ECUADOR

1. Discriminatory family code

In Ecuador, the **minimum age for marriage** without consent is 18 for heterosexual men and women.\(^1\)

Customary law is recognised in Article 171 of the 2008 Constitution, which provides the right of “communities, indigenous peoples and nationalities to exercise jurisdictional functions within their territorial area ‘based on their ancestral traditions and their own right.’” There is no information on how these ancestral traditions effect the age of marriage in indigenous communities.\(^2\)

According to 2002-2012 data, 3.8% of children were married by 15 years-old and 22.2% of children were married by the age of 18.\(^3\)

Article 138 of the 1989 Civil Code stipulates gender equality in household management.\(^4\) **Parental authority** is exercised jointly by both spouses. However, the Committee on the Rights of the Child highlights “the often limited extent of parental responsibility taken by the father, particularly in terms of recognising and maintaining the child.”\(^5\) Further, Article 180 in the Civil Code favours men by default in the administration of the household (“in absence of stipulation, it shall be presumed that the husband is administrator”). In 2010, a draft Civil Code Reform Act was presented to the National Assembly to eliminate that phrase, among other things.\(^6\) After **divorce**, men and women have equal parental authority rights under the Civil Code.\(^7\)

Men and women, sons and daughters, have equal **inheritance** rights in Ecuador. Under Articles 1045-1055 of the Civil Code, inheritance succession is stipulated in the following order: children, siblings, spouse.\(^8\) However, domestic partnerships are recognised as equal to marriage for the purposes of

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\(^1\) Civil Code Article 83; United Nations Statistics Division (2008)  
\(^4\) FAO (n.d.)  
\(^5\) CRC (2005)  
\(^6\) CEDAW (2012)  
\(^7\) Article 115  
\(^8\) FAO (n.d.)
inheritance and, in August 2011, the Social Security Institute awarded a widow’s pension to a lesbian for the first time.\(^9\)

It is unclear whether inheritance laws are different under customary law, recognised in Article 171 of the 2008 Constitution cited above.\(^11\)

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Women have the same rights to initiate divorce as men, as established by the Civil Code.\(^12\)

### 2. Restricted physical integrity

The most recent data collected by the National Survey of Family Relations and Gender Violence shows that 61% of women in Ecuador have experienced violence based on their gender.\(^13\) Violence against women, including domestic violence, is addressed legislatively under the current Constitution, which guarantees the right of women to live free of violence, and under the National Plan for the Eradication of Violence against Women, Girls, Boys and Adolescents.\(^14\)

The 2007 Plan was drafted to bolster the 1995 law on violence against women and the family, which was criticised in 2004 by the Committee on Economic, Social, and Cultural Rights and in 2008 by the United Nations Committee on the Elimination of Violence against Women, for its lack of a comprehensive strategy to eliminate violence against women.\(^15\) The new plan aims to address social and cultural contributors to violence, build and strengthen protections for victims, and increase access to justice. Increased protections for victims of domestic violence include 15 external care centres for victims, in place as of 2012, and 15 special rooms at hospitals designed to give comprehensive care to victims of violence, created as of 2011.\(^16\) While the Ecuadorian government is still under pressure from national and regional women’s organisations to reform the 1995 law on violence against women and the family, in 2012 the Organization of American States noted that, “although Ecuador does not have a comprehensive law on violence against women, it has incorporated the [Belem do Para Convention on Violence against Women] into its Constitution, where a woman’s right to a life free from violence is upheld.”\(^18\)

There is no information on how routinely domestic violence is reported; however, during the period 2007-2011, 319,748 violence complaints and demands were registered.\(^19\) In 2007, 4,405 prison sentences were meted out in cases of domestic violence\(^20\) and, in 2011, 6,807 domestic violence cases

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9 FAO (n.d.)
10 CEDAW (2012), p. 27
12 Civil Code Articles 106-107; CEDAW (2012), p. 33
13 CEDAW (2012), p. 19
14 CEDAW (2012) p. 17
15 CEDAW (2008)
16 CEDAW (2012), p. 18
17 CEDAW (2012), p. 7
18 OAS (2012), p. 18
19 CEDAW (2012), p. 18
20 CEDAW (2008)
were dealt with through the Center for the Protection of Rights, an alternative to the judicial system set up under the Ministry of Economic and Social Inclusion.\(^{21}\)

The Penal Code criminalises **rape** and provides penalties of up to 12 years in prison.\(^{22}\) The existence of family ties or relationship is considered to be an aggravating factor in cases of rape or sexual assault, which also criminalises spousal rape, under the family code.\(^{23}\) Although it is unclear whether Ecuador considers death during or after rape to be considered “femicide,” the penalty for rape where death occurs increases from 12 to 16 years’ imprisonment.\(^{24}\) According to the US Department of State, in 2012 the National Police received 2,067 reports of rape and detained 789 individuals.\(^{25}\)

In many instances, victims do not report rape and sexual assault because of their fear of retribution from the perpetrator or further violence and social stigma.\(^{26}\)

**Sexual harassment** is prohibited in the workplace, education and religious environments under Article 511 of the Penal Code.\(^{27}\) Sexual harassment is also addressed under Article 10 of the Organic Law of Public Service, which requires that public servants found guilty of sexual harassment or abuse be discharged.\(^{28}\)

In 2011, 571 cases of violence and sexual harassment were dealt with through the Center for the Protection of Rights, an alternative to the judicial system set up under the Ministry of Economic and Social Inclusion, in accordance with the 2007 National Plan for the Eradication of Violence against Women, Girls, Boys, and Adolescents.\(^{29}\)

Sexual harassment and sexual abuse have been cited as of particular concern within the country’s education system. Organisations such as the UN Commission on Economic, Social, and Cultural Rights and the Center for Reproductive Rights have criticised Ecuador for its failure to adequately address the problem, as NGO reports have shown that sexual harassment in schools generally goes unpunished.\(^{30}\)

There is no information on whether the justice system is sensitised to the law, but according to the US Department of State, in 2012, there were no reports of police or judicial reluctance to act on harassment claims.\(^{31}\)

There is no evidence to suggest that **female genital mutilation** is practised in Ecuador.

