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Committee on Economic, Social and Cultural Rights

Implementation of the International Covenant on Economic, Social and Cultural Rights

Third periodic reports submitted by States parties under
articles 16 and 17 of the Covenant

Ecuador*, **

[8 September 2009]

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** Annexes III–V are available for consultation in the secretariat files.

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Acronyms

AGECI	Ecuadorian International Cooperation Agency
ASNA	Social Agenda for Children and Adolescents
CNNA	National Council for Children and Adolescents
CLADEM	Latin American and Caribbean Committee for the Defence of Women's Rights
CONADIS	National Council for Persons with Disabilities
CONAMU	National Council for Women
DYA	Desarrollo y Autogestión ("Development and self-management")
FAO	Food and Agriculture Organization
FUNDACYT	Foundation for Science and Culture
ILO	International Labour Organization
INEC	National Statistics and Census Institute
INFA	Institute for Children and the Family
INNFA	National Institute for Children and the Family
IOM	International Organization for Migration
SECAP	Ecuadorian Vocational Training Service
SELBEN	Social Programme Beneficiary Selection System
SENACYT	National Secretariat of Science and Technology
SENPLADES	National Secretariat of Planning and Development
SIMUJERES	Social Indicators System on Women and Gender Inequality
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNHCR	Office of the United Nations High Commissioner for Refugees
WFP	World Food Programme
WHO	World Health Organization

I. Introduction

1. States parties are required under article 16 of the International Covenant on Economic, Social and Cultural Rights to submit periodic reports on their implementation of this international instrument. Ecuador signed the Covenant in 1969 and is therefore required to observe the rights recognized therein. This obligation is also a constitutional one, as the current Constitution, which was approved in October 2008, establishes that the international treaties ratified by Ecuador shall be subject to the provisions set forth in the Constitution and that, in respect of human rights treaties, the human-centred principles of non-restriction of rights, direct applicability and open-endedness as set forth in the Constitution shall apply (art. 417).

2. On this basis, the Ministry of Justice and Human Rights and the Ministry of Foreign Affairs, Trade and Integration have prepared the third periodic report of Ecuador on its implementation of the International Covenant on Economic, Social and Cultural Rights in accordance with Executive Decree No. 1317 (para. 7) of 9 September 2008, which entrusts the Ministry of Justice and Human Rights and the Ministry of Foreign Affairs, Trade and Integration with the task of preparing, in coordination with the general public, national reports and validating them with human rights committees and other human rights treaty bodies.

3. As shown in the annexed list of participants, the Committee on Economic, Social and Cultural Rights will note that various Ecuadorian institutions in the cities of Quito, Guayaquil and Cuenca provided information for inclusion in the report. Civil society organizations were invited to a presentation of the initial draft and were also asked to provide information.

4. The third periodic report was prepared on the basis of the guidelines contained in document E/C.12/2008/2 of 13 January 2009. The reporting period runs from 2003 to the end of August 2009.

5. In this periodic report, the Government of Ecuador replies to the questions raised in the aforementioned guidelines and to a number of the concerns and recommendations expressed by the Committee during its consideration of the second periodic report (E/C.12/1/Add.100). A brief overview of these replies to the Committee is given below. More detail is provided later in the report.

6. As the Committee will note, Ecuador has made significant advances in the protection of economic, social and cultural rights, particularly since the adoption of the National Development Plan in June 2007 and the adoption of the new Constitution that was framed by the Constituent Assembly in 2008. Since the new Constitution took effect, Ecuador has been working to bring *sumak kawsay* (“good living”) within the reach of the entire population.

The Committee’s concerns and recommendations to Ecuador

7. In sections D and E of the concluding observations regarding the second periodic report, the Committee expressed certain concerns and made recommendations relating to the status of economic, social and cultural rights in various areas, including:

(a) *The lack of independence of the judiciary* (concluding observations of the Committee (E/C.12/1/Add.100), paras. 10 and 33). This issue has been resolved with the introduction of the new Constitution, which sets out the functions of the different branches of government, including those of the judicial branch and its component agencies. It

establishes the principles underpinning the administration of justice, the indigenous justice system, alternative methods of dispute settlement and the different bodies of the judicial branch, including the Council of the Judiciary, whose responsibilities include overseeing the selection of judges and other public servants in the judicial branch and ensuring its transparency and efficiency (Constitution of Ecuador, art. 179);

(b) *Discrimination against indigenous and Afro-Ecuadorian peoples* (paras. 11, 13 and 34). The report contains detailed information about the measures for the benefit of these peoples that have been adopted in Ecuador (see chap. II, sects. A, C, F, J, L and N below);

(c) *The right of indigenous communities to be consulted before natural resources located in their territories are developed and the negative health and environmental impacts of extractive activities* (paras. 12 and 35) (see chap. II, sect. A below);

(d) *Percentage of persons with disabilities* (paras. 14 and 37). As the Committee will note from the discussion of this subject in the third periodic report, the Government of Ecuador has undertaken innumerable actions for the benefit of persons with disabilities over the years, especially during the reporting period. These actions have included becoming a party to the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2007. In addition, a Colombian expert has been selected to serve on the recently created committee that will monitor the implementation of that convention. A number of policies and measures have also been put in place by the National Council for Persons with Disabilities (CONADIS) and the Office of the Vice-President of Ecuador during the current Administration (see chap. II, sects. B, I, J and L);

(e) *De facto inequality between men and women in Ecuadorian society in such areas as employment, wages, literacy and education* (paras. 15 and 38). Ecuador has made great strides in this area, as the Committee will see from the report (see chap. II, sects. B, C, F and L below);

(f) *Right to work, unemployment, minimum wage, health and safety regulations, social security, right of association, temporary contracts* (paras. 16 to 19 and 39 to 42). The Government of Ecuador has made significant advances in these areas and has described its extensive efforts to improve the standard of living of workers and their families in this report (see chap. II, sects. E to H below);

(g) *Funding of the Ecuadorian Social Security Institute and social security coverage* (paras. 20, 21, 43 and 44). In 2008 the Government of Ecuador settled part of the accumulated debt owed to the Social Security Institute (about US\$ 888 million). As stated in the new Constitution, social security is one of the cornerstones of the country's strategy for achieving collective well-being through *sumak kawsay* (see chap. II, sects. E, F, H, I and J below);

(h) *Child labour* (paras. 22 and 47). Ecuador has taken part in various programmes aimed at eliminating child labour and the worst forms of child labour (see chap. II, sect. I below);

(i) *Sexual abuse, prostitution of girls and boys under the age of 18 in urban areas, exploitation of children and trafficking in minors* (paras. 23, 24, 48 and 49). Trafficking in human beings, sexual exploitation, the sale of children and child prostitution have been issues of particularly serious concern during the reporting period. To address this situation, in 2006 the Government launched a national plan to combat human trafficking; the smuggling of migrants; sexual, labour and other forms of exploitation; the prostitution of women, children and adolescents; child pornography and the corruption of minors. Since then, various steps have been taken to put a stop to these offences, and victim support and reintegration programmes have been introduced to assist child and adolescent victims of

sexual and labour exploitation. In addition, the Criminal Code was amended in 2005 to increase the penalties for sexual offences and to make trafficking in persons a criminal offence as such. The programmes and measures introduced to combat these offences are detailed in this report (see chap. II, sects. B, I, J and L below);

(j) *Domestic violence and rape* (paras. 25 and 50). Ecuador has a specific law on domestic violence and violence against women, and a number of different actions and programmes aimed at reducing and mitigating the problem have been implemented on that basis. The amendments to the Criminal Code made in June 2005 increased the penalties for rape, defined other sexual offences and the offence of knowingly infecting another person with a disease, and introduced a requirement concerning the establishment of the criminal liability of any person who causes bodily harm or kills another in self-defence against sexual assault (see chap. II, sect. J below);

(k) *Living and housing conditions, health care and services* (paras. 26, 27, 29, 30, 36, 51, 52 and 59). The Government has accorded particular attention to social issues, especially since 2007. More than US\$ 3 billion was allocated to the social sector in that year, which was the first time that the budget for social policies had exceeded the allocation for external debt servicing in percentage terms (see chap. II, sects. A, C, E, I, J and K below);

(l) The Human Development Voucher (a monthly cash subsidy for poor households) was increased in 2007 and is now received by 40 per cent of the country's poorest families. A housing allowance for the most disadvantaged households was also introduced. The subsidy for the purchase of homes was doubled to US\$ 3,600 per family in the same year, while the housing allowance for urban homes was doubled and the allowance for rural homes was increased fourfold. More than 60,000 grants were distributed in the course of the year, equivalent to a total outlay of US\$ 180 million. Investment in the housing sector exceeded the 2006 level by more than 95.2 per cent. There have been further increases in funding in subsequent years, and housing programmes for those of limited means have been introduced (see chap. II, sects. B, I and K below);

(m) In 2007, the Government also launched the National Development Plan for 2007–2010. The Plan's 12 objectives are based on a non-sectoral, rights-centred approach in which people's well-being is the point of departure and the sole aim of all public policy. The 12 objectives are:

- (i) To foster equality, cohesion, and social and territorial integration;
- (ii) To build people's capacities and provide them with greater opportunities;
- (iii) To increase life expectancy and standards of living;
- (iv) To promote a healthy, sustainable environment and ensure access to safe water, air and soil;
- (v) To ensure national sovereignty and peace and to foster Latin American integration;
- (vi) To guarantee stable, fair and dignified employment;
- (vii) To reclaim and expand public spaces and meeting places;
- (viii) To reinforce national identity while strengthening diversity and interculturalism;
- (ix) To promote access to justice;
- (x) To guarantee access to public and political participation;
- (xi) To establish a supportive, sustainable economic system;

(xii) To reform the State for the well-being of all.

