

# Public policies and the social fight against harassment of women in Ecuador

## Abstract

Multiple inequalities consistently affect social relations and generate forms of violence, which is why measures have been taken at different levels and scopes against sexual harassment with the aim of eradicating such violations of rights. The referrals analyzed refer to a powerful cry from women in struggle calling for gender equality in different spheres and spaces as a guarantee of rights. We intend to unravel the mechanisms adopted in the Ecuadorian nation and the characterization of the phenomenon of cultural behavior, identifying the social fact as a crime. In the methodology, we map advances in legislation and implementation of policies and protocols established as prevention and reporting instruments that fuel social struggles. The mitigation process takes into account weaknesses or contradictions in the judicial system when investigating sexual harassment, but the establishment of reporting mechanisms serves to reduce violations against women, fueling the fight for its eradication. The events in Ecuador would be a feminist spring that seems like a movement with no return.

**Keywords:** Ecuador, public policies, female violence, solidarity, control mechanisms

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## Introduction

The multiple inequalities in Ecuador generate demands from women, placing on the public agenda the creation of policies aimed at supporting, among other aspects, the fight against sexual harassment. The feminine sense is the perception of an existence in which “women are in danger”. The analysis of changes in social relations contributes to the legal field through the implementation of laws that support effective social struggles. The text highlights the recognition of the inclusion of the figure of sexual harassment in the fight against everyday violence directed at women, with the identification of its criminal nature towards subjects with rights and as such active in their citizenship. As social researchers, we note that there are few laws in Ecuador that effectively protect women in their particularities in the family, at work and in public spaces. Furthermore, the laws that emanate from the Rule of Law make the institutional field assume its responsibility, but in everyday practices they are not fully complied with, maintaining historical problems in the application of the sanctions provided for to contain gender violence. In accordance with the country’s Constitution, the State is obliged to promote mechanisms to combat all forms of violence against women, among other social categories. Thus, in 2014, the Comprehensive Organic Penal Code (COIP) was enacted in Ecuador. This event is a historic milestone in the social and cultural struggles against gender-based violence, in its broadest form, which is sexual harassment, allowing visibility and perception of this social phenomenon, traditionally accepted by society, and classifying the behavior as a crime. The code typifies and differentiates the legal figures of sexual harassment and abuse. Later, in 2018, the Comprehensive Organic Law to Prevent and Eradicate Violence against Women (LOIPEVCM) was enacted, establishing mechanisms for the prevention and eradication of violence against women. The issues of power relations, gender-based violence and sexual harassment are social constructions that involve painful experiences in the face of structured hierarchies. The research aims to contribute to the detection of the social phenomenon of conflictual relationships, its visibility, prevention and repair in everyday relationships. There is an effort to achieve the proposed objective that refers to a discussion on the social and cultural process in the construction of national legislation as an instrument of definition

and identification, with ways to fuel the struggles to eradicate it in Ecuadorian society. In the process of seeking answers to our questions, we adopted an approach methodology that uses parameters to seek conceptual coherence, along with methodological rigor, combined with a social and institutional commitment to the fight for dignity and gender equality. To this end, an approach whose point of view overcomes reductionist, victimizing, and punitive readings is crucial.<sup>1</sup> The different situations in which sexual harassment occurred raised the questions selected as the basis for the research: What is the factual reality in the Ecuadorian nation that gave rise to the emergence of specialized laws and what happened in different social spaces around the subject? We sought an intelligible answer to the question posed, inspired by our condition as citizens and by the academic endorsement of the notion of situated knowledge. Therefore, we recognize that we make a choice based on a political position: the fight of women for rights. In the methodological explanation, we opted for the notion of situated knowledge, with an interdependence of the links between the subject of knowledge and objective reality, with adherence to the social constructivism of the dialectical relationship between the theoretical dimension and empirical data.<sup>2</sup> Amid gender conflicts, we understand that the production of knowledge is articulated in time and space. Inspired by this approach, we carried out a brief bibliographic review of sources throughout the text, questioning the emerging public policies in Ecuador related to combating gender violence and feminist rights. We used academic research and analyzed innovation in legislation over more than a decade. Another source of information is our notes made from observations of feminist mobilizations in their articulations in favor of their demands.

The problem of sexual harassment was investigated and the main results are highlighted throughout the text using a qualitative approach, highlighting some quantitative evidence. The interdisciplinary approach brings together fundamental collaborative contributions, incorporating perceptions, experiences, data, analyses and reflections on the topic in question.<sup>3</sup> Between advances and setbacks, we emphasize that historical facts occur in a non-linear dynamic, and we highlight a look at disputed fields: gender violence and women’s right to freely dispose of their bodies. Due to contingencies, we do not intend to expose the voices of feminists who stood out as protagonists

in the process of innovation in public policies. The authors propose to answer questions based on situated knowledge, recognizing its limits in relation to an epistemological approach that declares its political position in favor of rights. The empirical data listed give visibility to the social problem in the context of Ecuador and which is examined from a theoretical-methodological inquiry. In this sense, both feminism and sexual harassment can be investigated as the result of a triple power and enigma, constituting an epistemological question and a paradox in political conflicts, with agreements and disagreements.<sup>4</sup> Having described the complexity of the phenomenon, we believe in our ability to convert an incisive and complex social problem into an object of scientific investigation, with the goal of handling data that demonstrate its presence, effects and solutions to demands. This article addresses, in its second section, the state of the art of sexual harassment as structured violence against women. The third section highlights the progress made in criminal law in combating it in Ecuador since 2014. The fourth section discusses why these advances can be seen as a mechanism for social solidarity. The fifth section includes the final considerations on the challenges that still remain. Knowing the scope and circumstances of a social phenomenon such as sexual harassment against women should be of interest to all participants in a democratic society, which in turn allows us to promote policies aimed at creating spaces and environments in which rights are guaranteed.<sup>5</sup> When contextualizing the scenario of debates on the meaning of legal innovations, we include the positions of women's movements regarding policies that seek to answer the questions outlined.

