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The impact of protective measures on the prevention of femicide in Ecuador

Impacto de las medidas de protección en la prevención del Femicidio en Ecuador

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ABSTRACT

The aim of this study is to analyse the impact of protective measures on the prevention of femicide in Ecuador. The state's response to this crime faces three structural gaps: the gap between regulatory design and its practical effectiveness, the inadequacy of institutional monitoring mechanisms, and the persistence of cultural patterns that normalise gender-based violence. Through mixed-methods research applying an analytical-synthetic approach to regulatory, doctrinal and statistical sources, key limitations in the implementation of current measures were identified: a lack of gender-sensitive training for justice practitioners, insufficient resources and a lack of inter-institutional coordination. It is concluded that the effective prevention of femicide requires the coordination of immediate protection with sustained policies on education, awareness-raising and institutional strengthening aimed at transforming the structural conditions that perpetuate this crime.

Descriptors: gender-based violence; domestic violence; criminal law. (Source: UNESCO Thesaurus).

RESUMEN

El estudio tiene por objetivo analizar el impacto de las medidas de protección en la prevención del femicidio en Ecuador. La respuesta estatal frente a este delito enfrenta tres brechas estructurales: la brecha entre el diseño normativo y su eficacia práctica, la insuficiencia de los mecanismos institucionales de seguimiento y la persistencia de patrones culturales que normalizan la violencia de género. Mediante una investigación de enfoque mixto con aplicación del método analítico-sintético sobre fuentes normativas, doctrinales y estadísticas, se identificaron limitaciones determinantes en la implementación de las medidas vigentes: falta de capacitación con perspectiva de género en los operadores de justicia, insuficiencia de recursos y déficit de coordinación interinstitucional. Se concluye que la prevención efectiva del femicidio exige articular la protección inmediata con políticas sostenidas de educación, sensibilización y fortalecimiento institucional orientadas a transformar las condiciones estructurales que perpetúan este delito.

Descriptores: violencia de género; violencia doméstica; derecho penal. (Fuente: Tesauro UNESCO).

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Research articles section

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INTRODUCTION

Femicide constitutes the most extreme manifestation of gender-based violence and a structural problem that disproportionately affects women in Ecuador and globally. This phenomenon highlights both the deep-rooted gender inequalities embedded in social structures and the inadequacy of legal systems to guarantee effective protection for women at risk. In the words of Guaillas (2023, p. 2), the concept of femicide opens up a field of research into the extreme violence that claims the lives of women of all ages every day across the globe, making it a matter of great relevance to public health that demands rigorous analysis.

In the case of Ecuador, the criminalisation of femicide in the Comprehensive Organic Criminal Code (COIP), which came into force in 2014, represented a significant step forward in recognising this crime as a specific form of gender-based violence. However, despite this criminal policy, femicide rates in the country indicate that prevention has not had the expected effect; on the contrary, they have risen steadily. According to the Latin American Association for Alternative Development, ALDEA (2024), Ecuador ended 2024 with 274 femicide deaths, whilst the Ministry of Women and Human Rights recorded 108 cases in 2023; the difference between these two figures represents an increase of 166 cases, equivalent to a rise of 153.7 per cent, which demonstrates that the prevention and punishment of this crime continue to face significant structural limitations.

From the perspective of the protected legal interest, femicide safeguards the life of women as a distinct category of victims; that is to say, it is not about life in the abstract, but about the life of women as such, recognised by the State as a specific object of protection. This distinction is fundamental to understanding the State's responsibility regarding the prevention and punishment of this crime, given that the protective measures implemented in Ecuador have proven insufficient to prevent fatal outcomes in numerous cases; the lack of adequate follow-up and limited institutional capacity are key factors that undermine the effectiveness of these tools. These shortcomings are exacerbated in a cultural context marked by machismo and

the normalisation of violence, which perpetuates a system of inequality that hinders the eradication of the phenomenon.

As for comprehensive reparation, enshrined as a fundamental right in the Ecuadorian constitutional framework, significant challenges remain in its implementation; Álvarez-Velasco et al. (2023) note that this right faces significant obstacles, including a shortage of resources, the absence of specialised programmes, and limited inter-institutional coordination. Consequently, comprehensive reparation cannot be confined to financial compensation, but must include measures for rehabilitation, satisfaction and guarantees of non-repetition, in accordance with international human rights standards.

Based on the above overview, the following research question is formulated: Are the prevention and protection measures provided for in Articles 558 and 558.1 of the COIP, which are of general application, having a positive impact on the prevention of femicide cases in Ecuador?

To answer this question, the general objective is to analyse the impact of protection measures on the prevention of femicide in Ecuador.

This objective is broken down into three specific objectives:

To identify the protection and prevention measures for the crime of femicide provided for in the COIP, as well as their legal and practical content and scope.

To evaluate trends in femicide rates in Ecuador between 2023 and 2024.

To determine the causes and consequences of femicide in Ecuador.