(n) *Forced evictions of communities from their ancestral lands* (paras. 28 and 53) (see chap. II, sect. L below);

(o) *Maternal mortality rates and enjoyment of the right to health by all persons* (paras. 29, 30, 36 and 54). The Government has increased funding for the health sector in order to ensure universal access to the health system. In 2007 it set aside US\$ 757 million for public investment in the health sector, which was a 31.42 per cent increase over the 2006 level. A state of health emergency was declared, and charge-free access to public health-care facilities was extended to all persons. Increased recruitment of health-care professionals brought the number of new positions created in the various specializations for the implementation of the community health-care model to 8,000 (see chap. II, sect. K below);

(p) *Illiteracy and school dropout rates* (paras. 31 and 57). As mentioned above, social sectors such as education have received greater State support under the present Administration, and provincial governments have been encouraged to run adult literacy programmes, which have reduced illiteracy rates (see chap. II, sect. L below);

(q) *Bilingual education for indigenous communities* (paras. 32 and 58). Ecuador has accorded special importance to the ancestral languages of the communities within its territory, in recognition of its status as a plurinational and intercultural State. The Constitution establishes that Spanish is the official language and that Kichwa and Shuar are official languages for intercultural relations. Other ancestral languages are in official use by indigenous peoples in the areas they inhabit, in accordance with the terms established by law, and the State has an obligation to respect and encourage the preservation and use of these languages (Constitution, arts. 1 and 2) (see chap. II, sect. L below);

(r) *Migration issues* (para. 45). The Government of Ecuador has accorded a great deal of attention to the circumstances of migrant workers who left the country in the 1990s and 2000s and has made a determined effort to improve their situation. In 2007 it created the National Secretariat for Migration, which has ministerial rank, to assume responsibility for migrant programmes (see chap. II, sects. A, B, D, E, H, I, J and L below).

8. Since the establishment of the Ministry of Justice and Human Rights, human rights training has received special attention and has been widely promoted at the national and institutional level. The training days organized for 2,420 officers of the national police force between January and December 2008 are one of the fruits of these efforts. In addition, in implementation of the National Human Rights Plan, the Ecuadorian Commission for the Oversight, Evaluation and Adjustment of Human Rights Operating Plans ran various national workshops between 2003 and 2008 in almost every province of the country. These workshops were attended by approximately 2,000 participants and covered various issues related to the exercise, promotion and defence of human rights.

9. As the Committee will note, Ecuador has made great progress in the social sector as it works to secure better living conditions for the most disadvantaged and to ensure access to health services, education and housing for the entire population.

10. This report provides analyses and information relating to the articles of the Covenant, together with annexes listing the institutions which contributed to its preparation, the legal instruments consulted, and text of the decree that provided for the founding of the Ministry of Justice and Human Rights and the decree which defined its terms of reference.

II. Application of articles of the Covenant

A. Article 1: right to self-determination and rights of indigenous peoples

11. The rights of communities, peoples and nations are set forth in title II, chapter four, articles 56 to 60, of the Constitution of the Republic of Ecuador, which entered into force in October 2008. These articles recognize the right to self-determination of the peoples and nations of Ecuador. Article 57, which recognizes and guarantees the collective rights of peoples and nations, is of particular importance.

12. Other important articles of the Constitution include article 1, which defines Ecuador as an intercultural and plurinational State. This means that the State is under an obligation to reflect its intercultural and plurinational nature in all political and institutional reforms.

13. Title IV, chapter four, article 171, recognizes indigenous jurisdiction as an ancestral right of indigenous peoples and nations and grants them freedom and sovereignty in decision-making, provided that any such decisions uphold human rights and are in accordance with the Constitution.

14. To support the rights of Ecuadorian citizens, particularly their right to participate in the governance of the country, the Secretariat for Peoples, Social Movements and Citizen Participation was established, with ministerial rank, by Executive Decree No. 133 of 26 February 2007, which was published in issue No. 35 of the *Registro Oficial* (official gazette), dated 7 March 2007. The Secretariat acts as the lead agency for public policy relating to the right of citizen participation. It is in charge of designing and developing measures and actions to encourage, channel and consolidate the participation of peoples, social movements and citizens in key decisions affecting them. It is also charged with strengthening its component parts and to coordinate and oversee their plans, programmes and projects with a view to optimizing the impact and efficiency of resource allocation in this area.

15. In addition, in order to fulfil the State's obligation to allow indigenous peoples and nations to participate in all levels of planning, priority-setting and decision-making, as established in the constitutional amendments of 1998, over the past 10 years the Government has made a special effort to create and strengthen public institutions and public/private agencies in which the State and civil society work together. Foremost among such institutions are the Council for the Advancement of the Nations and Peoples of Ecuador, the Afro-Ecuadorian Development Corporation and the Ombudsman's Office.

16. The Council for the Advancement of the Nations and Peoples of Ecuador was created by Executive Decree No. 386 of 11 December 1998. Its mission is to foster and facilitate the comprehensive, sustainable development of the nations and peoples of Ecuador while respecting their identities. It is to accomplish this task through policymaking, joint management and coordination, while upholding equality and working to mobilize resources. The Council also seeks to improve these peoples' and nations' quality of life with the help of a new model of development and supportive legislation and policies. Congress subsequently passed a law on the organizational aspects of the public institutions created to serve indigenous peoples that define themselves as ancestral nations. This law establishes a number of such bodies as institutions under public law with legal personality and technical, administrative and financial autonomy. Their main function is to formulate public policies to promote the comprehensive, sustainable development of the nations and peoples of Ecuador while respecting their identities.

17. On 11 September 2007, the Government of Ecuador created the Secretariat for Intercultural Health of the Nations and Peoples of Ecuador as a technical body under the

supervision of the Council for the Advancement of the Nations and Peoples of Ecuador that specializes in traditional medicine and knowledge. The Secretariat is an institution under public law with technical, administrative and financial autonomy. Its mission is to deliver health services to the country's entire indigenous population, which, according to the 2001 census, consists of approximately 1,500,000 inhabitants spread across the country's 24 provinces.

18. The Ministry of Health also operates an intercultural health programme which promotes the recognition of traditional medical knowledge and practices in political, cultural, academic and institutional forums. It implements plans, projects and programmes involving the direct participation of beneficiaries in the recovery, development and dissemination of the traditional medical practices, knowledge and wisdom of indigenous nations, peoples and communities. It also works to enhance intercultural medicine through research and the development of scientific and technological tools.

19. There are 14 different indigenous nations and 21 different indigenous peoples living in Ecuador. According to the country's Integrated System of Social Indicators, 69.8 per cent of indigenous peoples inhabiting the Andean and Amazon regions live below the poverty line, with children and adolescents constituting the most vulnerable components of these ethnic groups.

20. The Development Fund for Indigenous Nations and Peoples was created under the law on organizational aspects of public institutions created to serve indigenous peoples as a technical/financial social institution under public law. The Fund, which has technical, administrative and financial autonomy, comprises representatives of the Government and of indigenous nations and peoples. Its main objective is to promote the development of the financial systems and the technical and business capacities of indigenous nations and peoples, as provided for in article 13 of the above-mentioned law.

21. The Afro-Ecuadorian Development Corporation was created in accordance with Executive Decree No. 1747 of 10 August 1998. Its mission is to foster comprehensive, sustainable development while respecting the identity of Ecuadorians of African descent, strengthening the organization of the Afro-Ecuadorian community and helping to eliminate racism and discrimination.

22. The Afro-Ecuadorian Development Corporation, the Council for the Advancement of the Nations and Peoples of Ecuador and all other national councils are currently in the process of being converted into national equality councils in accordance with articles 156 and 157 and the sixth transitional article of the Constitution, which entered into force in October 2008. The sixth transitional article provides that the national councils for children and adolescents, persons with disabilities, women, indigenous peoples and nations, Afro-Ecuadorians and Montubios (coastal peasants) will become national equality councils and that their structures and duties shall be adjusted accordingly, in line with the Constitution.

23. The Ombudsman's Office, created in September 1998, is the institution responsible for safeguarding fundamental rights and is considered the foremost institution for the protection of constitutional liberties and guarantees. The primary responsibility of the Ombudsman's Office is to safeguard and protect human rights. The Office has two national directorates which are responsible for safeguarding and upholding the rights of indigenous peoples and Afro-Ecuadorians.

24. The Government has created the National Commission for the Protection of the Human Rights of Indigenous Peoples, which is based in Quito, and the Subcommission for the Protection of the Human Rights of Afro-Ecuadorians, which is based in the city of Guayaquil. These two bodies, which are part of the Office of the Ombudsman, are responsible for promoting and protecting the rights of indigenous peoples and nations and of Afro-Ecuadorians.