### Structured violence and systematization of coercion

In issues that affect women's dignity, there is an invisibility in relation to insecurity that constitutes a variable that subordinates the condition of their vulnerability. In different spaces, women live with the fear of sexual assault, so the perception of being a victim and actual insecurity meet. This research aims to contribute to the detection of the social phenomenon of conflictual relationships, promoting visibility, prevention and repair. In particular, it is a socially referenced phenomenon based on the incidents, perception capacity and experiences of harassment that women suffer, as well as the development of public policies. Reporting can only occur when there is a perception of sexual harassment and if this outrage is not silenced. The spectrum is broad, ranging from verbal/gestural harassment, unwanted sexual advances and proposals to sexual coercion, since the perception to be reported is more frequent when it occurs in a hostile environment. The perception of harassed people constitutes one of the fundamental criteria for defining what sexual harassment is, and that social struggles, added to the corroboration of demand at the state level, are the historical basis for the emergence of laws relating to the topic. Framed as gender violence in Ecuador, a report on sexual harassment was prepared before the emergence of the laws mentioned here.<sup>6</sup> This is a study with a quantitative sample from the National Women's Council. The author proposed the preparation of a report that would help both the national State to adopt legal measures to eradicate sexual crimes, with the application of sanctions, and to promote a systematic and broad effort in the Ecuadorian nation to overcome an androcentric vision based on patriarchal structures and hierarchical. There is a notable and unequal effort for women to overcome their condition of being oppressed, mistreated or exploited by the culture in which male abuses are justified. Sexual harassment represents a persistent form of gender-based violence that is little recognized and barely visible.<sup>7</sup> The definition of the concept arises in response to the demands of the feminist movement.<sup>8</sup> The term "gender-based violence" refers to sociocultural practices against women due

to their vulnerable or subordinate condition. Thus, in this article, both terms – violence against women and gender-based violence – are seen as equivalent. Like all violence against women, sexual harassment is supported by multiple representations,<sup>9,10</sup> from the physical to the symbolic, being reproduced and perpetuated in different areas of social life: family, school, work and public spaces. These practices constitute forms of violent behavior that, in some way, are partially recognized surrounded by controversy, which undermines the fundamental rights to live a life free from violence, insecurity and discrimination.<sup>11</sup> Among other aspects, gender violence is deeply related to power. "While power is an end, violence is a means [...] and the end would be male domination, [...] Male domination describes a differentiated symbolic universe for men and women, which produces inequality".<sup>12</sup> Within a situational paradigm, it is necessary to address insecurity beyond the goal that all citizens need to learn to defend themselves in a supposedly lost security. From the perspective of insecurity, the phenomenon can be approached as originating from sexual violence on the streets, "highly reproduced and naturalized, as an exercise of power by one human group over another".<sup>13</sup> With an unwanted imposition, an unequal power relationship is established due to the lack of reciprocity. Thus, López addresses this aspect of inequality based on the analysis of harassment in public spaces,<sup>14</sup> which generates insecurities and points out the factors that characterize this type of violence: power relationship, interaction, sexual connotation, consent, public space, anonymity. Likewise, for Albuja et al,<sup>15</sup> as well as for Caranqui, Balseca and Valenzuela,<sup>16</sup> the main issue is a demand for power, for recognition of the other, for equity in social relations, which in turn affects sexual behavior. In this sense, it always includes the use of authority that demands private benefits or the imposition of unwanted sexual requirements. In the context of a relationship characterized by sexual harassment, the person who suffers the aggression becomes an object, losing their status as a subject of rights.

The UN has repeatedly addressed the issue of violence against women in its conferences, clarifying and defining the meaning of this expression, often used as a synonym for gender-based violence, but which encompasses a broader spectrum of specific violence directed at women: "any act of gender-based violence that potentially or actually results in physical, sexual or psychological harm, including threats, coercion or arbitrary deprivation of liberty, whether occurring in public or private life".<sup>17</sup> This is complemented by another declaration from the same year: "Behavior based on sex, of a nature that is unpleasant and offensive to the person it affects. For it to be sexual harassment, both negative aspects must converge".<sup>18</sup> The same entity reports that 130 nations prohibit sexual harassment in the workplace,<sup>19</sup> also recognizing the interfaces between this embarrassment and similar situations in other areas of social life. The key words in the definition of harassment are "unwelcome" and "offensive". Thus, any unwanted, unsolicited and rejected sexual behavior constitutes harassment. Albuja et al.<sup>20</sup> refer to different terms and actions such as: unsolicited or unreciprocated, unwanted, offensive, unreasonable, unacceptable, intimidating, hostile or unsought. Some other aspects can also be mentioned in the face of degrading attitudes towards women based on stereotypes, as well as attracting unwanted sexual attention that can lead to coercion or blackmail. Its prevalence is recognized by its existence in all countries, reaching up to 50% in workplaces in European Union countries, and up to 90% in public spaces in the Latin American region.<sup>21</sup> For this reason, this historical phenomenon has been described as a global pandemic and is not sufficiently recognized. In Ecuador, statistics are partly in line with international trends. According to official data, 6 out of 10 women suffer gender-based violence. Other studies have revealed that 9 out of 10 women have experienced harassment in public spaces, and between 3 and 6 out of