METHOD

The research adopted a mixed-methods approach combining qualitative and quantitative methods to analyse the legislation, legal doctrine and case law relating to femicide and the protection measures currently in force in Ecuador. The analytical-synthetic method was used to study and systematise the documents collected, including scientific articles published in indexed journals, the Constitution of the Republic of Ecuador (2008), the Comprehensive Organic Criminal Code (2014) and the Comprehensive Organic Law to Prevent and Eradicate Violence against Women

(2018). The analytical process was structured in five phases: normative and conceptual analysis; statistical analysis of femicide rates; examination of structural causes and consequences; evaluation of the impact of protective measures; and integration of results to formulate conclusions and recommendations aimed at improving the prevention of the phenomenon in the Ecuadorian context.

ANALYSIS OF THE RESULTS

Based on the above, it is argued that femicide cannot be addressed exclusively from a legal perspective, as it is deeply rooted in cultural and structural factors that perpetuate gender-based violence; in this sense, the crime of femicide constitutes the most extreme manifestation of a system of structural violence against women, fuelled by machismo and gender inequality, since, as noted by Guaillas et al. (2023), cultural barriers hinder the effectiveness of protective measures, perpetuating gender-based violence in Ecuador and other countries in the region.

Femicide in Ecuador constitutes a highly complex legal and social issue, highlighting the profound structural and cultural inequalities affecting women. In this regard, the Constitution of the Republic of Ecuador (National Assembly of Ecuador, 2008), as the supreme law of the land, guarantees the right of individuals to a life free from violence, in both the public and private spheres, and mandates priority support for vulnerable groups, including women who are victims of violence. This constitutional mandate is complemented by the Comprehensive Organic Law to Prevent and Eradicate Violence against Women (National Assembly of Ecuador, 2018), which establishes measures for the protection and comprehensive care of victims, the Comprehensive Organic Criminal Code (National Assembly of Ecuador, 2014) and the Regulations to the Comprehensive Organic Law to Prevent and Eradicate Violence against Women (Presidency of the Republic of Ecuador, 2018).

The inclusion of femicide as a criminal offence in 2014 represented a significant step forward in recognising this crime as a specific manifestation of gender-based violence, as this legislative implementation helped to raise awareness of the problem and generate more accurate statistics on its incidence; however, whilst criminal law is an essential tool for punishing femicide, its effectiveness depends on the judicial system's capacity to ensure diligent investigations and proportionate

sanctions. In Ecuador, the lack of training for justice system personnel and the persistence of gender stereotypes limit the effective application of this criminal offence, as evidenced by López Soria's (2015) analysis of the shortcomings in the legal definition of the offence.

The protection measures provided for in the Comprehensive Organic Law to Prevent and Eradicate Violence against Women (National Assembly of Ecuador, 2018) are fundamental instruments for safeguarding the lives and integrity of victims; however, the data analysed show that these measures fail to prevent fatal outcomes in many cases, due to a lack of adequate follow-up and the limited capacity of the institutions responsible for their implementation; added to this is the fact that insufficient resources and a lack of trained staff create a perception of impunity and mistrust of the judicial system, a situation that the Constitutional Court of Ecuador (2021) has expressly recognised by noting that reporting an incident increases the risk of repeated acts of abuse, which requires enhanced guarantees of protection.

The normalisation of violence in certain sectors of Ecuadorian society limits victims' ability to seek help; femicide represents the final stage in an escalation of violence that begins with psychological and physical abuse, which are often ignored or downplayed by institutions and society (Castro-Fernández & Pérez-Reina, 2022), cultural and structural dynamics that point to the need for an intersectional approach in the formulation and implementation of public policies. Furthermore, the prohibition of mediation and conciliation in these cases responds precisely to this structural imbalance, since, as Brest (2021) argues, a woman's consent in a conciliatory proceeding with her aggressor is tainted, which prevents the valid invocation of the principle of autonomy of will.

It should be borne in mind that the COVID-19 pandemic exacerbated the vulnerability of women experiencing violence; mandatory lockdown increased risks by forcing women to live alongside their aggressors and hindering access to protective measures, leading to an overload of the justice and health systems that limited the institutional capacity to respond to cases of gender-based violence (Guaillas et al., 2023).

The determining factors of femicide in Ecuador include economic inequality, lack of access to education and the normalisation of violence in intimate relationships; likewise, it is important to identify the risk factors associated with this crime, such as a history of previous violence and alcohol consumption by perpetrators, with the aim of designing more effective public policies (Castro-Fernández & Pérez-Reina, 2022). In this context, López Soria (2017) notes that gender-based hatred constitutes the primary motive for femicide, such that its correct identification is crucial both for the appropriate classification of the crime and for guiding preventive interventions.

With regard to criminal law in Ecuador, comprehensive reparation constitutes a fundamental right of victims of gender-based violence, recognised in Article 78 of the Constitution (National Assembly of Ecuador, 2008) and elaborated in the Comprehensive Organic Criminal Code (National Assembly of Ecuador, 2014); however, this right faces multiple obstacles in practice, such as a lack of resources and the absence of specialised programmes. Comprehensive reparation must be understood as an obligation of the State within the framework of human rights, in accordance with the provisions of the Universal Declaration of Human Rights (Human Rights, 1948), which implies not only financial compensation but also measures of rehabilitation, satisfaction and guarantees of non-repetition, as specified by Pérez and de Aparicio (2021) in conceiving it as an indispensable component for guaranteeing justice and the dignity of victims.