25. With a view to meeting the challenges and objectives associated with Ecuador's new constitutional framework, it has been proposed that a unit to deal with ethnic and collective affairs should be established within the Ombudsman's Office to help guarantee full enjoyment of human rights in all sectors of the population. The proposal is founded on the recognition that "peoples" have rights and that each peoples, along with their particular ethnic, cultural, anthropological and historical characteristics, deserves equal recognition before the State and society.

26. The National Development Plan for 2007–2010 was launched by the Government of Ecuador in June 2007 in order to guarantee the protection and enjoyment of economic, social and cultural rights based on a cross-cutting, rights-centred approach and is the country's principal planning instrument. The Government's future vision for the country and the overall goals and objectives to be achieved by 2010 are set out in this document.

27. The Plan's objectives are pursued by means of a non-sector-specific, rights-based, people-centred approach. The principal aims are to achieve equality and social cohesion, improve living conditions, foster sustainable development, affirm national identity and promote diversity and interculturalism. The Plan is the country's most important tool for the achievement of its social development objectives and goals by 2010.

28. The programme for the implementation of the National Citizen Participation System was approved in 2007. Its general aim is to develop a viable political agenda for the State and society by forging public policy networks as a means of reaching out to organizations, peoples and citizens. The policy instruments and management tools used for this purpose are designed to deepen democracy, to engage marginalized sectors and the wider population in decision-making, to reaffirm national identity and to cement political freedoms and rights by fostering and strengthening the representation of the populace at the different levels of government.

29. A more specific aim is to coordinate and streamline a number of different initiatives which have been grouped into two large-scale projects that constitute the programme's strategic lines of action. This aim is pursued under the supervision of the Secretariat for Peoples, Social Movements and Citizen Participation, as the lead agency for citizen participation. These two projects are:

(a) **Project 1:** The aim of the National System for Citizen Liaison is to strengthen the country's diverse social fabric by reinforcing its forms of political, social and economic organization and participation;

(b) **Project 2:** The aim of the National System for Citizen Action is to develop mechanisms for citizen action that reflect communities' social and geographical circumstances and that will strengthen their identity and their participation in public oversight, decision-making, capacity-building and sustainable local development initiatives.

30. Paragraphs 4, 5 and 6 of article 57 of the Constitution recognize the collective rights of indigenous communes, communities, peoples and nations, in conformity with provisions set out elsewhere in the Constitution and with human rights covenants, treaties, declarations and other instruments. These portions of the article in question guarantees the preservation of these groups' property, ownership of ancestral lands and territories, and their right to participate in the use, usufruct, administration and preservation of the renewable natural resources present on their lands. Paragraph 7 of the same article marks a significant advance in this area, inasmuch as it establishes the right of indigenous peoples and nations to be consulted about plans and programmes for prospecting and developing the non-renewable natural resources present on their lands in cases where such activities could have environmental or cultural impacts. It also establishes their right to share in the profits generated by such projects and to receive compensation for any adverse social, cultural or environmental effects that the projects may cause. The consultations to be carried out by the

competent authorities are obligatory in nature and must be performed in a timely manner. If the consent of the community in question cannot be obtained, the parties must then proceed as provided in the Constitution and other legislation.

31. The Collective Rights of the Black or Afro-Ecuadorian Population Act, published in issue No. 275 of the *Registro Oficial*, dated 22 May 2006, expressly recognizes the rights of Afro-Ecuadorians as established in the current Constitution, which sets out the principle of non-discrimination and equality. This law also establishes the State's obligation to ensure the economic, social, cultural and political rights of Afro-Ecuadorian communities and recognizes the aspirations of such communities, whether settled on ancestral lands or in urban and rural areas. It is designed to promote development policies for this sector of the population and their incorporation into the economic, social, cultural and political development framework.

32. Implementing regulations for the social participation mechanisms envisaged in the Environmental Management Act are set forth in the Environmental Management Act itself, in the consolidated text of the subsidiary legislation of the Ministry of the Environment and in Executive Decree No. 1040 of 8 April 2008. These regulations are designed to guarantee community participation.

33. Executive Decree No. 1040, published in issue No. 332 of the *Registro Oficial*, dated 8 May 2008, also provides for the implementation of environmental impact assessments that incorporate social participation mechanisms such as informational, training and environmental awareness-raising workshops, environmental awareness campaigns and public disclosure mechanisms for informing communities about projects to be implemented in their vicinity.

34. Negative effects attributable to activities and projects that have environmental impacts on ecosystems and local populations are in evidence in some parts of Ecuadorian territory. According to statistics from the Ministry of the Environment, in 30 per cent of all cases, the local population was consulted before a concession contract was awarded. The communities in question gave their consent for the projects in 20 per cent of these cases.

35. The construction of the gas pipeline running from Santo Domingo in the province of Santo Domingo de los Tsáchilas to El Beaterio in the province of Pichincha was one of the projects subject to prior consultation. In this case, the consultation involved two participatory processes:

(a) Establishment of the terms of reference for the dissemination of information about the project;

(b) Presentation of the environmental impact study with the aim of providing the public with information about the environmental management system for the project, including the measures to be adopted in order to monitor, prevent, mitigate and offset negative environmental impacts.

36. No extractive activity that might have an impact on a community, people or nation is approved unless the required environmental permits have been granted by the Ministry of the Environment, the body responsible for monitoring environmental and land impacts.

B. Article 2: international assistance and cooperation and the rights of non-nationals

37. The Government of Ecuador has invested heavily in the economy and has developed convergent multisectoral policies. The political will and commitment shown by the State, combined with its "good living" approach, translated into an investment of US\$ 3 billion in

social development in 2007, a notable increase on the US\$ 2.2 billion invested in the same sector the previous year. For the first time in many years, social expenditure, as a percentage of the national budget, outweighed external debt service payments. Social investment in 2008 represented 6.8 per cent of gross domestic product.

38. The Ecuadorian International Cooperation Agency (AGECI) is responsible for implementing cooperation policy in Ecuador. In 2008, AGECI held negotiations with various countries and international organizations with a view to obtaining non-reimbursable resources to support the pursuit of the objectives of the National Development Plan. International cooperation is viewed as a complement to the Government's own efforts to improve the situation in the country, especially in border communities and particularly violent areas. Resources are therefore being channelled mainly into Plan Ecuador and the Ecuador Chapter of the Bi-National Development Plan. These two plans focus on promoting development in the northern border area by improving security and fostering a culture of peace.

39. According to figures on cooperation for development compiled by AGECI, US\$ 78.2 million have been invested in 48 projects in the northern border area and US\$ 121 million have been invested in 94 development projects in the southern border area.

40. An additional US\$ 7.3 million were invested in 25 development projects in 2008 in what the National Secretariat of Planning and Development (SENPLADES) defines as the social welfare sector, which includes rural development, social services for young children, adolescents, older adults and persons with disabilities, gender equity and social inclusion.

41. The Office of the United Nations High Commissioner for Refugees (UNHCR) is another agency whose financial assistance and cooperation have a particularly large impact in Ecuador. The assistance provided by UNHCR falls into four broad categories: technical advisory services provided to the Government, humanitarian assistance, community projects and the resettlement programme:

(a) The technical advisory services provided by UNHCR to the Government of Ecuador in the area of international refugee law have contributed to the adoption of public policies and regulations that recognize and uphold the rights of people in need of international protection;

(b) An enhanced registry for Colombian refugees in Ecuador has been created by the Directorate-General for Refugees of the Ministry of Foreign Affairs, Trade and Integration and UNHCR as an innovative mechanism for providing a swift and effective response to the thousands of Colombian nationals in need of international protection. The registry has been built up over the course of this year;

(c) UNHCR provides humanitarian assistance to the most vulnerable refugees and asylum-seekers. These people are identified by social workers from the partner agencies of UNHCR on the basis of criteria set out in an assistance guidelines manual. The services it provides include medicines and laboratory tests for those who could not afford them otherwise and household items for asylum-seekers who arrive in the country without any belongings. It also provides shelter to recent arrivals or refugees in special need of protection. Each month UNHCR also distributes, on average, 7,500 food rations, provided by the World Food Programme (WFP), to refugee families and to asylum-seekers who are in particularly vulnerable situations and would otherwise be unable to feed their families;

(d) Community support and integration projects address various issues, including education, health, income generation, community services, water and sanitation. Working together with the authorities, the local population and refugees in their host communities, UNHCR and its partner agencies analyse problems that limit the enjoyment of human rights and take action, insofar as possible, to resolve them;

(e) Local integration initiatives have been developed under these projects to improve relations between Ecuadorians and refugees. Fairs, workshops, and sports and cultural events have been arranged to bring the two groups closer together. The host community and the community in need of international protection in fact share many of the same challenges, aspirations and experiences. Approximately 50,000 people, including recognized refugees and asylum-seekers, as well as a large number of Ecuadorian citizens, have benefited from the UNHCR community support and integration projects carried out in 2008;

(f) The resettlement or relocation of refugees to another country involves the selection and transfer of refugees to a third country that has agreed to receive them, to protect them and to grant them a type of legal status that allows them to stay in the country. The resettlement of refugees with special needs has been used as an effective and lasting solution in Ecuador in the last few years, especially since 2006. UNHCR advocates the use of resettlement as an effective tool for protecting and responding to the needs of refugees whose life, liberty, safety, health or fundamental rights are at risk in the country of asylum. Resettlement is also used as a strategic means of sharing responsibility and alleviating the pressure on the first country of refuge or host country. This is especially important in the case of Ecuador, which has the largest refugee population in the entire region.