10 women have experienced these situations in educational settings.<sup>22</sup> Among the spaces where threats are made concrete is mass public transport, where inappropriate behavior is not easy to report, there is little solidarity for victims among strangers, and the segregation of reserved spaces seems to ratify the subjection. However, the lack of consensus in Ecuadorian society to frame sexual harassment behaviors<sup>23</sup> is evident, despite the vast contribution of social sciences since the 1970s. This lack of consensus regarding a social pact that includes the issues Gender issues often extend to legal practice. It is at this point that advances in national legislation can be promoted as a mechanism that contributes to the visibility and perceptibility of this social problem, aiming to change deep-rooted social and cultural practices. In this trajectory, there are achievements and bumps, as gender policies in Ecuador have come a long way of tensions and disputes before progressivism, having achieved laws on quotas, free maternity, against violence towards women and the family, the National Council of Women, and the principle of non-discrimination based on sexual orientation and gender in public policies. During the institutional phase of the progressive government, the 2008 Constitution expanded women's rights, reflected in the first national development plan with which several policies were implemented.<sup>24</sup>

For the aforementioned authors, as well as for Albuja and Cedeño, a transition with conservative rhetoric and themes has been taking shape since 2018. Amid advances and setbacks, a heteropatriarchal order has prospered that victimizes women and prevents changes that place sexuality, gender, and female bodies at the center of the debate. Thus, efforts are being made to create the appropriate instruments for an appropriate approach to these events in all their spheres of identification, sanction, collective action, and damage prevention. It is widely recognized that there is a feminist perspective that, based on the experience of victims, deeply understands the ills of the resulting conflict. This perspective is a vision of someone who experiences the problem personally, with an empathetic and personal understanding of its impacts.

## Typification of harassment and historical advances in Ecuador

The discussion of the topic has gained new momentum since the enactment of the Comprehensive Organic Penal Code (COIP) in 2014, which defines and differentiates the legal concepts of sexual harassment and abuse. The publication of the code corresponds to the struggle of feminists for recognition by institutions, precisely to the extent that they worked to include the issue in laws as a legal basis.<sup>25</sup> On the other hand, there is a movement committed to the appropriation of public space without violence or discrimination, but with safety, citizenship and freedom.<sup>26</sup> The code is an ambitious attempt to equip gender issues with a human rights perspective. In this sense, it aims to guarantee full protection for women within the scope of legislation, as indicated in one of its articles.

Art. 166.- Sexual harassment: Any person who requests an act of a sexual nature, for themselves or a third party, taking advantage of a position of authority... that implies subordination of the victim, with the threat of causing the victim or a third party harm related to the legitimate expectations that they may have within the scope of said relationship, shall be punished with a prison sentence of one to three years. ... Any person who requests favors of a sexual nature that threaten the sexual integrity of another person, and that are not provided for in the first paragraph of this article, shall be punished with a prison sentence of six months to two years.

The approval of this Code brought to discussion the practices and

reproduction of intimidating and violent actions that are standardized and, at times, made invisible when looking not only at those who suffer them, but also in the imagination of those who witness them. Therefore, legal classification allows, firstly, to contextualize it as a social problem and, secondly, allows the creation of channels of access to justice and mechanisms for its mitigation, prevention, punishment and finally, repairing damages. Although the definition of sexual harassment in the COIP is limiting, considering one of its forms, which is sexual coercion, its classification signals a milestone in legal advances regarding gender-based violence. Legal documents are tools in the face of multiple obstacles and challenges and, therefore, represent some advances in such sensitive issues. Even so, the legislation does not sufficiently elucidate the different forms in which it can be expressed or the types of evidence essential during the reporting process. In reference to the complexity in the definition, Albuja et al. assume that sexual harassment is part of a complex material and symbolic structure constituted by hegemonic discourses and practices. Overcoming the positions of opposing groups and counting on the intensive support of feminist and human rights groups, in 2018 the National Assembly approved the "Ley Integral Orgánica to Prevent and Eradicate Violence against Women" (LOIPEVCM), which defines different types of violence: physical, psychological, sexual, economic and patrimonial, gynecological-obstetric and symbolic. The entities responsible for governance in the areas of education, human rights and labor have adopted the notion of sexual violence to frame the figure of sexual harassment. In this sense, LOIPEVCM constitutes the main legal resource for the creation of a series of instruments and protocols aimed at prevention, action and punishment in harassment and violence against women. The text of the law points out the requirement for the creation and coordination of the National System for the Prevention and Eradication of Gender-Based Violence against Women, as well as outlining programs and mechanisms for the prevention and eradication of multiple types of violence. Thus, in its article 14, it states:

Article 14 – Purpose of the System. The System aims to prevent and eradicate violence against women through the design, formulation, execution, supervision, monitoring and evaluation of norms, policies, programs, mechanisms and actions, at all levels and instances of government, in a coordinated and articulated manner. (LOIPEVCM).

