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Ecuador: Domestic violence, legislation and protection available to victims (April 2005 - November 2009)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

The United Nations (UN) Committee on the Elimination of Discrimination Against Women (CEDAW) stated that it was [official UN English version] "concerned at the high incidence of violence against women and girls" and, particularly, at domestic and sexual violence in Ecuador (7 Nov. 2008, Para. 20).

In an article published in 2007 by a Machala daily newspaper, *Diario Correo*, Machala's First Commissioner of Women and the Family (Comisaría Primera de la Mujer y la Familia) stated that women, children and the elderly are most affected by domestic violence (*Diario Correo* 12 July 2007). Other sources identified women as most affected by domestic violence, especially in certain cities: for example, in 7 out of 10 cases in Cuenca (*El Tiempo* 7 Nov. 2008) and in 92 percent of cases in Guayaquil (*Expreso.ec* 17 Feb. 2009).

Expreso.ec, a daily newspaper in Guayaquil, cited statistics provided by the Department of Intrafamilial Abuse (Departamento de Violencia Intrafamiliar, DEVIF), which reports to the national police (Policía Nacional) (*Diario Correo* 11 July 2007), as indicating that 13,280 attacks by a family member were reported in Guayaquil in 2008 (*Expreso.ec* 17 Feb. 2009). The same source also noted that 7,747 of the victims in these cases were subjected to physical abuse, 6,466 to psychological abuse, and 68 to sexual abuse (*ibid.*).

An article published in 2009 by a daily newspaper in Quito, *Diario Hoy*, stated that, according to the Department of Domestic Violence in Guayaquil, 754 cases of assault were reported in January 2009 and 666 in February 2009 (16 Mar. 2009). Most of the victims of those attacks were aged 21 to 40 years, and 60 percent of them were physically assaulted, 39 percent psychologically and 1 percent sexually (*Diario Hoy* 16 Mar. 2009).

In the city of Cuenca, an average of 40 domestic violence complaints have been lodged every day with the women's commissariats (*El Tiempo* 7 Nov. 2008). *El Universo*, a daily newspaper in Guayaquil, cites the president of the María Guare Foundation (Fundación María Guare), a human rights organization (Fundación María Guare n.d.), as saying that between 6,500 and 7,000 complaints of domestic violence are reported every year to each of the four women's commissariats in Guayaquil (*El Universo* 9 Mar. 2009).

Sources indicate that many cases of violence are not reported to authorities because the victims are afraid of repercussions (*Diario Hoy* 16 Mar. 2009), or because domestic violence is perceived as a private matter (*El Tiempo* 7 Nov. 2008).

Legislation

According to a 2007 report published by the UN, since 1995, Ecuador [official UN English version] “has made considerable progress in mainstreaming public policy for the prevention, elimination and punishment of domestic and gender-based violence” (2 Mar. 2007, Para. 155). Article 1 of Act No. 103, entitled Violence Against Women and the Family (*Ley contra la Violencia a la Mujer y la Familia*), which came into effect on 11 December 1995, states the following:

[translation]

Purpose of the Law - This Law aims to protect the physical and mental integrity and sexual freedom of women and members of their families by preventing and punishing domestic violence and other violations of the rights of women and their families.

The rules set out herein should guide the policies of the State and the community on this subject. (Ecuador 11 Dec. 1995, Art. 1)

Article 4 of Act No. 103 recognizes three types of violence: physical, psychological and sexual (*ibid.*, Art. 4).

Since the reform of the penal code in June 2005, sexual exploitation, child pornography, and trafficking in persons are considered criminal offences (UN 2 Mar. 2007, Para. 163). Moreover, the family courts have the power to remove the perpetrator of an attack from the family home if his or her presence poses a risk to the victim (US 25 Feb. 2009, Sec. 5). The Commissariat of Women and the Family (Comisaría de la Mujer y la Familia) has also reportedly helped female victims of abuse and their children by offering them the following eight protective measures:

[translation]

1. Issuing aid certificates
2. Ordering that an assailant be removed from the home
3. Prohibiting the assailant from approaching [the victim's] place of work or study
4. Prohibiting the assailant from coming into contact with or approaching the victim
5. Preventing the assailant from intimidating the victim or the [victim's] family
6. Reintegrating the victim in the home

7. Granting custody of a minor victim [to someone else]

8. Ordering the parties, including minor children, to undergo therapy. (*El Diario* 22 July 2008)

Those measures are set out in Article 13 of the Violence Against Women and the Family Act (Ecuador 11 Dec. 1995).

