

## The Adoption of Convention C156, (ILO) Workers with Family Responsibilities: Ecuador, a Case Study

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**ABSTRACT:** *The Workers with Family Responsibilities Convention, was adopted at the 67th session of the General Conference of the International Labor Organization in Geneva by the Governing Body of the International Labor Office on June 23, 1981. By 2007, it had been ratified by 40 countries, with Albania and Paraguay (2007) being the most recent. Approximately 20% of the total number of countries that have ratified it are in the region of Latin American or the Caribbean. This paper will discuss the case of Ecuador's adoption in 2012 and how the Convention fits into its existing legal framework, while at the same time strengthening those commitments by joining the international community to affirm the rights of workers (especially women) with family responsibilities. This article analyzes the substance of the Convention and the importance for Ecuador of having ratified it. Since it deals with human rights and has become part of the country's legal framework, it is of great importance to the administrators of justice.*

**Keywords:** *Labor, remuneration, international*

### I. Introduction

All male and female workers with family responsibilities have the right to special protection and freedom from discrimination at work due to those responsibilities.

The work of women represents an important percentage of the labor market in Latin America and the world. The vast majority of this work is done by women performing tasks in the labor market that are not given economic recognition, such as cleaning, homemaking and childcare. According to statistics from the ILO (2018) 80% of domestic workers worldwide are women. In Latin America there are 14 million domestic workers.

Despite contributing significantly to the national economy and to family income, prejudices about domestic work remain. Since domestic work is perceived to require little skill and talent, women are subject to insufficient pay, dangerous working conditions and excessive hours. They are obliged to accept these conditions due to economic necessity.

According to statistics from ECLAC (Economic Commission for Latin America and the Caribbean) and analyzed by (WIEGO, 2016), *Women in Informal Employment: Globalizing and Organizing*, the earnings of female domestic workers in Latin America represented an average of 41% of total urban income. At the same time, domestic work done by women is the lowest paid work in the informal sector. At the same time, the existence of domestic workers makes it possible for the people who utilize their services (often women) to work

outside of the home.

This article will focus on the study of The Workers with Family Responsibilities Convention, 1981, in order to analyze the process of the State of Ecuador's ratification of this instrument.

## **II. The International Importance Of The Convention**

According to the International Labor Organization's Agenda for Decent Work, productive employment and decent work are key elements to achieving a fair globalization and poverty reduction. The agenda's four objectives, which should take into account gender equality and non-discrimination as a cross-cutting objectives are:

- Employment
- Workers Rights
- Social protection, with special emphasis on universal social security and the regulation of income, work hours and working conditions and;
- The social dialogue, which goes beyond the tripartite dialogue, refers in this respect to the recognition of the working relationship, the promotion of good labor relations and;
- The establishment of effective labor inspection systems with their respective legislation and institutions for this purpose

For this purpose, the International Labor Organization adopted Convention 156, Workers with Family Responsibilities, on June 23rd, 1981, at the 67th meeting of the ILO. This convention is a response to the factors that affect the lack of inclusion of women in the labor market worldwide, which they have to deal with when reconciling their work and family life.

Traditionally, when household tasks are distributed, society has classified them as women's work. Society has also assigned to women everything that has to do with the work of caring for children and the elderly as well as people with disabilities. This work is unpaid and not valued by the economy. Rather, they represent an invisible price that a woman must pay from the moment she tries to enter the workforce.

Mercedes D' Alessandro shows in her work *Feminist Economics*: "The wage gap is based on the roles that women play in economic production. These, in turn, are reinforced by education, laws and stereotypes." (D'Allesandro, 2016). According to the ILO, almost 40% of poor women are domestic workers. These are women who need to work, but are not qualified to access other types of employment. Working conditions for women in general are characterized by underemployment, overwork and discrimination with regards to income and access to jobs.

Policies must support equal distribution of household tasks through universal public services, as well as the possibility for women to achieve a dignified job despite family responsibilities, without detriment to their personal well-being. Since today's world economy requires the incorporation of women into the labor force in order to meet the basic needs of families, it is necessary for women to have access to a manageable work schedule, alongside workplace policies such as childcare and the division of household work among all the members of the nuclear family.

## **III. The Ecuadorian Legal Framework**

In order to comply with the ratification process, the Ministry of Labor Relations and the Transition Commission to the Women's Council and the Gender Equality of Ecuador officially committed themselves (18 March 2010) to guarantee the promotion and exercise of women's human rights through the institutionalization of the gender approach in policies, plans, projects and employment programs.