For the implementation of the System, the generation of specific information is mentioned (article 16), including the Single Registry of Violence against Women and the National Observatory of Violence against Women, in agreement with the Ministry of Women and Human Rights. In addition, article 19 indicates that among the public policy instruments is the National Plan for the Prevention and Eradication of Violence against Women, Girls and Adolescents, among other guidelines such as affirmative policies. This plan, launched in 2020, specifies four structural causes of the social and cultural phenomenon of violence against women:

- i) Structural and contextual factors
- ii) Naturalization of gender-based violence
- iii) Discrimination and violation or contempt of women's rights
- iv) Territorial inequalities.

An institutional change that occurred on November 29, 2022, creates the Ministry of Women and Human Rights, replacing the Secretariat of Human Rights. With this same decree, the Single Registry of Violence against Women came into operation. With the classification of sexual harassment, its visibility, perceptibility, awareness and mitigation become national political goals and are integrated into the

public policy agenda. In this context, the goal is to restore minimum rights to vulnerable groups, transforming public spaces into safe places and ensuring that work and school environments are under social control to curb violence and intimidation.<sup>27,28</sup> These advances in legislation are in addition to existing policies and enhance them with affirmative actions to address violence and discrimination against women. Article 66 of the 2008 Ecuadorian Constitution recognizes the right to personal integrity and a life free from violence in the public and private spheres, especially that which is perpetrated against women, girls and adolescents. Furthermore, the Ecuadorian labor code, in its articles 46 and 172, prohibits harassment in the workplace, establishing it as a ground for termination of employment contracts. The COIP also criminalizes psychological violence against women or members of the family nucleus (art. 157) and discrimination (art. 176). The two laws in question broaden the scope of criminal sanctions for offenses such as acts with sexist connotations. In the Ecuadorian case, the definition of Avril applies: “the act of repeatedly imposing on a person observations or behaviors with sexist connotations that, due to their degrading or humiliating nature, violate their dignity or create intimidation, hostility or offense.”

Feminist demands in Ecuador are related to equal access to goods, prerogatives, rights and legal status,<sup>29</sup> as well as eliminating the

specter of damage to dignity. Sexual harassment is one of the barriers at the national level that prevents the guarantee of this dignity, being a matter of gender equality. The enactment of laws formed the basis for the institutions governing the educational system and workplaces to formulate protocols for prevention, attention and action in cases of harassment, discrimination and violence, as can be seen in Table 1. These protocols address the specificity of the cases and frame the types of behavior that can be reported and, therefore, sanctioned. The instruments created by government entities in the areas of work and education are detailed in Table 1 and served as a subsidy for affiliated institutions to develop their own protocols against sexual harassment. Now, if there have been institutional changes in any government department due to laws (to implement mechanisms), this should be tracked or discovered. While COIP and LOIPEVCM classify all behaviors as crimes, the protocols provide the route for action and empowerment in the event of a harassment complaint. It is worth noting that only one protocol included the different representations with the aim of serving as a guide to identify behaviors that constitute sexual harassment and, therefore, facilitate its complaint. However, the other protocols omit the term, and not all conformations of this social phenomenon are covered. In the SENESCYT protocol, harassment is classified as sexual violence Table 2.

**Table 1** Instruments for prevention and action against sexual harassment and violence against women by government bodies in the educational and work spheres

Institution	Instrument	Scope of application
Secretariat of Higher Education, Science, Technology and Innovation. (SENESCYT)	Protocol for action on harassment, discrimination and violence based on gender and sexual orientation.	Applicable to actions carried out by members of the university towards members of this community or towards any person who in any way collaborates with the Higher Education Institution.
Ministry of Education	Protocols and courses of action in situations of violence detected or committed in the education system.	The document is mandatory for all educational institutions with fiscal, municipal, union and private support, at all levels of the National Education System. It is applicable to specialized and inclusive education programs and to educational programs generated by the Ministry.
Ministry of Labor Ministerial Agreement No. MDT 2020/244	Protocol for the prevention and attention to cases of discrimination, harassment in the workplace and/or all forms of violence against women.	Art. 2. - Scope - rule of mandatory application for all institutions and entities in the public sector described in article 225 of the Constitution of the Republic of Ecuador; public servants, employers and workers subject to the CLT regime.

**Table 2** Action protocol against harassment, discrimination and gender and sexual orientation violence in the university environment

What is sexual violence?	Forms of sexual violence
It is the sexual act or attempt to perform it in which one person uses force when another person does not consent. It is a type of violence that causes anxiety, discomfort, pain and has consequences for health and well-being. “Sexual violence includes many actions that harm each victim in a similar way and that are perpetrated in both the public and private spheres” (UNICEF et al. 2003 en National Council for the Gender Equality , 2017: 120).	Sexual harassment at work, at home, at school, on the street or on public transport, <ul style="list-style-type: none"> <li>• Unwanted or unwanted gestures, phrases, approaches,</li> <li>• Directed gazes, especially towards certain parts of the body, such as genitals, breasts and buttocks,</li> <li>• Conversations, innuendos, verbal expressions that have sexual content,</li> <li>• Exhibitionism, showing one’s genitals or touching oneself in front of another person in a public space,</li> <li>• Sexual rape (also if it happens in a relationship),</li> <li>• Forcing you to have unprotected sex,</li> <li>• Trafficking and sexual exploitation, when a person is traded for sexual purposes</li> <li>• Sexual harassment at work, at home, at school, on the street or on public transport.</li> </ul>