DISCUSSION

The results obtained allow the research data to be compared with each of the objectives set out, offering a critical analysis of the phenomenon of femicide in Ecuador from its normative, statistical and structural dimensions:

With regard to the first specific objective, aimed at identifying the protection and prevention measures provided for in the COIP and their legal and practical scope, the normative analysis revealed that the Ecuadorian legal system has a relatively comprehensive regulatory framework, comprising the Constitution of the Republic of Ecuador (National Assembly of Ecuador, 2008), the Comprehensive Organic Criminal Code (National Assembly of Ecuador, 2014), the Comprehensive Organic

Law to Prevent and Eradicate Violence against Women (National Assembly of Ecuador, 2018) and its implementing regulations (Presidency of the Republic of Ecuador, 2018). This regulatory framework provides for immediate protection orders, temporary shelters, panic buttons, specialised judicial units and the Single Register of Violence; however, there is a significant gap between the regulatory design and its practical effectiveness. In this regard, the Constitutional Court of Ecuador (2021) expressly recognised that reporting an incident increases the risk of repeated acts of abuse, highlighting that current measures lack sufficient monitoring mechanisms to ensure their real effectiveness; this gap between law and practice constitutes, in the view of López Soria (2015), one of the most serious structural deficiencies of the Ecuadorian criminal justice system in relation to gender-based violence.

With regard to the second specific objective, focused on assessing trends in femicide rates between 2023 and 2024, data from the Aldea Foundation (2023; 2024) reveal a worrying trend; although there was a 14.64% reduction in the number of cases between the two periods, the persistence of the phenomenon and the fact that several victims had a valid protection order at the time of their death reveal that formal protection does not translate into real protection. This finding is consistent with the points made in the introduction to this paper, which notes that Ecuador ended 2024 with 274 deaths linked to femicide according to the Latin American Association for Alternative Development (2024), a figure that contrasts with the 108 cases recorded by the Ministry of Women and Human Rights in 2023; this discrepancy reflects inconsistencies in the recording systems and the need to strengthen the Single Register of Violence as an evidence-based public policy tool.

With regard to the third specific objective, aimed at determining the causes and consequences of femicide in the Ecuadorian context, the results confirm that this crime is neither an isolated phenomenon nor reducible to individual variables; on the contrary, it stems from a set of structural factors, including economic inequality, lack of access to education, the normalisation of violence in intimate relationships, and cultural barriers that limit reporting (Castro-Fernández & Pérez-Reina, 2022). In this vein, López Soria (2017) argues that gender-based hatred constitutes the essential motive for this criminal offence, such that its correct identification is

indispensable both for the proper classification of the crime and for the design of relevant preventive interventions; the confusion between femicide and other criminal offences such as homicide or murder, observed in Ecuadorian judicial practice, undermines the preventive function of criminal law and distorts the available statistics.

As for the general objective, which is to analyse the impact of protection measures on the prevention of femicide in Ecuador, the integration of the three specific objectives allows us to conclude that this impact is limited and is conditioned by factors that go beyond the regulatory sphere. Existing protection measures prove insufficient when they are not accompanied by specialised training for justice practitioners, effective inter-institutional coordination and a transformation of the cultural patterns that normalise violence (Guaillas et al., 2023); added to this is the fact that comprehensive reparation, enshrined in Article 78 of the Constitution (National Assembly of Ecuador, 2008) and elaborated in the COIP (National Assembly of Ecuador, 2014), faces practical obstacles that prevent its full realisation, as Pérez and de Aparicio (2021) warn. It follows that the effective prevention of femicide requires a comprehensive approach that combines punitive measures with sustained public policies on education, awareness-raising and institutional strengthening, moving beyond the exclusively punitive logic that has dominated the state's response to date.

CONCLUSION

The analysis carried out leads to the conclusion that femicide in Ecuador constitutes a structural phenomenon whose effective prevention cannot be reduced to the state's punitive response; whilst the criminalisation of the offence and the complementary regulatory framework represent advances of undeniable value, the figures recorded between 2023 and 2024 demonstrate that the existence of formal protection measures does not in itself guarantee the preservation of the lives of women at risk, as structural gaps persist, linked to a lack of institutional follow-up, insufficient resources, the absence of gender-sensitive training for justice system operators, and the cultural normalisation of violence; added to this is the fact that comprehensive reparation, recognised as a fundamental right in the Ecuadorian

constitutional order and supported by international human rights standards, faces practical obstacles that prevent its full realisation; it follows that the Ecuadorian State must coordinate an intersectional response that combines immediate protection with sustained policies on education, awareness-raising and inter-institutional strengthening, aimed at transforming the structural conditions that make this crime possible.

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CONFLICT OF INTEREST

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