42. The UNHCR office in Ecuador has managed to resettle approximately 7.5 per cent of the total refugee population in the country, while about 2,800 people out of a population of 30,000 officially recognized refugees were resettled in third countries between 2006 and 2009. By any standards, the number of people who have been resettled is still a very small proportion of the total number of people in Ecuador in need of international protection (approximately 135,000 people), 96 per cent of whom are Colombians who have been forced to flee Colombia by the serious violence and insecurity associated with the internal conflict there.

43. As shown below, the Ecuadorian Government has put in place several plans to support refugees. Under Plan Ecuador, which focuses on improving the situation in the northern border area of the country, US\$ 39,051,000 have been invested in the population in need of international protection.

44. Ecuador has received international assistance in addressing migration issues from the International Organization for Migration (IOM), the International Labour Organization (ILO), AGECI (through the debt swaps programme), United Nations Educational, Scientific and Cultural Organization (UNESCO) and other organizations. These resources have been used to finance activities in a number of areas, including: the development of a legal framework for migration that is in keeping with the new Constitution; the fulfilment of international obligations, such as those assumed under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the establishment of support networks for migrants and their families; the creation of information systems; and participation in international forums, such as the Ninth South American Conference on Migration.

45. The Government of Ecuador has taken action to combat discrimination and promote equality.¹ The new Constitution of 2008 establishes a framework that is conducive to the implementation of Government projects and programmes on the basis of a social, intercultural, fair, inclusive and rights-based approach. One of the main principles

¹ This information was presented by Ecuador at the Review Conference of the Durban Declaration and Programme of Action (Geneva, 20 April 2009).

enshrined in the Constitution is that Ecuador is a constitutional, democratic, sovereign, independent, unitary, intercultural, plurinational, secular and decentralized republic that upholds social justice and operates under the rule of law (art. 1).

46. The current Constitution reaffirms the multicultural character of Ecuador by establishing plurinationality as the guiding principle for the recognition and protection of the diversity of its peoples. Interculturalism thus becomes an essential mechanism for ensuring peaceful coexistence and understanding among the various cultures of the country.

47. Pursuant to the new Constitution, the peoples, nations and communities of Ecuador possess the rights established in the Constitution and in international instruments, and the State has the duty to guarantee, without discrimination, the full enjoyment of all such rights. The principles governing the exercise of those rights are also set forth in the Constitution, which provides that the “most important duty of the State is to respect, and ensure respect for, the rights guaranteed in the Constitution”.

48. The chapter on collective rights (arts. 56 to 60) describes those rights in more detail. Article 57, in particular, recognizes and guarantees the rights of indigenous communities, peoples and nations, including those set forth in paragraphs 2 and 3: the right to “not be the target of racism or any form of discrimination based on cultural or ethnic identity or origin”, and the right “of communities subjected to racism, xenophobia or other related forms of intolerance and discrimination to recognition, reparation and compensation”. Racism and racial discrimination in the media are also prohibited.

49. The rights of nature, or *Pachamama*, are also recognized, and the rights and the governing principles of “good living” (*sumak kawsay*) are established. The latter include the rights to education, health, housing and social security.

50. A number of advances have been made in the recognition of human rights with the introduction of several new concepts that were not included in the Constitution of 1998. One of the most notable is the widely discussed notion of plurinationality. This concept is the antithesis that of the concept of a divided State and refers to the idea that nations, peoples and communities have collective rights and their own forms of government that are tied in with the territory in which they have lived for generations.

51. The new Constitution establishes several rights related to equality and non-discrimination. The most pertinent provisions are:

(a) Title I, on the constituent components of the State, chapter one, on basic principles:

(i) Article 2 deals with the furtherance of interculturalism and plurinationality through the recognition of Kichwa and Shuar as official languages for intercultural relations in Ecuador;

(ii) Article 3, paragraph 1, guarantees the free and effective enjoyment of the rights set forth in the Constitution and in international instruments to which Ecuador is party on an entirely non-discriminatory basis. Specific mention is made of the rights to education, health, food, social security and water.

(b) Title II, on rights, chapter one, on principles for the implementation of rights:

(i) Article 10, on holders of rights, states that: “Persons, communities, peoples, nations and collectives are rights-holders and shall enjoy the rights guaranteed in the Constitution and in international instruments. Nature shall have the rights granted to it by the Constitution”;

(ii) Article 11, paragraph 2, states that: “All persons are equal and shall enjoy the same rights, duties and opportunities. No person shall be discriminated against on

the grounds of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, criminal record, socio-economic status, migrant status, sexual orientation, health status, HIV status, disability, physical difference or any other distinguishing feature, whether personal or collective, temporary or permanent, with the aim or effect of diminishing or nullifying the recognition, enjoyment or exercise of rights. All forms of discrimination shall be punishable by law. The State shall take affirmative action measures to promote genuine equality for the benefit of rights-holders who are in a situation of inequality.”

(c) Title II, on rights, chapter two, on the rights of “good living” (arts. 12 to 34), states that the right to “good living” includes the rights to water, food and a healthy environment that ensures sustainability and good living, which is known as *sumak kawsay* (nature and humankind’s relations with its environment) in indigenous cultures and forms part of their world vision. The rights to communication and information, culture and science, education, habitat, housing, work and social security are also set forth in chapter two;

(d) Chapter three, on the rights of persons and groups belonging to priority sectors (arts. 36 to 38), states that the following persons and groups are to be given special attention in an effort to include them as active participants in the country’s development: older adults; young persons (art. 39); migrants: the right to migrate is recognized, and no person is to be identified or considered as illegal on account of that person’s migrant status (art. 40); asylum-seekers and refugees, who shall enjoy special protection in order to guarantee them the full exercise of their rights (art. 41); displaced persons, who shall have the right to emergency protection and assistance (arbitrary displacement of persons is prohibited) (art. 42); pregnant women (art. 43); children and adolescents, whose overall development shall be promoted (arts. 44 to 46); persons with disabilities (arts. 47 to 49); persons with catastrophic illnesses (art. 50); persons deprived of their liberty (art. 51); and customers and consumers (arts. 52 to 55). This recognition of rights on the basis of the particular characteristics of each group focuses on the specific needs that must be addressed in order to achieve genuine equality;

(e) Chapter four, on the collective rights of communities, peoples and nations:

(i) Articles 56 to 60 refer to the inclusion of Afro-Ecuadorians as persons entitled to the same rights (art. 59) as those established for indigenous peoples, communities and nations;

(ii) Articles 56 to 58 provide for the recognition of the indigenous peoples, communities and nations, the Afro-Ecuadorian peoples, the Montubio peoples and communes and guarantee their collective rights. These rights include: the right to not be the target of racism or any form of discrimination based on cultural or ethnic identity or origin; the right of collectives that have been subject to racism, xenophobia or other related forms of intolerance and discrimination to recognition, reparation and compensation; and the right of men and women to enjoy these collective rights without discrimination under conditions of fairness and equality. The collective rights of Afro-Ecuadorians as one of Ecuador’s ancestral communities have thus been recognized more explicitly than they were in the Constitution of 1998;

(iii) Article 60 states that the indigenous, Afro-Ecuadorian and Montubio peoples are entitled to establish administrative districts in order to help preserve their cultures;

(iv) Article 65, on gender equality, provides that the State shall promote gender parity in elected or appointed public office, in its executive and decision-making institutions and in political parties and movements. The names of men and women candidates included in electoral lists shall appear alternately and sequentially. The State shall take affirmative action to guarantee the participation of sectors that are discriminated against.

(f) Chapter six, on freedom rights:

(i) Article 66, paragraphs 4, 6, 28 and 29:

- The right to formal equality, substantive equality and non-discrimination.
- The right to voice one's opinion and express one's thinking freely in all of its forms and manifestations.
- The right to a personal and collective identity, which includes having a first name and last name that are duly registered and freely chosen, and the right to preserve, develop and strengthen the tangible and intangible characteristics of identity, such as nationality, family origins, and its spiritual, cultural, religious, linguistic, political and social manifestations.
- Freedom rights also include:
 - Recognition of the fact that all persons are born free.
 - The prohibition of all forms of slavery, exploitation, servitude and smuggling and trafficking in persons. The State shall take measures to prevent and eliminate trafficking in persons and to protect and rehabilitate victims of trafficking and of other violations of freedom.

(ii) Article 67 states that: "The family in its various forms is recognized. The State shall protect the family as the fundamental unit of society and shall guarantee conditions that wholly support the fulfilment of its purpose. Families shall be constituted by legal or common-law ties and shall be based on the equality of rights and opportunities for their members. Marriage is the union of a man and a woman and shall be based on the free consent of the contracting parties and on the equality of their rights, obligations and legal capacity."