Similarly, the protocol provided by the Ministry of Education provides examples of how sexual and cyber violence are practiced, but does not clearly specify which behaviors constitute harassment. Among the protocols intended for action in public and private places, this one is weak, accompanied by a conceptual and regulatory void. The Ministry of Labor protocol, in section 5, provides a glossary of terms that does not include the term “sexual harassment” anywhere in the section, nor in the rest of the document. Therefore, the definitions of the different forms of violence covered by the protocol do not include the term, nor do they provide examples of representations of this harassment that fall into gray areas. This creates an issue of ambiguity, leaving it up to the executor of the protocol to decide whether to process a complaint in accordance with national guidelines, refer it to another instance, or allow the complainant to withdraw the process. Table 3 Therefore, on the one hand, advances in legal matters have made the social problem generated by sexual harassment visible and favored the implementation of more concrete measures to protect and guarantee the spaces to which men and women have access. On the other hand, despite this progress, there are weaknesses in the action protocols, since they do not address the concept, scope and all social representations. This is very important in legal practice, because if the law and its instruments do not name and give form to a problem, it may seem non-existent. In addition, there is also the issue of special police stations for the protection of women, with assistance from specialized professionals who are sympathetic to the issues raised, as well as opening new paths for the judicialization of interpersonal conflicts. This requires the articulation of network actions for the protection of women by professionals in the national judicial system. The social sciences are interested in explaining the cooperative modes of production of symbolic dimensions and the factors of adherence to militancy. According to Giry and Wokuri,<sup>30</sup> there are reciprocal effects in which it is important to highlight the way in which militant activity allows the emergence of entities that protect women and, in the opposite direction, how these entities produce militant effects in a social category.

**Table 3** Protocol for prevention and action in cases of discrimination and harassment in the workplace

Terms	Conception
Discrimination in the workplace	Any unequal treatment, exclusion of one or more people, based on gender identity, sexual orientation, sex, gender, age, disability, HIV/AIDS status, ethnicity, which has the effect of nullifying, altering or preventing the full exercise of rights, whether individual or collective, during the existence of the employment relationship and in any area. Discrimination will be understood when one person is preferred over another, such as hiring a man instead of a woman solely because of their gender.
Violence against women in the workplace	Violence against women in the workplace shall be understood as all those actions that hinder access to employment, hiring, promotion, stability or permanence, requiring requirements regarding marital status, maternity, age, physical appearance, with regard to a possible state of pregnancy, unjustified inequality of pay or conditioning hiring or permanence in employment in exchange for acts of a sexual nature, as determined by LOIPEVCM. This type of violence is practiced by people who have an employment relationship with the victim, regardless of the hierarchical correlation.

## Public policy and gender solidarity mechanisms

In preparing this article, we considered it essential to highlight the practices and prevalence of laws in the social struggles against sexual harassment and its consequences. The design of an approach in the country aims to establish public policies, changes in the reporting system, control plans and shelter programs for victimized women. This section will reflect on how public policies and legal advances provided by COIP and LOIPEVCM serve as mechanisms that can direct social solidarity in terms of gender equality. Different dimensions will be addressed of how the enactment of these laws contributes to:

Knowledge about this social phenomenon.

- The relevance and scope of their consequences for the democratization of access to justice.
- The demystification of stereotypes and combating indifference towards female vulnerability in the face of sexist
- Patterns.
- A platform for articulating instruments that allow for prevention, action and application of sanctions.

These reflections are based on a review of the international and national state of the art, which allows us to understand the context of the problem that underlies sexual harassment and how the law contributes to its publicity. The laws that guide gender policies in Ecuador raise questions about the justifications that lead women to occupy subordinate positions at work, from the perspective that they are educated to obey or, worse, to remain silent in solidarity. An aggravating factor in this sexist view is that women are considered incapable or incompetent to have the power to decide. On the other hand, they would have the task of reacting forcefully to aggression, as if they were responsible for self-defense mechanisms.

### a) Entangled plots in social practices as persistent risk

The literature has identified that there is no consensus in Ecuadorian society on what constitutes sexual harassment; individuals' perceptions of what is and what is not are subject to the behavior or type of act generated, and there is a tendency towards passivity in the face of facts, reflecting agreement with observed social attitudes.<sup>31</sup> Furthermore, it has been revealed that individuals are able to identify the most serious forms, but not the most subtle forms due to the naturalization of these behaviors in the social relations of a given society.<sup>32</sup> On the other hand, “if you mess with one, you mess with them all” is the motto adopted by network feminism in the fight against unwanted harassment. The findings on the contingent challenges that afflict women's daily lives in Ecuador are based on international literature. Torres,<sup>33</sup> in an investigative study, points out discrepancies between experiences of sexual harassment and what is perceived as such, revealing that 41% of the Ecuadorian women surveyed classified all the situations described (whistling, invasion of personal space, touching, among others) as such. When the interviewees were directly asked whether they had ever experienced any of these situations, 72% indicated that they had experienced all the situations and the rest indicated that they had experienced at least one of the situations described. Men and women identify various situations of sexual harassment in a varied and ambiguous way, or in a circumstantial way, justifying continued investigations, as agreed by Albuja et al. Albuja and Cedeño, Vaadal. Acts of visual and verbal, physical or written harassment receive broad responses, expressing

