast cancer, decriminalization of abortion cases of rape, incest, and severe fetal impairment. To which the state made the following changes: developed the National Plan for Preventing Teenage Pregnancies, Love and Sexuality Plan aimed at sexual education, social media campaigns, a new health system act, reducing maternal mortality rate with first-level healthcare, regulation for access to contraceptives methods, family planning emergency oral pill, treatment free of charge to individuals living with HIV/AIDs, decriminalized abortion in cases of rape. Moving into the category of vulnerable groups, the recommendations were to guarantee access to basic services for these groups, plans for Indigenous girls dropping out of school, high illiteracy among Indigenous and Afro-Ecuadorian women, and a national program aimed at regularizing the tenure. The Ecuadorian state responded with literacy programs nationwide and training of rural women to keep young girls in school. In the category of migrants and refugee women, the Committee asked for the state to implement protective measures for migrant women living on the border and called for concrete measures to ensure access to health and other services, and protocols to determine refugee status. The Ecuadorian state responded that they had raised awareness of human rights policy in response to migration flows.

#### Part 4 - Articles 15 and 16

For the area of marriage and family life, the recommendations made through the review process by the Committee were, the legal provisions in the Civil Code with regards to child marriage, research on divorce's economic effect on women, amendment to the civil code of husband as an administrator of marital property, to do awareness raising among religious leaders on the negative effect of forced and child marriages. The Committee insisted on its recommendations on the amendments to the civil code on the husband as administrator of marital property which there had been no developments on.

#### Belém Do Pará Convention

##### Part1 - Articles 1,2,3,4 and 7ceg

On the advancement for this section of legislation made throughout the three review periods, some of the recommendations and changes made by the state where the CEVI Committee requesting legislative changes on the Penal Code and Harmonization of policies, which the state responded with the LOIPEVCM law to cover the areas of eradicating violence against women. As well as the labor code to prevent workplace harassment, and prohibit discriminatory speech and content. On the subject of abortion, CEVI called for the decriminalization in cases of therapeutic abortion and cases of sexual violence. The response reported on discussions in the National Assembly regarding COIP reforms, including the criminalization of incest and the decriminalization of abortion in cases of rape and incest. The Committee noted that this proposal did not pass and they are still open for criminalization. Furthermore, in the case of harmonization and regulation of other norms, CEVI called to change the law on mediation cases of violence since it claims it does not have this law but is under review, it can be found in their legislation. Moving on to the subject of education efforts, budgetary commitments, and state capacities Ecuador reported on implementing regulations ensuring education free from violence and education, programs to prevent gender violence and promote human development, a new mechanism to evaluate sexist content in media and advertisement, seminars on police procedures on violence against women and families, courses on homicide investigation, evidence and assessments of criminalistic procedures, National Budget law, LOIPEVCM law, protocols for action against the violence of women, detention protocol for priority attention groups LGBTQ among others. The Committee recommended supervision of the implementation of these protocols, laws, and mechanisms, and requested details on the specific budgets for these measures.

##### Part 2- National Plans articles 1,2 7 and 8 cd

In this area, the first section is on multisectoral measures and plans, Ecuadorian state reports on many plans such as the Committee congratulated the state on LOIPEVCM implementation and requested information on monitoring the plan and programs such as the National Plan for Eradication of Gender-Based Violence against Women, Children, and Adolescents which was established in 2007 National Program for the Prevention of Violence in the Education System,

the Investment Project for the Prevention of Pregnancy in Girls and Adolescents (2020-2022), National Program "Girls in ICT, My Data is Me" (2018-2021) among others. Also, the CEVI requests participation data on civil society and of indigenous women not being specifically highlighted in any of the plans. Furthermore, for financial, coverage, and budgetary commitments, there was little data reported by the state to the Committee only on the third review provided the following data budgets reported the social Spending Budget for the year 2019, amounting to USD 12.794,08 million (codified as of June 2019); the Annual investment budget related to projects for the prevention and eradication of violence, totaling USD 14.524 million, which includes projects for Strengthening the comprehensive approach to violence situations detected or committed in the system (MINEDUC) among some other data mentioned before. The Committee called on the state through the review that the data provided is not enough to compare figures and indicators and whether there has been an increase or decrease in which indicators. Moving on, to prevention eradication and training the Committee recommended establishing permanent training plans on violence against women. The state reported on training programs for health operations, and human rights modules taught to judges and police officers among other training programs.