(g) Chapter seven, on the rights of nature:

(i) Articles 71 and 72 recognize the rights of nature, which, in the indigenous vision of the world, is known as *Pachamama*. The two essential rights of nature are the right to complete restoration and the right to the regeneration and sustainment of nature's life cycles;

(ii) Article 83, paragraphs 10 and 14, provide for:

- Promotion of unity and equality in diversity and in intercultural relations
- Respect and recognition of ethnic, national, social, generational and gender differences and differences in sexual orientation and identity

(h) Title IV, chapter three, on the executive branch of government, and transitional provisions:

(i) Articles 156 and 157 of the second section of chapter three, on the executive branch of government, and transitional provision 6 provide for the establishment of national equality councils as bodies responsible for ensuring the full observance and exercise of the rights established in the Constitution and in international human rights instruments. These councils are to be comprised of an equal number of

representatives of civil society and of the State and are to be chaired by a representative of the executive branch;

(ii) Article 242 provides that the State is to be organized into regions, provinces, cantons and rural parishes. Special administrative arrangements may be made for environmental conservation purposes or for ethnocultural or demographic reasons. The autonomous metropolitan districts, the Province of Galápagos and indigenous and pluricultural administrative districts shall operate under special schemes;

(iii) Article 257 states that indigenous or Afro-Ecuadorian administrative districts may be formed within the framework of the country's political and administrative organizational structure. These districts will exercise the powers of the corresponding autonomous territorial government and are to be governed by the principles of interculturalism and plurinationality and in accordance with collective rights. Parishes, cantons and provinces comprising mainly indigenous, Afro-Ecuadorian, Montubio or ancestral communities, peoples or nations may adopt this special administrative system provided that a referendum is held and at least two thirds of the valid votes cast are in favour of its establishment. Two or more districts administered by indigenous or pluricultural territorial governments may join together and form a new district. The structure, functions and authorities of such districts are to be defined by law.

(i) Title VII, on the rights of nature and on the plan for "good living" (arts. 340 to 415) as a national system for promoting equity and social inclusion through institutions, policies, programmes, legislation and services, states that the principal rights associated with this system are the rights to: inclusion and equity; education; health; social security; sport and leisure time; habitat and housing; culture; social communication; science, technology and ancestral knowledge; risk management (protection against natural disasters); food sovereignty; biodiversity; and natural resources.

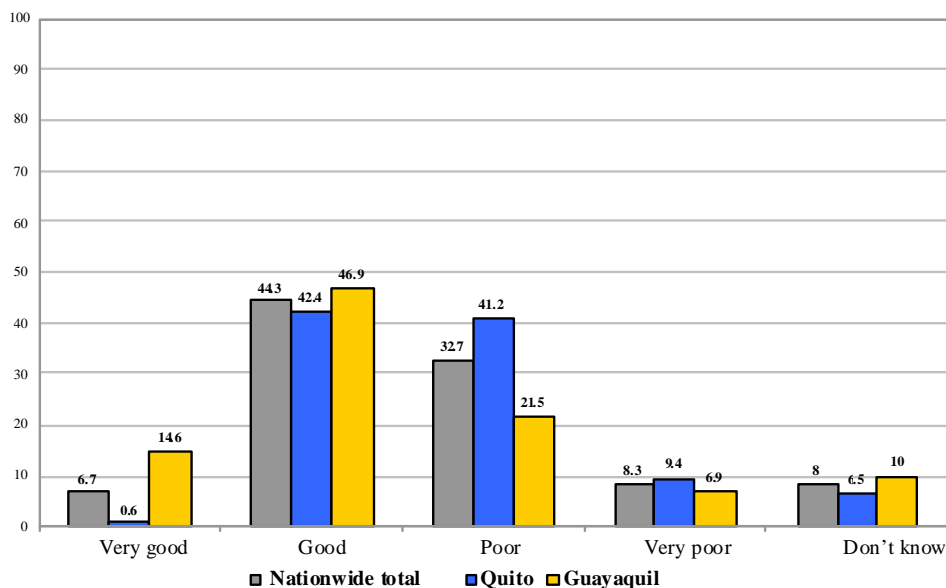
52. As indicated in the core document, there is a second tier of legislation that has been introduced to protect the rights to non-discrimination and equality.

53. The President of the Republic, Rafael Correa Delgado, by Decree No. 749 of 15 November 2007, created the Ministry of Justice and Human Rights with a view to the implementation of effective mechanisms for promoting human rights and disseminating information on legal matters and proceedings and to the improvement of the services provided by the institutions of the justice system.

54. The Office of the Under-Secretary for Human Rights and the Coordination of Public Defender Services of the Ministry of Justice and Human Rights has issued a manual and created mechanisms to help members of the public to exercise their rights. The Office of the Under-Secretary also formulates public policies aimed at protecting the rights set forth in the Covenant.

55. The following figure shows the results of a survey conducted in September 2008 to determine how much members of the general public know about their rights and the Government mechanisms that are in place to protect those rights. Respondents were asked to answer the question: "How would you rate the efforts made by Ecuador to defend the human rights of its citizens?"

Figure 1
Survey on human rights defence efforts



Source: Ministry of Justice and Human Rights.

56. The Ministry of Justice and Human Rights is working with the National Secretariat of Planning and Development on a project to develop a system of quantitative and qualitative indicators of justice and human rights in Ecuador for implementation in 2011. The goal of the project is to put into place a system of indicators that will not only reflect the data compiled on the social and economic situation in the country but that will also make it possible to determine how fully human rights are being respected. The system will be developed on the basis of information on the structural factors that determine the effective enjoyment of human rights, such as: the recognition of human rights in the Constitution and other domestic legislation; the existence of mechanisms for participation and for ensuring transparency and accountability; and the design of public policies that are sufficiently flexible to allow room for addressing particular problems or aspects involved in the realization of a given right.

57. As part of the effort to combat discrimination, the National Secretariat for Migration has launched a campaign called *Todos somos migrantes* ("We are all migrants") as a collective effort to raise awareness of the importance of migration as a fundamental dynamic in a globalized world, as an endless source of wealth and progress for the peoples of Ecuador and as an instrument for furthering intercultural understanding on the basis of respect and the integration of diversity.

58. The campaign is built on the ideals of universal citizenship, solidarity and fraternity and the rejection of all forms of discrimination, racism and xenophobia. The task is both complex and challenging, as there is an extremely strong trend in immigration policy worldwide towards tighter policies that entail elements of racism and tend to criminalize, repress or discourage immigration, in violation of the rights of millions of migrants all over the world. The universal citizen's passport, which forms part of this initiative, symbolizes Ecuador's comprehensive migration policy, which, it is hoped, will prove to be an inspiration to other countries and regions.

59. The campaign aims not only to garner the commitment and solidarity of citizens worldwide, but also to serve as a platform for promoting a series of meetings and activities

to be hosted by social organizations and institutions in different cities around the world in 2009 and 2010. These activities will focus on analysing, developing and implementing interculturalism.

60. Article 9 of the Constitution of Ecuador guarantees non-nationals within its territory the same rights and duties as Ecuadorians.

61. Article 11 of the Constitution establishes that all persons are equal and that they shall enjoy the same rights, duties and opportunities. No person is to be discriminated against on the grounds of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, criminal record, socio-economic status, migrant status, sexual orientation, health status, HIV status, disability, physical difference or any other distinguishing feature, whether personal or collective, temporary or permanent, with the aim or effect of diminishing or nullifying the recognition, enjoyment or exercise of rights.

62. By law, non-nationals may remain in Ecuador as migrants or non-migrants and, in both cases, shall enjoy the same rights as nationals.

63. Ecuadorian law contains several provisions on the right to work, as listed below.

64. Article 560 of the Labour Code states that all foreigners wishing to enter the country in order to work for a person or organization, whether domiciled in Ecuador or elsewhere, must obtain a work permit and have their names entered into the Aliens Registry in accordance with articles 10 and 12 of the Aliens Act.

65. There are also various laws governing the exercise of certain professions by foreigners. Examples include:

(a) Article 35 of the Professional Architects Act, which states that foreign architectural staff employed in Ecuador must obtain a temporary licence from the corresponding provincial association of architects before being granted the applicable visa;

(b) Article 29 of the Professional Engineers Act, which states that foreign engineering staff employed in Ecuador must obtain a temporary licence from the Society of Engineers of Ecuador;

(c) Article 27 of the latest regulations on the performance of the year of rural service that is one of the requirements for the award of a degree in medicine, dentistry, obstetrics or nursing, which states that foreign professionals may not choose to complete their year of rural service in locations within the border area nor engage in exchanges;

(d) In the case of asylum-seekers and refugees, article 42, paragraph 7, of the implementing regulations of the Aliens Act states that foreigners admitted under the preceding provisions of the Act or under diplomatic asylum treaties shall abide by certain rules, such as those established by the Ministry of Foreign Affairs concerning the activities, including paid work, in which an asylum-seeker or refugee may engage. Such activities are not subject to the regular rules in view of the special status of political asylum-seekers and refugees. The Ministry of Foreign Affairs will therefore issue such persons with identification documents that are duly numbered, signed and stamped by the corresponding Ministry official. These documents will display the bearers' full names, their official status as political asylum-seekers or refugees, personal identification details, their photograph and signature. They will also contain a pledge by the bearer to refrain from participating in political activities, to abide by Ecuadorian law and to comply with the provisions of international conventions on asylum and refuge. The Ministry of Foreign Affairs will also issue a document granting the bearer a 12-IV visa, which authorizes the bearer to engage in gainful employment. No other formalities are required of political asylum-seekers or refugees for this purpose. This identification document, which is to be issued in card form,

is a fully valid form of identification for official purposes. Asylum-seekers and refugees must register once a year with the National Directorate of Migration.