According to the Organization of American States (OAS), on 10 September 2007 the president of Ecuador approved a decree made as a result of the National Plan to Stop Gender-Based Violence (Plan Nacional de Erradicación de la Violencia de Género), which is aimed at eliminating violence toward children, adolescents and women by promoting coordination among relevant organizations (Sept. 2008, 3). Additional information on the measures taken under the framework of the plan could not be found among the sources consulted by the Research Directorate.

Despite those advances, [official UN English version] "some doubt remains with respect to the treatment of women under Ecuador's criminal law" since violence against women continues to be viewed as a [official UN English version] "misdemeanour" rather than a criminal act (UN 2 Mar. 2007, Para. 163).

Protection available to victims of domestic violence

The same report from the UN indicates that in 2007, Ecuador had 32 commissariats for women and the family and that other commissariats were sorely needed, particularly in cantons such as Guayaquil and Sucumbíos, where violence has reportedly increased in recent years (2 Mar. 2007, Para. 158). An article published in 2008 by a Manabí daily, *El Nuevo Empresario*, notes that five additional commissariats have opened and that three of them are located in Guayaquil (25 Nov. 2008). The commissariats are directed by the National Gender Directorate (Dirección Nacional de Género, DINAGE), an organization that reports to the Department of Internal Affairs (Ministerio de Gobierno, Policía y Cultos) (Ecuador n.d.) and whose responsibility is to draft public policies aimed at eliminating family violence and re-establishing gender equality (OAS Sept. 2008).

According to an article published in 2007 by the *Diario Correo*, the DEVIF offers, among other things, free legal advice to victims of physical, psychological and sexual abuse; its offices are located in the cities of Quito, Guayaquil, Cuenca, Riobamba and Loja (12 July 2007). Another office opened in 2007 in the province of El Oro while others were expected to be built in the cities of Esmeraldas, Ambato and Babahoyo (ibid.). Information on whether these offices have opened could not be found among the sources consulted by the Research Directorate.

According to the UN Secretary General's Database on Violence Against Women, the first shelters were opened in 2008 (UN n.d.). An article published in 2008 by *El Tiempo*, a Cuenca newspaper, reports that only six cities have shelters for victims of domestic violence (7 Nov. 2008). One of those shelters, called the María Amor Shelter (Casa de Acogida María Amor), is located in Cuenca (*El Tiempo* 7 Nov. 2008).

An article published by *Expreso.ec* indicates that, in Guayaquil in 2008, 3,399 individuals received legal, social and psychological aid under cooperative arrangements among the María Guare Foundation, the Institute for Children and

Family (Instituto del Niño y la Familia, INFA) and the municipality of Guayaquil (29 July 2009).

According to two media sources, police officers from the Domestic Violence Unit in Guayaquil have launched an awareness campaign concerning domestic violence (*El Universo* 9 Mar. 2009; *Expreso.ec* 17 Feb. 2009). The main objective of the campaign is to inform the local public how to report incidents of domestic violence (*El Universo* 9 Mar. 2009). The districts of Prosperina, Sauces, Los Esteros, Guasmos and La Trinidad were reportedly among the first visited because the majority of such complaints come from those areas (*ibid.*). An information pamphlet on the different types of violence, on Act No. 103, and on protection available to victims was distributed to the population (*ibid.*).

Judges, commissioners for women and the family, and national police officers receive both a procedural manual on implementing the Violence Against Women and the Family Act, and training on those procedures (UN 2 Mar. 2007, Para. 166-168).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Representatives from the Consejo Nacional de la Mujer (CONAMU) and from the Centro Ecuatoriano Para la Promoción y Acción de la Mujer (CEPAM) could not provide any information within the time constraints for this Response.

Internet sites, including: Amnesty International (AI), Ecuador - Comisarías de la Mujer y la Familia, Ecuador - Dirección Nacional de Género (DINAGE), Freedom House.

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