a variation in classification. Acts considered physical harassment were classified as such more frequently by women than by men; the latter tend to categorize these practices as “rude behavior” or “other crimes”. Although the definition of sexual harassment in article 166 of the COIP is limited, addressing the phenomenon from a hierarchical or power relationship and under the request for an act of a sexual nature (sexual coercion), the classification constitutes a starting point that allows us to frame a usually invisible social problem. Without the legal figure, intimidating, humiliating and violent behaviors against women tend to be lost in legal gaps and in the conceptions of all the actors that are part of the legal system, often contaminated by a patriarchal culture or a culture of liberalization of customs. In the same vein, the definitions adopted for sexual, psychological and symbolic violence open up the spectrum of behaviors that can be reported, but also prevented and sanctioned, as is the case in the protocols drawn up by different Ecuadorian ministries that govern the education system and labor relations.

#### **b) Relevance of policies and the consequences of their implementation**

In Ecuador, the prevalence rates of attacks on women's conditions have characteristics that highlight their seriousness. In public spaces, between 6 and 9 out of 10 women have faced situations of sexual harassment, while in the field of education, research by Delgado and Albuja and Larrea et al. reveals that the experiences of university students vary between 27% and 59%. We do not intend to compare these numbers with statistics from other Latin American countries. The persistent discrimination against women in the tasks assigned to them and in daily relationships are manifestations that have repercussions in the ridicule of the audacity of being subjects of their own history. The autonomy of use of one's body refers to the condition of preserving intimacy, in addition to touching the skin claiming a body in the space of capitalist social relations. In the report of the “Plan International”,<sup>34</sup> experts have highlighted that public spaces are not safe for women and girls, affecting their free movement, mobility and right to a life free from violence in public and private spaces. However, reaffirming or expanding the definition of sexual harassment cannot be understood as synonymous with the purification of affective relationships to guarantee sexual freedom in everyday circulation. In the family, professional, academic and public contexts, stereotypes and roles of gender subordination are reproduced. The construction of women's subordination gives motivation and meaning to exposure to rights violations in situations of vulnerability and insecurity.<sup>35</sup> The circumstances are diverse, whether due to a society still governed by patriarchal behaviors, or by a system that produces not only material goods, but also subjectivities and modes of existence in the world. In the first dimension, sexual harassment would be a remnant of the weight of inequalities, asymmetries and social relations rooted in society's past. In the second dimension, it refers to social relations where everything, including emotional relationships, is reduced to the laws of the market and can be commodified. From this perspective, the experience and place that women occupy in social relations are combined with relations of power, sex, race, and class. In this context, the use of the notion of situated knowledge becomes complex, as relations tend to be asymmetrical, redefining the spaces of knowledge production and the practices of subjectivation. The consequences of sexual harassment go beyond the psychological repercussions for victims, who suffer from stress, depression and anxiety. The repercussions affect professional and/or educational performance, in addition to modifying behavior, for example, increasing student dropout or job turnover, or changing their travel routes to work or leisure activities or to the educational institution, or changing their clothing. Therefore, it leads to insecurity, vulnerability, shame and

guilt.<sup>36</sup> Something fundamental is that the act of sexual harassment modifies the environments in which individuals operate, since the professional performance of those who witness it is also affected, even if they are not the direct victims.

Furthermore, the presence of sexual harassment in workplaces can have detrimental economic consequences for the harassed individuals and for companies in their efficiency. For example, studies such as those by Antecol and Cobb-Clark<sup>37</sup> and McLaughlin. Uggen ; Blackstone<sup>38</sup> demonstrated that suffering sexual harassment in the workplace increases the intentions of finding a new job. This turnover in the workplace implies not only higher costs for companies, but also greater financial instability and fewer possibilities for career progression for victims, even when rising in the career ladder, the risks do not disappear.<sup>39</sup> The costs of administrative processes and compensation that companies face when cases are registered must also be considered, as well as the deterioration of labor relations and the difficulty in filling a vacancy after the event. Macay and Figueroa<sup>40</sup> point out that this violence generates discrimination and gender inequalities in an environment that is intimidating, discrepant, degrading and humiliating in the institutional space. In fact, it is possible to identify different discourses on the relationships that generate sexual harassment and their consequences: the feeling of vulnerability, indicating the existence of dangerous spaces for women; a propositional narrative that affirms equality, emphasizing equal rights; and a discourse that emphasizes power, even though it is an object of sexual desire, this translates into a source of gender power for women. In an adverse context, women, as feminized bodies, through the lens of hegemonic gender mandates, are seen as sexual objects.