#### Part 3- Access to Justice articles 7d,f and 8 c,d

In the formal component, the Committee highlights the lack of data to properly address improvements. With only reports on the remodeling of civil infrastructure and the implementation of 32 specialized units for violence for the second review and the third, the existence of criminal investigation protocols for crimes of violence against women, femicides, and violent deaths of women, with a gender perspective, the Ecuadorian Forensic Interview Protocol (2018), the protocol for interpreters and translators acting in cases of gender-based violence among other previously mention. As well as figures on femicide from 2015 to 2018 allowing to keep track and make comparisons. Moving on to the protective measures and combating impunity, the CEVI noted that it received little information such as the formation of technical offices responsible for issuing the special measures these offices are composed of at least three specialists: doctors, psychologists, and asocial workers. And protocol mechanisms provided by the law but it has not received data allowing for the evaluation of the existence of investigation protocols for the application of measures, and judicial resources available to women to demand the guarantee of said rights. But none of it is enough data for the Committee to properly analyze and evaluate the law at hand. Same for the following c category of state capacities, financial context, and budget commitments, the CEVI reports only on the increase of female public defenders, and the improvement of the free tool lives for women to report violence. For the financial and budgetary context, the only information provided was the number of public defenders handling cases. Leading, the Committee to conclude that it does not have enough evidence to properly asses advancement to the state's commitments.

#### Part 4 - Statistics and Information article 8h

In this area for the formal components throughout the review periods, the Ecuadorian state reported that the National Institute of Statistics had formed a special inter-institutional commission to work on the National Survey on Violence against Women and the survey conducted on Family Relations and Gender Violence against Women in 2011 and 2012. The data brought to light the alarming situation of women who have experienced physical violence, 87.3% have done so in their partner relationships, in Ecuador, 1 out of 4 women has experienced sexual violence, but psychological violence is the most recurrent form of gender violence, at 53.9%; Of the total number of women who have experienced some form of gender violence, 76% have experience violence by their partner or ex-partner. Also, the LOIPEVM establishes the creation of a single Registry of Violence Against Women in coordination with the regulatory body of Citizens Security and the Public Order of Judiciary branch. On the other hand, for state capacities financial context and budget commitments, the Committee highlighted that it did not have substantive or updated information that allowed it to assess public spending aimed at developing information based on various forms of violence, nor their potential results other than a list of some services.

#### Part 5- Diversity Article 9

For the formal completion, the main data highlighted is the Committee reminding Ecuador to take into account the multiple factors of discrimination that women may suffer due to race, ethnic origin, migrant, refugee, or displaced status, or any other condition that warrants special attention. Ecuador's reporting on the National Policy for Women has incorporated various expressions of diversity, making special mention of Indigenous and Afro-Ecuadorian women. Ecuador reported that LOIPEVCM integrates interculturality and intersectionality approaches. This mechanism recognizes different communities, peoples, and nationalities that make up the country. As for state capacities, financial context, and budgetary commitments, Ecuador did not provide any information.

#### *Discussion and Recommendations*

##### 1. CEDAW reflected in Belém Do Pará initial review

The influence of the previous years on the implementation of the CEDAW Convention can be reflected by the initial review of the Belém Do Pará Convention. The areas questioned in the regional survey for norms on women's rights protection that had been recommended in previous CEDAW Committee reviews were reflected in the initial survey. For example, Legislation for domestic or family violence, human trafficking forced prostitution, and sexual harassment which the state reported to having legislation on are themes that had been worked on and highlighted by the CEDAW convection before the 2004 initial review of the Belém Do Para Convention monitoring mechanism MESECVI. On the other hand, in the areas that target more precisely gender violence, the state had answered it had no legislation or provision such as free



emergency hotlines, no data or registry on violent cases, and policies against femicide among others. As a result of the first survey the areas the state had answered it had no legislation or plans can be seen to have developed throughout the next two reviews. With protocols for femicide and violent death, femicide is included in the Penal Code. Furthermore, the existence of a hotline specific for cases of violence against women and their families. Also, the implementation of a registry of violence cases for women. All of this highlights that over time there have been improvements and advances in the direction of these international human rights protection mechanisms that can be reflected in measures taken over time. The periodic reporting mechanism puts pressure and sheds a light into issues the state needs to work on. There can be more advancements in some areas than other but still in the bottom line reflects willingness to take on the recommendations from the Committees.

## 2. Abortion source of many problems

When it comes to the decriminalization of abortion this is a subject in which the region is far behind and one where it struggles. The CEDAW and Belém Do Pará have called upon the state to decriminalize abortion if not completely at least in the case of sexual violence, incest and fetus malformation, and non-consensual insemination. Since joining both protection mechanisms the advancement was the decriminalization in the case of rape. But still penalized in cases of fetus malformation, incest, and non-consensual insemination. In 2019 decriminalization of abortion for women victims of sexual assault and in cases of incest or non-consensual insemination was not approved by the general assembly. But in 2020 it approved decriminalization in cases of rape. The problem that arises from the lack of legality in abortion is that as the Committees highlighted there is a high number of women's deaths because of performing alternative not safe abortion measures. Not to mention how this falls into other issues the state has to respond to like teen pregnancies that lead to high rates of abandonment of education and child labor as well as risk of poverty. Furthermore, the state has improved with the availability of emergency after pill, contraceptive pills, and the few campaigns done at the education level on sexuality. Nevertheless, no impediments to abortions would bring a better quality of life to many women in the country.

