

Thirty Successful Experiences of Redistribution, Reduction,
Recognition, Remuneration and Representation in Care Work

Constitutional and legal recognition of unpaid work in the home, Ecuador



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Country or location of implementation: Ecuador

Instances and/or legal framework responsible for its implementation: Constitution of the Republic of Ecuador, Labor Justice and Recognition of Work in the Home Act, and Regulations for the Affiliation of Individuals Who Perform Unpaid Work in the Home.

Ecuador's 2008 constitutional amendment, promoted by the Alianza PAIS – Patria Altiva i Soberana movement, introduced into the constitutional text a specific recognition of care work performed in the home in that country. The National Constitutional Assembly incorporated into the country's highest fundamental norm an article that sets forth the following:

Article 333. The unpaid work of self-support and human care performed in the home is recognized as productive work. The State shall promote a labor regime that works in harmony with the needs of human care, providing adequate services, infrastructure and working hours; in particular, it shall provide childcare services, care for individuals with disabilities, and others necessary for workers to perform their work activities; and shall promote co-responsibility and reciprocity of men and women in domestic work and family obligations. Social security protection shall be progressively extended to individuals who are responsible for unpaid family work in the home, in accordance with the general conditions of the system and the law. (*Constitution of the Republic of Ecuador, October 20, 2008*).

To learn more about the process of constitutionalization of the recognition of unpaid work in the home, an interview was conducted with María Soledad Buendía, Ecuador's former Minister of Political Coordination and former legislator in the National Assembly, who shared information on the subject. The recognition of unpaid care work at the constitutional level was a process initiated by feminist social organizations. The women's movement—broad and diverse—put forward an agenda in light of the call for constitutional reform launched by then President Rafael Correa. She says that provincial and then national assemblies were held in which the contents of this agenda were developed: from parity and the principle of political equality, the creation of institutions to promote equality, and the incorporation of inclusive language, to the issue of recognizing unpaid work in the home. Soledad mentions that they were able to incorporate 95% of the proposed initiatives into the new constitution. Issues related to sexual and reproductive rights did not gain enough

support and were left out of that amendment (M. S. Buendía, personal communication, July 13, 2021).

M. S. Buendía explains that one of the most important and strongly symbolic achievements of the women's movement in Ecuador was the incorporation of Article 333, which recognizes unpaid work in the home as productive labor. She emphasizes that this was an achievement and transcendental development since, from that moment on, Ecuador began to produce a series of actions and policies with the aim of making this recognition effective and this constitutional provision operative. In addition, this impact is also reflected in the national discourse, media and culture. However, in spite of this great regulatory victory, the path that led to the sanction of a national law on this subject took several years. She further comments that the process was complicated, with resistance from different sectors, different alternatives on how to apply it and make it operational, and actuarial and financial issues, among others.

In fact, eight projects were submitted to the National Assembly over the 2009-2014 period, both from the government and opposition benches. Simultaneously, the Coordinating Ministry of Social Development (MCDS), in compliance with the constitutional mandate, developed a consultation process with various stakeholders, as well as a series of studies, including the Study of Financial and Actuarial Sustainability of Social Security Affiliation (Ministry for the Coordination of Social Development, 2015). Finally, after a one-year process in the National Assembly, the Labor Justice and Recognition of Work in the Home Act was approved and published on April 20, 2015 (*Organic Law for Labor Justice and Recognition of Work in the Home, Amendments to the Labor Code, 2015*), alongside Regulations for the Affiliation of Individuals Who Perform Unpaid Work in the Home (Guamán Hernández & Lorente Campos, 2019). This law recognizes unpaid work in households and incorporates people who perform it into the social security system, guaranteeing their right to retirement, widowhood, and disability compensation, among other points.

M. S. Buendía mentions that the main discussion that took place in the Assembly when debating the terms of this legislation was whether the coverage offered also included the health component. There was a fear that the Ecuadorian Social Security Institute would not be able to guarantee coverage and access to health services for this new population now sub-

ject to rights and benefits. The decision was made that coverage would not extend to health benefits and that these would be covered by the public health system through the Ministry of Health.¹

In order to make this constitutionally-established right effective, a personal contribution can be made according to the family's economic situation, and the Central State will complete the contribution with up to 80% of the total value for families in extreme poverty. [...] According to the National Institute of Statistics and Census of Ecuador (INEC), unpaid work represents 15.41% of the Gross Domestic Product. People who join this scheme will receive their seniority pension after 20 years of contributions and upon reaching 65 years of age. This benefit is intended for all people who have dedicated their lives to unpaid work in the home to receive their own income in their old age. The disability pension is intended to protect members in the event they become disabled due to illness or accident. To access this benefit, they must have made six monthly contributions if they are between 15 and 25 years of age; 36 monthly contributions for those between 26 and 45 years of age; and 60 monthly contributions for those 46 years of age and older. The mortality pension allows housewives to protect their family in the event of their death, through a pension that will be received by their children or spouse. In addition, the family will receive a contribution to cover funeral expenses ("Plan Toda una Vida" ["Plan for a Lifetime"] Technical Secretariat, n.d.).