In its 2012 review of Ecuador, the Committee for Economic, Social, and Cultural Rights expressed concern at the high levels of sexual violence and abuse experienced in schools and educational settings,

\(^{21}\) CEDAW (2012), p. 18  
\(^{22}\) US Department of State (2013), p. 23  
\(^{23}\) CEDAW (2007), p. 19  
\(^{24}\) US Department of State (2013), p. 23  
\(^{25}\) US Department of State (2013), p. 23  
\(^{27}\) OAS (2012), p. 113  
\(^{28}\) OAS (2012), p. 113  
\(^{29}\) CEDAW (2012), p. 18  
\(^{30}\) Center for Reproductive Rights (2012)  
\(^{31}\) US Department of State (2013), p. 23
the impunity of perpetrators of such violence, and the lack of sexual and reproductive rights afforded to victims.  

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Under Ecuadorian law, **abortion** is legal only in instances where a woman’s life or health is at risk, although in certain cases of rape, the president can make use of a veto to allow an abortion to take place legally.

### 3. Son bias

The male-to-female **sex ratio** at birth in 2013 is 1.05 and for the working age population (15-64 years old) is 0.97. There is no evidence to suggest that Ecuador is a country of concern in relation to **missing women**.

**More**

In 2012, more male children were out of **school** than females, and the ratio of female to male was 99.9% for primary enrolment and 101.6% for secondary education. There is no gender gap in terms of gross and net primary school enrolment for the same year and a slight gender gap, benefiting girls, for secondary education.

### 4. Restricted resources and assets

The 1994 Agrarian Development Act provided women and men with equal **rights to own land**, regardless of marital status, and also gave indigenous and Afro-Ecuadorians rights to ancestral lands. In the last decade, there have been several efforts to promote women’s land rights, particularly in rural areas, including the Support for Rural Women programme in 2003, the National Policy for Rural Women in 2007, and the plan for equal opportunities in 2005-2009, which incorporated the needs and demands of rural women. In practice, fewer women than men have access to land. There is no information on how indigenous land rights have affected women.

Women have legal access to **property other than land** but face some restrictions in its administration. Within marriage, joint property is administered by the head of the family. There is a presumption in favour of the husband, who is considered to be the head of the family unless there is an explicit statement to the contrary.

According to Article 157 of the 1989 Civil Code, any property acquired during the marriage belongs to the couple. Unmarried women and men share the same rights to moveable property under the Civil

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32 Center for Reproductive Rights (2013)
33 UN DESA (2013)
34 CEDAW (2007), p. 54
35 CIA (2013)
36 World Bank (n.d.)
37 FAO (n.d.)
38 CEDAW (2007), p. 63
39 FAO (n.d.)
However, it is unclear whether women living in indigenous communities have equal access and rights to property other than land.

Regarding financial services, although women and men are able to access bank accounts in the same way, according to data from the World Bank (2011), only 33% of women have an account at a formal financial institution, compared to 40% of men, and only 9% of women compared to 11% of men have received a loan from a financial institution in the past year. Further, restrictions in access to bank loans pose serious problems for women and agricultural development. According to a national agricultural survey in 2000, the proportion of women producers who had been granted a loan was approximately half that of men producers: women represent 25% of all agricultural producers but only 16% of those receive credit.

More recently, women’s access to credit has increased with access to microfinance institutions. According to the most recently available data (2012), women made up nearly 47% of microfinance borrowers in Ecuador.

5. Restricted civil liberties

While there appear to be no restrictions to women’s access to public space under Ecuadorian law, it is unclear how indigenous women fare under Constitutionally-recognised indigenous law. Recently, the government has undertaken policy steps to ensure greater access to public services for indigenous and rural women. For example, in 2010, the Intercultural Health Policy was created to help ensure that indigenous and Afro-Ecuadorian women have full access to health services.

In the area of political voice, Ecuadorian law stipulates the promotion of equality in the political sphere at both the national and local levels, through the Constitution (Article 65) and Electoral Law (2009 and 2012). At the national level, under the Constitution, candidate lists must be run through a system of proportional representation and, under Electoral Law, alternation between men and women on candidate lists is required. At the local level, a 30% quota is mandated.

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There is no information on women’s representation in the media but, more broadly, legislation to restrict freedom of the press has been reported in recent years.

As concerns workplace rights, women are protected from discrimination in pay under Article 79 of the Labour Code. In addition, Ministerial Agreement No.261, enacted in 2005, prohibits the publication of
job advertisements in public or private spheres that discriminate on grounds of age, sex, race, disability or any other cause. ⁴⁹

Article 152-155 of the Labour Code provides for protection of women in cases of pregnancy, childbirth, child care and breastfeeding. Under the law, Ecuadorean women are entitled to 12 weeks of paid maternity leave. 75% of the benefits are paid by a national social security system, with employers contributing the final 25%. Ecuadorean law prohibits firing pregnant women unless for a cause unrelated to pregnancy and guarantees that their employers will not permanently replace them while they are on maternity leave. ⁵⁰

⁴⁹ FAO (n.d.)
⁵⁰ International Labour Organization (n.d.)
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