66. Migration flows in Ecuador have changed dramatically over the past decade, and Ecuador is now in the complex position of being a country of origin, destination, transit and return.

67. Domestic legislation clearly needs to be completely overhauled in the light of the new approach being taken to migration in order to guarantee non-nationals the economic rights set forth in the Covenant.

68. This matter has not been duly addressed by the country's legal institutions, which continue to reflect values and principles that are not compatible with the new Constitution.

69. It has thus become necessary to establish a coordinated, participatory, intersectoral process for designing and assembling an entirely new regulatory framework for migration. That framework should consist of a single systematic, comprehensive, coherent body of legislation for regulating the legal and institutional aspects of migration in Ecuador in compliance with national and international human rights standards.

70. This comprehensive legal reform is being pursued on the basis of intersectoral cooperation and coordination. Various mechanisms for dialogue are being used to obtain input from Ecuadorians at home and abroad, as well as from immigrants, refugees and their families, civil society organizations, international cooperation agencies and the State institutions currently working in this area.

71. The objectives of the National Secretariat for Migration, as well as the Ministry of Justice and Human Rights, are to further the legal reform process with a view to organizing the corresponding institutional framework and setting up the mechanisms needed to protect the rights of Ecuadorians abroad and the rights of foreigners in Ecuador. Work towards those objectives is currently under way.

72. At the international level, Ecuador has been promoting the new vision of migration policy enshrined in the Constitution in regional and global events such as the first and second meetings of the Andean Forum on Migration, the eighth and ninth sessions of the South American Conference on Migration and the second and third meetings of the Global Forum on Migration and Development. This effort is focusing on the development of a comprehensive migration policy founded upon human rights and human development.

C. Article 3: legislation and measures to eliminate discrimination between men and women

73. Under article 11, paragraph 2, of the Constitution of 2008, the State shall adopt affirmative action measures to promote true equality for rights-holders who are in a position of inequality.

74. Article 65 of the Constitution guarantees that the State shall promote the equal representation of men and women in nominated and appointed government posts, in leadership and decision-making posts, and in political parties and movements. They shall be included alternately and sequentially in candidate lists for party-list elections. The State shall adopt affirmative action measures to ensure the participation of groups subject to discrimination.

75. Article 66, paragraph 4, of the Constitution recognizes and guarantees the right to formal equality, substantive equality and non-discrimination.

76. Article 70 establishes that the State shall make use of a specialized mechanism as provided for by law for the design and implementation of policies to achieve equality between men and women and shall mainstream a gender perspective in plans and programmes and provide technical assistance for the compulsory implementation of those policies in the public sector.

77. As explained above in the section on the implementation of article 1 of the Convention, the bodies previously known as national councils, such as, in the case of gender issues, the National Council for Women (CONAMU), which was established in 1998, are being restructured and converted into national equality councils.

78. The Constitution of 2008 contains inclusive language that gives visibility to women as rights-holders, thereby giving effect to article 1 of the Convention on the Elimination of All Forms of Discrimination against Women.

79. One of the programmes to have been established during the reporting period is the Equal Opportunities Plan 2005–2009, which was developed by CONAMU, as the lead agency for public policy on women's rights. This plan has been declared to have the status of a Government policy, and its implementation is mandatory in the public sector. The plan has an intercultural focus and centres on actions to promote the human rights of indigenous women and women of African descent. In 2008 it was extended to include migrant women. It involves a broad range of action and brings together the efforts of various women's organizations nationwide.

80. The four focal points of the Equal Opportunities Plan 2005–2009 are as follows:

(a) Promotion and protection of the right to participate in social and political affairs, women's right to exercise their citizenship and democratic governance;

(b) Promotion and protection of the rights to a life free of violence and to peace and health, sexual and reproductive rights and access to justice;

(c) Promotion and protection of cultural and intercultural rights and the rights to education, quality of life and autonomy;

(d) Promotion and protection of economic, environmental and labour rights and access to financial and non-financial resources.

81. Measures for meeting the needs of different groups of women have been incorporated into the Equal Opportunities Plan under the third focal point (promotion and protection of cultural and intercultural rights and the rights to education, quality of life and autonomy). Its implementation has included the use of measures focusing on collective rights as a fundamental element in the promotion and realization of equality in diversity for women.

82. In order to address this issue, steps were taken to raise awareness of collective rights. This led to the development of a cross-cutting intercultural approach that encompasses all four focal points of the Equal Opportunities Plan and introduces a perspective based on ethnic diversity among women. The work done in this area has a direct bearing on the work of CONAMU.

83. These programmes have focused on teaching rural Ecuadorian women how to exercise their rights and on the regularization of land titles as a means of benefiting women. Ecuador has mainstreamed a gender perspective into these processes and, as part of that effort, introduced a training programme on women's rights for various groups in Ecuador, including all civil servants. The beneficiaries have been rural women, including Ecuadorian women of African descent and indigenous and Montubio women. The Government is currently evaluating this process.

84. CONAMU and the Council for the Advancement of the Nations and Peoples of Ecuador have signed a cooperation agreement to “promote and consolidate the inclusion of interculturalism, a gender perspective and individual and collective rights in the discussion, design, drafting and implementation of public policies, strategies and programmes”.

85. Within this framework, in November 2008 a national workshop was held for indigenous midwives. The aims of the workshop were to recover ancestral knowledge and promote women’s human rights. This provided an opportunity to disseminate information about the Free Maternity and Child Health Care Act and the collective rights of women.

86. Within the framework of the new Constitution, the Government is also mounting an inter-agency effort to strengthen the gender perspective in the areas of interculturalism, plurinationality, indigenous justice, promotion of good living, gender and identity, political participation, gender-sensitive budgets, public policy on women and the family, poverty, and gender and development, in accordance with its international obligations (the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) and the Convention on the Elimination of All Forms of Discrimination against Women).

87. Given their vulnerability and diversity, women of African descent and indigenous, Montubio and campesino women are a national policy priority for the State. Action in this area includes the TCP/ECU/3202 project entitled “Constructing a Priority National Policy on Rural Women”, which was approved by the Food and Agriculture Organization (FAO) in October 2008. Its primary objective is precisely to work with rural women in Ecuador from various ethnic and cultural backgrounds to develop a policy with a focus on gender, the environment, interculturalism, and individual and collective human rights.

88. Action to benefit migrant women is being taken within the framework of the Round Table on the Movement of Persons. This includes the adoption of a number of measures in the Metropolitan District of Quito, where the municipal government has introduced the Ordinance on the Movement of Persons in the Metropolitan District of Quito. The Ordinance, which incorporates a gender perspective, guarantees the right of immigrants to participation, social integration and access to the administration of justice. It also provides for training for municipal civil servants and for members of the general public, along with preferential treatment for migrants in the city.

89. Under Plan Ecuador, the Government, through the Transitional Council, is taking steps to assist the population living near the country’s northern border. One of the main such measures is the implementation of a comprehensive development plan in the northern border area. This plan aims to mainstream the gender perspective in actions being planned and carried out by the technical secretariat of Plan Ecuador in order to promote gender equity and foster gender mainstreaming in national and local public policies related to the area of activity covered by the Plan. The actions taken under the Plan have included the organization of a training programme in late 2008 on women’s human rights under the new Constitution. This programme targeted women’s organizations, organizations for migrant and displaced women, civil servants and the staff of organizations working to promote women’s rights in the border area, particularly in the provinces of Carchi, Sucumbíos and Esmeraldas.

90. The country has updated, sex-disaggregated statistics that can be used to increase the visibility of the situation of Ecuadorian women. This information has been used to prepare other valuable inputs, such as the document entitled *Mujeres y Hombres del Ecuador en Cifras* (“The women and men of Ecuador in figures”), which shows up the existence of gender and ethnic inequalities, and the 2008 version of the SIMUJERES system of gender indicators, which provide a picture of the situation of women and the gender inequalities that exist. The SIMUJERES indicators are also disaggregated by area, age and ethnicity.

91. Through CONAMU, the Government has taken a series of steps over the course of the reporting period to strengthen and promote the rights of women and to bolster women's organizations. It also continues to provide training to leaders from various women's organizations and communities throughout the country. Technical support was also provided in 2008 to the National Council of Black Women and the Rural Parish Councils Women's Association in order to assist them in the drafting of proposals to be submitted by women's organizations for inclusion in the country's political agenda.

D. Articles 4 and 5: international obligations

92. Ecuador is a party to most United Nations and inter-American international human rights instruments, as well as to ILO conventions and treaties on international humanitarian law.²

93. Title VIII, on international relations, chapter two, of the Constitution of 2008 sets forth various provisions regarding international treaties and instruments. Once a treaty or other such instrument is ratified by Ecuador, its implementation is subject to the provisions of the Constitution. The Constitution expressly states that, in respect of human rights treaties and other international human rights instruments, the human-centred principles of non-restriction of rights, direct applicability and open-endedness as set forth in the Constitution shall apply (art. 417). International treaties and instruments must be ratified by the President, and those concerning the rights and guarantees established in the Constitution must first be adopted by the National Assembly (art. 419, para. 4).