For those receiving the Human Development Bonus,² affiliation is automatic and progressive. Unpaid household workers who wish to enroll can do so through the website www.iess.gob.ec, having their citizenship card and that of their family members to hand, as well as a copy of an electricity bill as proof of residence.

When asked about the financing of this system, M. S. Buendía commented that, throughout the debate, they spoke in terms of investment and not expenditure. She states that the issue of allocating the necessary resources to make the legislation effective was an extremely intense debate; in this regard, she reports that the necessary regulations were modified to be able to have the necessary economic resources to do so. She mentions that political will is essential in advancing these rights

1 Ecuador has a universal health care system under the Ministry of Public Health that operates in parallel to the health insurance scheme of the Ecuadorian Social Security Institute.
2 This consists of a conditional monthly cash transfer of USD 50 to cover vulnerabilities associated with the economic situation of the family unit. For more information, visit <https://www.inclusion.gob.ec/bono-de-desarrollo-humano/>

and the recognition of unpaid work in the home, since it is this political will that allows the prioritization of expenses instead of allocating budget to other initiatives.

In terms of financing, the program takes into account the need for the State to cover an important part of its funding, on the premise that society as a whole benefits from this work, especially in the case of child and adult care work and in the vector of regenerating the country's labor force—with a continuous flow of people in a position to enter the labor market in conjunction with the work carried out with another broad group of institutions—and in the daily support of life. In this sense, the amendment included an unnumbered article in the [Law] after 219, which establishes that "the State shall determine annually in the General Budget of the State the amount it will allocate to subsidize the percentage of individual contributions from individuals who perform unpaid work in the home, according to the socioeconomic situation of the family economic unit, under the terms established in this Act and in the Planning and Public Finance Code". In addition, the fourth transitory provision of the law instituting the system specifies that the Board of Directors of the Ecuadorian Social Security Institute must establish the contribution percentages for those who perform the aforementioned

work, considering their economic situation, in order for them to be eligible for the State subsidy. (Guamán Hernández & Lorente Campos, 2019).

However, [...] access to retirement benefits requires long contributing careers: 240 or more contributions. [...] This period exceeds the fifteen-year period established in Article 29.2.a of Convention 102 of the [International Labor Organization] (ILO) on minimum social security standards for access to reduced retirement or old-age benefits. Given the recent introduction of the regulation, it would be advisable to establish a contribution period that is even shorter than that of the ILO, so as not to excessively delay the effectiveness of protection. (Guamán Hernández & Lorente Campos, 2019).

According to an ILO report, "as of 2015, the number of potential individuals affiliated to the unpaid work in the home scheme [was] 1.5 million people" (ILO, 2016). Regarding the affiliation of unpaid household workers, data from the latest statistical bulletin available on the website of the Ecuadorian Institute of Social Security (IESS in Spanish), show the following historical evolution (see Table 2).

Table 1. Personal and Central State Contributions for Affiliation

SOCIOECONOMIC LEVEL	STATE CONTRIBUTION	PERSONAL CONTRIBUTION
Subsistence level (up to USD 177)	9.73 USD	2 USD
Mid-level (from USD 178 to USD 354)	14.07 USD	9.38 USD
Middle-high level (from USD 355 to USD 531)	15.80 USD	19.38 USD
High level (USD 532 or more)	—	46.91 USD

Source: Data from the Plan Toda una Vida Technical Secretariat, n.d.

It is very interesting to note the number of unpaid domestic workers increased by 43% as of February 2021. According to journalists, as of February 2021, 338,541 people were registered in this category. This is 43% higher compared to the same month in 2020 (approximately 236,742 people). This category is the only one of 21 activities that displays this behavior. Without considering the contributors of Unpaid Work in the Home (TNRH in Spanish), the number of affiliations shows a reduction of 8% in the aforementioned period.

For attorney Patricia Borja, the increase in the number of unpaid domestic workers in the IESS can be explained by the fact that following the crisis generated by the pandemic, there was a loss of formal employment. "Women, when they become unemployed or resign, seek to maintain some type of social security coverage and therefore opt for this type of insurance". Another factor is that last year, more beneficiaries were added to the human development bonus because of the crisis. The Law contemplates that they will be automatically affiliated into the scheme for housewives and the Government will make the contribution. (El Comercio, 2021).

In closing, it is fair to say that after the approval of the Constitution of Ecuador in 2008, the traditional scheme of work classification was ruptured, and unpaid work in the home was recognized as productive and socially useful work that contributes to the country's economic and social development. This is a policy that not only recognizes the enormous economic value of this work, but also guarantees decent conditions for people who engage in unpaid work in the home (TNRH) by granting them access to social security.

For more information, visit www.iess.gob.ec/trabajo-no-remunerado/