#### **c) Demystifying the socially referenced violence of sexual harassment**

Socially referenced practices of sexual harassment, in addition to being consistent with individual behavior, constitute a social problem and also an issue concerning the national State. The importance lies not only in the high incidence of cases, but also in the tolerance and myths that exist among those who witness these types of situations. The typification of conduct positions this phenomenon as subject to sanction and, therefore, leads to the identification and questioning of factors and contexts traditionally accepted by the dominant culture and ideology about what it means to be a man and what it means to be a woman.<sup>41</sup> In the social context of fluid interpersonal relationships or the tendency towards ephemeral, paradoxical happiness, there is a tenuous or fluid link between the behavior of perpetrators, the attractiveness of friendship between people of the opposite sex, cultural traditions, and the perception of a potential boyfriend or girlfriend. From this point of view, we can examine the factors that influence tolerance of behaviors linked to sexual harassment.<sup>42</sup> On the other hand, an aura seems to be being created around seduction between people of the opposite sex or the search for reciprocity. In this context, understanding cultural peculiarities constitutes a way to give meaning to what determines the effectiveness of legal strategies aimed at preventing and addressing the problems detected. Extensive research by Guarderas and Cuví shows that it is possible to find links between sexual harassment and violence against women with ideologies steeped in stereotypes and myths. Individuals who demonstrate high rates of tolerance for rape myths and low adherence to democracy as a universal value, in addition to acceptance of stereotypes, ambivalent sexism and less identification with feminism. These studies revealed that men express this type of ideology in greater proportion than women. The classification of sexual harassment paves the way to advance and establish that myths about the origins of violence against women are also created from the

constructions of the social roles of the feminine and the masculine. Policies aimed at combating sexual harassment allow us to demystify associated myths, such as those that promote men's hypersexuality or that the action falls on the victim due to their clothing or behavior.

The effort to demystify implies facing major multidimensional challenges in a context of social, cultural, economic and political development. The challenges include the urgency of creating empathy for equal rights, legitimizing gender approaches, expanding the definition of democracy and citizenship, incorporating the issue of diversity and equity, and carrying out a broad review of what it means to experience sexuality in a nation guided by rights. Logroño, in an investigation of the behavior of university students in relation to their sexual life, found from interviews that 51% of women claim to live their sexuality freely, while 41% live it privately, but 92% of men claim to live their sexuality freely. For future changes, educational institutions can implement programs to develop values and attitudes to overcome sexism and gender violence.<sup>43</sup> The decisive challenge is to create appropriate instruments to debate the practices that cause social gender inequalities and to prevent violent actions by fostering reciprocal relationships of equity. In a consumer culture society, there is an imposition on the expression of female sensuality; in aesthetics, it is necessary to expose the body, to be desired or to eroticize everyday life. This is aspirational in advertising, among other areas. Perhaps this makes many public spaces hostile to women and, therefore, encourages or maintains inequality in the public sphere. The controversy deepens when trying to elucidate whether the harassment practices observed in Ecuador are related to secular traditions or whether they are engendered by innovations in relationships, with the liberalization of customs. The aforementioned demythologization involves education that takes the paradigm of equality seriously and that establishes mechanisms to promote equity in social relations as fundamental measures to combat gender violence, including sexual harassment. A process of demythologizing deeply rooted social practices undoubtedly requires an alternative construction that offers indicators of solidarity and reciprocity in everyday relationships. In rights mobilizations, horizontal dynamics and forms of solidarity among participants enable the subversion of gender relations, including the establishment of leadership roles for women whenever situations of equality are present. Certainly, this is not an automatic step for any law, no matter how legitimate it may be, as it requires the uncomfortable exercise of reflection and discernment.

#### **d) The platform and instruments of social and cultural struggle**

As a form of violence, sexual harassment affects victims in their condition as subjects, as it implies a relationship of domination that constitutes a mechanism of control and submission. Thus, we can consider the validity of "a structural phenomenon, whose sociocultural support is based on the concept of male superiority and the desire to control or possess the female body".<sup>44</sup> This phenomenon therefore represents one of the elements of many controversies and setbacks in everyday social relations. The recognition of the legal concept of sexual harassment and its characterization as a crime are relevant because, in addition to identifying a social problem, it creates a series of instruments and resources to which victims can resort. The multiple forms of rights violation combine with the imaginary and subsistence of sexist myths made possible by the reproduction of power relations. Recognizing women as subjects of protection and providing mechanisms to trigger the actors involved is fundamental in the fight against the reproduction of harassment. The rate of reporting harassment situations can be considered low in Ecuador even in the second decade of the 21st century. Studies show that only a small percentage of women (19%) report acts of harassment, and

67% would consider reporting the situation depending on the type of harassment, while 63% of women do not take action against the aggressor when they suffer harassment. Therefore, these protective measures instruments not only promote prevention, but also encourage reporting of actions that include restitution of damages. The results of the analysis of daily affective relationships indicate that attraction and disgust can be reasons for generating accusations of sexual harassment. Innovation in the field of legislation, as instruments for legitimizing actions, allows for the integration and institutionalization of actions aimed at eradicating violence and harassment in the different areas and spaces in which women exercise citizenship. The condition of subject implies perceptions about the presence of bodies in interpersonal exchanges and how the production of subjectivities occurs in this process. The study of emotions, as individual expression and collective dimensions, is considered an approach to intimacy, with special attention to the links between emotions and gender.<sup>45,46</sup> The risks of violating intimacy can be a factor in altering emotions and generating uncertainty about what is expected of them in a given social situation. In the meantime, at the same time, it is a matter of recognizing a movement of how emotions are shaped, accessed, mobilized, and worked on in an environment deprived of sexuality. As academics, social scientists, and authors of this text, we reveal bodies as objects and subjects of imaginaries from different perspectives. This allows us to examine moments and interactions in which people commonly identify different bodies, but in a process of dialogical grammar. For Larrea et al., the multiplicity of the phenomenon of sexual harassment is recognized based on numbers, mechanisms of domination, and subjective marks. A platform with instruments to leverage social struggles must consider multiple aspects. The liberalization of morality in everyday life could give rise to an effervescent freedom in expressions and affective relationships. It seems that all people want to protect their individuality, and that only they can take the initiative for new relationships, as a right that has been conquered or is yet to be conquered. The idea of defending "zero tolerance" seems to be the belief that it is possible to erase the friction that arises in relationships with sexual connotations.