94. Ecuador co-sponsored the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in 2008 in the United Nations Human Rights Council and, in 2009, pursuant to the Constitution of 2008, it held technical consultations with the national organizations concerned in order to encourage Governments to sign and ratify this international instrument as soon as possible.

E. Article 6: measures to promote employment

95. During the current Administration of Rafael Correa, an economist by profession, provision was made in Executive Decree No. 117-A of 15 February 2007, published in *Registro Oficial* No. 33 of 5 March 2007, for the establishment of the Ministry for the Coordination of Social Development as the body responsible for harmonizing the policies and measures adopted by the Ministry of Education, the Ministry of Labour and Employment, the Ministry of Social Welfare (currently the Ministry of Economic and Social Inclusion), the Ministry of Health, the Ministry of Urban Development and Housing, the Ministry of Economic Affairs and Finance, the National Secretariat of Planning and Development, the Ecuadorian Institute for Student Loans and Scholarships, the Ecuadorian Housing Bank and the National Secretariat for Migration

96. The Ministry for the Coordination of Social Development is also responsible for drafting, designing, monitoring, evaluating and following up on public policies. To this end, it formulated social agendas for 2007 and 2008 which served as a basis for follow-up measures in connection with each of the institutions under its mandate. Management and process indicators included in the Government Information System, which is an official

² See the list of existing instruments, state of ratification, declarations and reservations and the section on acceptance of international human rights norms in the common core document.

source of data designed to promote accountability and transparency, were used for this purpose.

97. A technical report prepared in March 2009 indicates that the elimination of outsourcing in Ecuador has boosted formal employment by spurring the direct creation of 158,680 jobs that provide employees with benefits. The sectors displaying the steepest growth were construction and manufacturing, followed by agriculture, mining, electrical power and trade, as shown in the following table:

Table 1
Study on the elimination of outsourcing

<i>Industry</i>	<i>Dec. 2007</i>	<i>Dec. 2008</i>	<i>Absolute change</i>	<i>Percentage change</i>
Agriculture	67 583	94 250	26 667	39.5
Mining	10 528	13 896	3 368	32.0
Manufacturing	125 126	183 005	57 879	46.3
Electricity	9 998	12 759	2 761	27.6
Construction	19 525	29 151	9 626	49.3
Trade	181 185	223 642	42 457	23.4
Financial services	136 449	141 599	5 150	3.8
Other services	89 841	100 613	10 772	12.0
Total	640 235	798 915	158 680	25

Source: Ministry for the Coordination of Social Development.

98. The study highlights the fact that the elimination of outsourcing did not result in mass company shutdowns or layoffs. On the contrary, 106,524 persons ceased to work under outsourcing contracts and were instead recruited directly, and 51,488 net new jobs were created.

99. The Government is working in the following five strategic areas to safeguard jobs and promote employment through the *Socio Empleo* (“employment partners”) programme, which is being implemented jointly by various State institutions.

100. *Promotion and development of production.* The Ministry for the Coordination of Production is working on a comprehensive strategy to promote production. One facet of this strategy is to be the creation of special Government lending instruments designed especially for small- and medium-sized businesses. One such instrument is the electronic factoring programme of the National Finance Corporation. A business development programme is also being established that will cover not only small- and medium-sized industrial enterprises, but also small- and medium-sized enterprises in the handicrafts, tourism, services and other sectors. Through this programme, the necessary technical assistance and technology transfer can be provided to help bring about changes in production patterns.

101. *Economic inclusion and the promotion of a people- and solidarity-based economy.* The State has increased service coverage and efficiency. Working along these lines, the current Administration has approved a proposal put forward by the Ministry for the Coordination of Social Development, the National Secretariat of Planning and Development, the Ministry of Economic and Social Inclusion and the Ministry of Agriculture, Aquaculture and Fisheries for the reorganization of the country’s economic inclusion programmes, particularly those related to agriculture. These ministries also proposed the establishment of the National Institute for a People- and Solidarity-based

Economy, an institution that would specialize in agricultural outreach services and the *Socio* programmes of the Ministry for the Coordination of Social Development. Nearly US\$ 50 million will be invested in the programmes managed by these three institutions; these funds are to be used for technical assistance to improve the productivity of small production units, both in the agricultural sector and in marginal urban areas. In addition, the national microfinance system will make another US\$ 60 million available to assist microentrepreneurs and to bolster the creation of a people- and solidarity-based economy. These programmes have already boosted the incomes of 200,000 households, and programme coverage is to be expanded to 300,000 households this year.

102. *Employment services and business ventures – Socio Empleo.* *Socio Empleo* is a strategy developed by the Government to overcome the socio-economic problems facing the country. The strategy is based on the idea that a fundamental pillar of current social policy is the creation of decent jobs. It includes a comprehensive array of training services, job certification, internships in the public and private sectors, job placement services and support for microentrepreneurs in the form of information, credit and capital.

103. On the basis of an integrated action strategy, the programme is designed to remove the various obstacles to entry into the labour market, especially in priority sectors. This effort is backed by a strong commitment to fostering human development by improving people's knowledge base, skills and abilities by providing them with training using a learning-by-doing methodology.

104. The Ministry for the Coordination of Social Development is also promoting a national job certification system for persons who have acquired trades and expertise through hands-on experience but do not possess any certification – a lack which has a direct effect on their incomes. Under this system, credentials will be issued to people who have the requisite knowledge to perform a given job.

105. In order to assist young job-seekers and persons wishing to change careers who lack the necessary experience, *Socio Empleo* is working to expand the internship system in both the public and private sectors. In the private sector, this programme was launched in the provinces of Guayas and Pichincha under an agreement with the Federation of Chambers of Tourism for the provision of training to young people from the poorest neighbourhoods to prepare them to take up internships.

106. The ultimate objective of the programme is to promote entry into the workforce. It is therefore designed to help the various ministries and local governments, as well as private employment agencies, to be as effective as possible in serving as an interface between labour supply and demand. The aim is thus to connect up the various labour exchanges and to create an optimized nationwide mechanism for this purpose.

107. In 2009, a total of 10,600 jobs for manual workers were created in construction projects financed by the Banco del Estado, while 3,000 job opportunities for technicians were provided through *Socio Empleo Profesional*. This initiative of the Banco del Estado, whose aim is to provide technical assistance to support institution-building, is part of the *Socio Empleo* programme of the Ministry for the Coordination of Social Development. The length of these employment contracts could be anywhere from two months to a year or more, and this was not taken into account when compiling these figures, which is why they are referred to as employment "opportunities".

108. Another one of the benefits that *Socio Empleo* provides for entrepreneurs is comprehensive technical assistance to backstop their business ventures. More resources have been allocated for these initiatives (*Socio Micro*, *Socio Joven*) so that they can provide seed capital, technical assistance, training and market access assistance. The work being done in this area has continued with *Socio Micro Pan*, *Socio Micro Tienda* and *Socio Micro Vulcanizadora*.

109. There are currently eight *Socio Empleo* centres in the largest provincial capitals in the country: Guayaquil, Quito, Machala, Cuenca, Ambato, Esmeraldas, Manta and Loja.

110. In 2009, a survey of unemployed families known as the “social register” was taken in order to determine respondents’ eligibility, depending on their circumstances, for Government social benefits. The Government has made evident progress towards building a national dialogue that includes all sectors of the population as a basis for designing economic measures to respond to the crisis, reinforcing the dollarization of the economy and, above all, sustaining employment levels. The rate increases agreed upon with the financial sector in order to maintain lines of credit and joint programmes such as *Socio Solidario* and *Socio Ahorro* are part of this effort.

111. *Public investment and infrastructure.* The Government has worked to protect public investment, particularly in areas that will further the social development process. An unprecedented infrastructure plan has been devised that will improve transport, technological and logistical connectivity and that will upgrade the energy grid. The ultimate aim of these efforts is to achieve true system-wide competitiveness and thus promote production in Ecuador.

112. *Economic protection for households.* The Government has maintained an ongoing policy for the protection of the incomes of Ecuadorian families. Examples of measures taken to bolster the household economy include placing a freeze on the price of fuel, lowering electricity rates and providing free school uniforms.

113. The Labour Code has been amended to facilitate the entry of persons with disabilities into the workforce. Article 42 of the Code stipulates that, in the first year of the application of the Labour Code Amendment Act, counting from the date of its publication in the official gazette, public or private employers with at least 25 workers are required to employ at least one person with a disability in a permanent position that is appropriate to that person’s skills, physical condition and individual abilities, while respecting the principles of gender equity and the diversity of disability. Persons with disabilities shall account for 1 per cent of each employer’s workforce in the second year of the amendment’s application, 2 per cent in the third year, 3 per cent in the fourth year, and 4 per cent in the fifth and all following years.

114. The employment contracts for these persons must be in writing and must be registered with the corresponding labour inspectorate, where a registry will be kept specifically for this purpose. If a person with a disability is unable to sign an employment contract, then it is to be signed by his or her legal representative or guardian. A special identity card will be issued to such persons by the National Council for Persons with Disabilities.

115. The Labour Code includes an entire chapter on employment for persons with disabilities. The overarching objective of its provisions is to ensure that such persons have access to the full range of types of employment in both urban and rural areas.