## 3. The need for more educational and widespread campaigns

There is a clear lack of knowledge on the population on the Convention the state is part of and the rights they are entitled to as women in the country. The need for regulators and the population to know about this mechanism should be better spread so women can demand their rights be fully protected and implemented and legislators be able to formulate public policies with gender perspective taken into account. This can also be reflected by how female population surveys reveal the staggeringly high amount of violence against women being endured by women compared to the low number of cases brought into courts. This can be an indicator of how there is no full knowledge of mechanisms to seek help from and in many cases of the naturalization of certain types of violence that women no longer perceived as such. Also, as some statistics previously presented there is a correlation of women who have higher education studies experiencing less violence than the ones with out education. Needless to say,

knowledge is power and wider educational campaigns could reduce the violence women experience and for then to know what steps to follow in case their rights are being violated.

#### 4. Indigenous, Montubio, and Afro-Ecuadorian women most discriminated

Moreover, Ecuador is a multicultural and multi-ethnic state recognized in the constitution as a plurinational state because of its reach in the ethnic and multicultural nation. Therefore, it is surprising that Indigenous, Montubio, and Afro-Ecuadorian women are among the most discriminated groups in the nation. Throughout the different evaluation categories by the CEDAW Committee and the Belém Do Pará Convention, there are calls for improvements in measures for these groups in society. And it is among the most recommendations not addressed by the state or hardly given data on improvements. These group of women are therefore perceived as second-class citizens with a lack of access to services and rights enjoyed by other Ecuadorian women. From illiteracy to lack of access to justice and interpreters for their local languages. This is a group that faces clear discrimination and needs a more holistic approach for them to enjoy a life free of discrimination and violence. It's a highly vulnerable group with in Ecuadorian society that has somehow become invisible to tailored measures to prevent the discrimination and violence they endure in a daily basis.

#### 5. Need for better data collection and monitoring.

Throughout the evaluation process in booth mechanism, the Committees have called in more studies and data records which in many cases the state has failed to report on. The importance of data gathering and systemic implementation from the central government is crucial to determine how is the status protection of women going. This area which is most pressed on by the CEVI Committee reveals that there is still a lack of a working data recording for the indicators the state has to comply with. The newly implemented LOIPEVCM ( Organic Law to Prevent and Eradicate Violence Against Women) has a promising mechanism to solve this issue hopefully it will be properly implemented over time. Never the less, lack of data collection and data tracking does not allow to measure progress in many areas and to see if programs that are being implemented are effective also to review how programs can be adapted and updated over time. Being the data for statistics a big issue in the state performance when implementing these international protection mechanisms.

#### 6. The Case Against Ecuador in the Inter- American Court

The case highlights the problem of sexual violence being experienced at education centers which is a subject the CEDAW convention on it reviews had called upon to state to take measures to ensure this type of crimes are not committed. Taking in to account the vulnerability of girls in school and the power relation dynamics with the personnel working at this schools. The case also reveals the need for mandatory sexual education be imparted in schools something that had as well been noted by the CEDAW Committee. Taking into account the issue had been raised by the Committee the judgement on the case can be a way of showing there are consequences when the state is not complying with its obligations. The judgement on this case

is important because it sets regional protection through case law on sexual violence harassment at schools specifically. Even after this international call of attention to the state there is still work that remains to be done in the protection of vulnerable children in school.

### *Recommendations*

Based on the review of the international mechanism implemented for women's rights protection mechanisms in Ecuador the recommendations would be:

1. Decriminalization of abortion
2. Widespread information and education campaigns on women's rights and the services available to them including those concerning violence. For the general population and legislators at all levels.
3. Proper targeted public policy to better availability of resources and services to Indigenous, Montubio and Afro-Ecuadorian women.
4. Proper implementation of systematic data collection and management mechanisms at the national level to reflect on good statistics.
5. Clear goals to combat sexual violence and harassment in education centers.

### *Conclusions*

To conclude, Ecuador's adhesion to the Convention on the Elimination of all Forms of Discrimination Against Women and the Belém Do Pará Convention has led to the advancement and creation of legislation, mechanisms, protocols, and architecture for women's rights protection. Though there is still work to be done the application of most of the recommendations can be reflected throughout the review. Some of the areas that need more attention from the state are the decriminalization of abortion, widespread knowledge of the Convention and the rights women are entitled to, and better policies to include vulnerable excluded by the system Indigenous, Montubio, and Afro-Ecuadorian women. Also, a better adequation to data collection and management at the national level. Lastly, setting clear goals to combat sexual violence and harassment in education centers.

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