## **Final discussions and challenges**

In a society with persistent inequalities, sexual harassment is the most widespread form of violence against women, the high incidence of which has been classified as a global pandemic. This social phenomenon perpetuates inequality in access to public and private spaces, affecting women's presence as citizens, restricting their free movement and mobility, as well as their performance at school, at work and in virtual environments. Driven by the political commitment of feminists and updating its status in the Rule of Law, the Ecuadorian state took firm steps in classifying sexual harassment as a social and cultural issue in the Comprehensive Organic Penal Code (COIP) in 2014 and in defining the types of violence against women that address the issue of sexual harassment in the LOIPEVCM in 2018. By including it in the penal code, we recognize a pressing problem that exists and that needs to be resolved with public policy measures. This is not an isolated problem, but rather one more branch of a strand of violence that is exercised against women on a daily basis. The classification of sexual harassment deserves the same importance as that given to femicide, because it is a structured and systematic attack against a specific population, as demonstrated by its high incidence rates in Ecuador. Ecuadorian legal regulations highlight the vulnerability of women's rights, although we have pointed out a regulatory route regarding sexual harassment discrimination in the COIP. In this regard, we conclude that legal regulation and classification do not coincide with mechanisms that allow courts to



apply restorative justice sanctions appropriately. The advantages of enacting laws referred to as mechanisms of social solidarity can be reflected in the following dimensions: identifying sexual harassment and associated behaviors, becoming visible and recognizing the extent of its consequences, initiating the questioning of stereotypes, attitudes and beliefs that perpetuate violence against women and pave the way for the development of protocols that allow reporting, sanctioning and mitigating harm.

However, it is important to consider the various challenges that laws still face, as they are not the only way to resolve the feminist struggle. Currently, serious weaknesses in the legal system are evident, posing challenges that have not yet been resolved regarding what to do as a result of what has been legislated. As highlighted, if the executive branch and the national judicial system are patriarchal bodies, the creation of laws for a free and violence-free life has a limited purpose, as this involves a chain of issues that range from the common citizen to the judiciary. After the creation of LOIPEVCM, the intermediary instruments and mechanisms were not specifically addressed for cases of violence that constitute sexual harassment. The Plan points out structural weaknesses in the System, emphasizing the lack of guidelines on prevention and redress, specialized and trained personnel throughout the System, the weakness in the design and implementation of specific procedural pathways, as well as difficulties in the investigation and judicialization processes of criminality, impunity and withdrawal of complaints, among other problems. Male hegemony or patriarchal domination, as an inherent dimension of a structurally unequal system between genders, naturalizes and incorporates meanings into the phenomenon: blackmail and intimidation. Thus, everyday situations occur that favor the discourse that harassment is generated by the victim and not by the aggressor. In this context, relationships can be subordinated by the use of force or threat of defamation, with words of intimidation or coercion, with appropriate blackmail or bribery, with any other mechanisms that limit self-deliberation. There is a lack of knowledge about basic notions of gender, which is why it is proposed that professionals working in the legal field be trained and equipped from a gender perspective, establishing a bridge between legal practice and the contributions of social sciences. In addition to empathy on the part of authorities and representatives of the law, victims face a slow and, at times, poorly organized judicial system in Ecuador, which allows for impunity for complaints of sexual harassment. Added to this is the task of providing evidence to report crimes, the requirement for evidence as an obstacle in these situations, which is why mechanisms must be developed that take into account the different aspects in reporting the complaint.

Finally, although laws allow us to position a social phenomenon in all its dimensions, the fight against sexual harassment must be addressed at a deeper level, including the recognition of structural violence against women, the change in patriarchal culture and the reduction of gender gaps. All these weaknesses present in multiple facets of the judicial system reinforce symbolic violence against women, hinder access to justice and encourage impunity. The challenges are not only directed towards the creation of laws, protocols and guidelines, but also towards innovation in the justice system. This article advocates for the advancement of sexual harassment laws as a fundamental measure that positions women as subjects of protection and opens up pathways for access to justice in cases of widespread but often invisible violence. The creation of these laws, together with the instruments that emerge in response to changes in the legal system, should be seen as mechanisms of solidarity that lead to the construction of safer spaces and environments for women and girls, in addition to promoting the creation of more policies aimed at preventing, combating and eradicating sexual harassment. Last but

not least, we must consider that in Ecuadorian society, the spread of mass consumer desires has led to a generalized subordination to the consumer paradigm: the resources of nature and individuals tend to be reduced to the status of products available for consumption. We must not underestimate the importance of this dynamic in the current social context.

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## Conflicts of interest

The author declares that there are no conflicts of interest.

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