They launched an argumentative study, published in December 2010, which served as the basis for continuing the process of ratification of the Convention. It presented the legal framework and applicability of the Convention to Ecuador and made a comparative analysis between Convention 156 and the relevant regulations in Ecuador. The Constitution of the Republic of Ecuador (Article 417) states that, in order to be ratified, international treaties must be subject to the provisions of its Constitution. The Constitutional Court issued its Constitutionality Opinion for the accession of Ecuador to this Agreement on January 19, 2012.

#### **IV. Relevant Points of Convention 156**

- Implementation of measures to permit free choice of occupation
- Incorporation of facilities that give access to professional training that contribute to equal opportunities for all workers
- Generate information on the problems of workers with family responsibilities;
- To allow the integration and permanence of these workers in the adoption of measures for local and regional planning so that the needs of this group of workers are taken into account
- Development of community, public and private child and family care services
- Prohibit family responsibility as a cause for termination of employment
- All these approaches should be made effective through national policies that make visible the incorporation of laws that are in accordance with the reality of each country's labor force and their reintegration after a period of absence due to family responsibilities

According to the study presented with data from (INEC, 2017), in recent years, women's participation in the labor market has been increasing in various sectors, making it necessary to focus efforts on regulations that facilitate women's mobility, which is diminished due to their (unpaid) workload in the home.

Time use indices show us that women have a greater burden of household tasks, and this affects their "quality of life" index (time dedicated to other activities.) Women's working conditions are marked by underemployment, overwork and discrimination in income and participation. This is why policies are needed to support the reduction of the burden of care, that is, the co-responsibility of assuming these tasks within the family and through universal public services. Such policies will make it possible for women to achieve a decent job that allows them to perform household tasks without detriment to their personal well-being and without experiencing a higher level of poverty in relation to men.

The regulations of Convention 156 are in concord with Ecuador's current labor regulations. These have already eliminated unsafe work conditions and guaranteed safe work, full respect for their dignity, a decent life, remuneration and healthy work freely chosen or accepted.

For example, the Constitution of Ecuador established that the state must incentivize public policies that guarantee the right to work. Ecuadorian law also states that it is the direct responsibility of the State to promote that public institutions observe hiring practices that support the inclusion of priority groups, interculturality, and the equal presence of men and women in the positions of nomination and appointment. In addition, the law guarantees that equal work for equal pay, without any discrimination.

Furthermore, the Ecuadorian Labor Law calls for the extension of Social Security (in a progressive manner) to citizens who perform unpaid work in the home. It is also pertinent to mention that workers are free to dedicate themselves to any (legal) work that they have.

Ecuadorian law also prohibits private employers from terminating workers due to pregnancy and requires that they provide 12 weeks of paid leave. Public workers may be eligible for paid leave due to

motherhood, fatherhood, with special dispensation for multiple births, birth by cesarean, death of a child and even adoption. The period of lactation for employees in the private sector has been extended from nine to 12 months. At the same time, businesses with more than 50 employees must have childcare available for their workers.

Ecuadorian law guarantees respect for reproductive rights for workers. This includes the elimination of risks that affect reproductive health, availability of stable employment regardless of pregnancy, or number of children. For public sector workers, the state must provide work that allows for self-care, adequate work schedules, in addition to care for children and the disabled. In Ecuador, the Labor Code delineates the reasons for the termination of employment. Currently, none of them includes a cause that may be linked to family responsibility. Even absence due to domestic calamity is already considered as a justified cause for parental leave.

## V. CONCLUSION

Ecuador has made a historic advance with regards to the protection of workers, recognizing the value of work in all its diversity and without exceptions. Given that Ecuador's Ministry of Work already has a legal framework for compliance with labor control obligations, it will implement a series of programs and policies to promote and guarantee respect for the rights of all workers.

Women, especially those in domestic work, have not been an exception to current policies. By ratifying this International Convention, Ecuador has increased enforcement through thorough inspections of worksites. Changes in policy also reflect the increased membership in Social Security in the country.

Despite the advances already achieved, Ecuador has set forth increasingly ambitious annual goals with the objective of bringing these benefits and programs to the whole population. Even though Ecuador has already implemented most of the requirements of Convention 156, it has ratified it in order to reinforce the existing commitments that the government has made to workers.

At the same time, Ecuador hopes to promote the adoption of similar measures in other countries in order to achieve universal decent work in accordance with ILO principles. Ratification of Convention 156 not only establishes a commitment at the national level, but especially strengthens the enforcement of migrant workers' rights so that every worker can claim the same rights in all countries.

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