116. In an accountability report on the action taken to integrate persons with disabilities into the workforce, the Ministry of Labour lists the following programmes:

(a) *Integration and reintegration of persons with disabilities into the labour force.* The beneficiaries of this programme are persons with disabilities of working age; 1,778 of such persons have obtained regular employment nationwide. There are plans to help 3,000 persons with disabilities gain entry or return to the workforce in 2009;

(b) *Mothers helping mothers.* This programme is designed to benefit mothers with intellectual and multiple disabilities. A total of 35 legally constituted microenterprises have been organized by groups of up to eight families per enterprise in Pichincha, Chimborazo and Pastaza. A total of 585 mothers, their children and other family members

have received vocational and life-skills training, and there are 80 trained advisers providing technical and logistical support in each locality. This initiative was implemented in the provinces of Esmeraldas, Pichincha, Loja, Azuay, Guayas and Los Ríos. For 2009, there are plans to organize 200 microenterprises in the provinces of Chimborazo, Pastaza and Manabí;

(c) *Disability prevention.* The target population is composed of persons with disabilities of working age, workers and employers. One of the most important results of this programme is that 800 entrepreneurs throughout the country have received training in the application of work safety standards in flower farms, banana plantations, mines, hotels, private security companies, cleaning companies and water treatment plants from the Metropolitan District of Quito and from chambers of industry and commerce;

(d) *Self-employment.* The beneficiaries of this programme are microentrepreneurs with disabilities. They are provided with support in the form of start-up capital, advisory services, research services, evaluations, follow-up and monitoring, all of which are part of the Seed Capital Fund Programme carried out under an agreement between the Ministry of Labour and the National Council for Persons with Disabilities, with the participation of the Banco Nacional de Fomento, the country's development bank. Through this programme, 337 persons with disabilities in the country have received assistance and training in the use of microcredit, and 2,000 persons with disabilities have received management training to help them learn how to run a microenterprise. There are plans to bring another 400 persons into the programme during the current year. In all, 791 loans for a total of US\$ 920,435.37 were made, with the greatest number of those loan operations being conducted in the cities of Machala, Quito and Loja;

(e) *Defence of rights.* The beneficiaries of this programme are workers with disabilities who file complaints concerning violations of their rights. Requests and complaints filed by 469 persons regarding violations and the restoration of their labour rights have been processed. The target for 2009 is to provide these services to 600 persons with disabilities;

(f) *Establishment of a project to promote local management in addressing disability issues in Ecuador.* This project focuses on providing training for persons with disabilities in information and communications technologies, human resources development tools and work skills. The project was carried out at sector level, and 270 persons in all received training. Of that number, 110 had joined the workforce as of November 2008. The budget for the project was US\$ 110,000;

(g) *Establishment of the project entitled "Mobile Entitlement Brigades for the Restoration of the Rights of Persons with Disabilities".* This nationwide project mobilized brigades to provide support to persons with disabilities and was headed up by the Ministry of Economic and Social Inclusion, the Civil Registry Office, the Ministry of Health and the National Council for Persons with Disabilities. As of November 2008, these brigades had registered about 1,000 persons with disabilities, recorded information about their technical assistance needs and prepared an evaluation of their situation in order to establish their eligibility for Human Development Vouchers. The budget for the project was US\$ 354,842.

117. The National Secretariat for Migrants of Ecuador has created a number of employment and production programmes, including the *Plan Bienvenid@s a Casa: Proyectos Productivos* ("Welcome home: production projects"), which provides support to returning Ecuadorian migrants and their families. As a result of the plan, as of June 2009 a total of 1,710 persons had obtained employment in projects managed by the Cucayo Fund (84 ventures); in addition, 60 families had received microcredits to start up tourism projects (through the National Secretariat for Migrants and the Banco Nacional de Fomento), and 87 families were running tourism businesses or preparing to do so.

118. The Cucayo Fund seeks to reintegrate returning migrants into the country's production structure by providing seed capital grants for business start-ups, together with specialized technical assistance, through a network of qualified business mentors (advisers). Seed capital is granted to migrants who wish to open a business or continue their current business activity. The grants amount to 25 per cent of the total project investment up to a maximum of US\$ 15,000 for individual and family projects and US\$ 50,000 for joint projects. Beneficiaries must put up matching funds or, in some cases, depending on the scale of the project, must invest a larger sum.

119. In the second quarter of 2009, the National Assembly debated a bill in support of retailers, self-employed persons and microentrepreneurs. The objective of the bill is to regularize informal work, improve competitiveness and prevent the seizure of merchandise within that sector. Statistics submitted to the Assembly indicate that about 40 per cent of the population works in the informal economy, and these persons must not be denied the right to work and to earn a living.

120. This bill aims not only to regularize informal retailing and microenterprises in Ecuador, but also to promote access to credit through the national financial system and registration in the Ecuadorian Social Security Institute (which affords access to all the corresponding benefits and loan facilities).

121. The bill was approved on first reading by the National Assembly and is awaiting final adoption in the coming months.

122. The Labour Code includes several articles on summary dismissals, such as article 154, paragraph 2, and articles 188, 192 and 622.³ These articles set out safeguards for pregnant women, who cannot be summarily dismissed under any circumstances (art. 154, para. 2); provide for severance payments based on the number of years of service (art. 188); establish that a change of work assignment without notice shall be considered to be a summary dismissal (art. 192); and sets out a number of measures to benefit workers if a request for authorization of dismissal is approved (art. 622).

123. The Ecuadorian Vocational Training Service (SECAP) provides vocational and specialized training, and skills certification for people in the primary (agriculture, forestry and mining), secondary (industry and manufacturing) and tertiary (trade and services) sectors of Ecuador's economy. Three major categories of vocational training are currently provided. Within each of these categories, a number of specific vocational training modules are offered by SECAP.

Table 2
Categories and modules

<i>Categories</i>	<i>Modules</i>
Training	Training for young people
	Training for adults
	Training for technicians
	Training for trainers

³ See the annex for the portions of the Labour Code relating to summary dismissal.

<i>Categories</i>	<i>Modules</i>
Instruction	Refresher courses
	Add-on training courses
	Retooling courses
	Skills-building courses
Advanced training	Technologists

Source: SECAP.

124. *Types of vocational training offered by SECAP.* Within these categories and training modules, SECAP offers courses relating to the following economic sectors:

- (a) Agriculture: crop-farming and stock-raising;
- (b) Industry: metal mechanics, auto mechanics, electricity and electronics, industrial garment-making, graphic arts, civil construction, wood-working and furniture-making, leather processing and footwear manufacture, agribusiness, textiles and handicrafts;
- (c) Trade and services: administration, marketing, finance, services (hospitality industry, health and nutrition, beauty and cosmetology, tourism and others), information technology and languages.

125. SECAP also offers programmes in business development and microentrepreneurship that cover such areas as business advisory and consulting services, technical assistance and system-wide training. Instructors in all three branches (training, instruction, advanced training) are highly experienced in the corresponding technical and administrative fields. Ecuadorian instructors partner with foreign experts under international technical cooperation agreements that Ecuador has signed with friendly Governments such as those of Japan, Spain, Germany, Brazil, the United States of America and others.

126. *Length of the vocational training courses provided by SECAP.* The duration of SECAP training programmes varies depending on the type of training and the field of specialization concerned:

- (a) Instruction: up to 60 hours;
- (b) Training: from 1,200 to 3,000 hours;
- (c) Training courses leading to technical certification: 4,500 hours;
- (d) Refresher or advanced training: 3,424 hours.

127. Vocational training strategies have been developed for various settings and time frames, including combined venues (training centre/company), training provided at the SECAP centre only or at the company site only, mobile training modules, special-purpose courses and distance learning.

128. Vocational training modules are tailored for persons from the formal and informal sectors of the economy and for disadvantaged persons.

129. The types of certification awarded by SECAP upon completion of the various vocational training activities are as follows:

- (a) Vocational training certificates are issued to people who complete between 1,200 and 3,000 hours of vocational training;

(b) Technical training certificates are issued to people who complete a technical vocational training course of study in their chosen area of specialization. They must also have completed the tenth year of the basic education cycle;

(c) Certificates of completion are issued to people who complete a modular unit or course in the “instruction” category;

(d) Certificates of attendance are issued to people who participate in seminars or workshops or who do internships and who do not need to obtain a diploma or other sort of certification.

130. The Vocational Training for Social Inclusion Programme of the Ministry of Labour and Employment has helped to provide greater access to the job market and to create new employment opportunities for unemployed and underemployed members of vulnerable groups in both urban and rural areas. The courses offered under this programme focus on building production-related technical skills as a means of boosting labour productivity and the competitiveness of microenterprises and other small production units and of expanding employment opportunities, thereby improving the income and living conditions of workers in this sector.

131. In 2008, the Government signed 12 cooperation agreements with various social organizations for the implementation of training projects which benefited 15,600 Ecuadorians. The budget allocation for this purpose was US\$ 1,348,545.15.

F. Article 7: minimum wage

132. On 1 January 2009 the Government of Ecuador introduced national minimum wages for different groups of workers in accordance with article 1 of Resolution No. 00219, which was published in issue No. 498-2S of the *Registro Oficial* on 31 December 2008. The resolution established a standard minimum monthly wage of US\$ 218 for private-sector workers in general, including workers in small-scale industry, agricultural workers and *maquila* workers; increased the minimum monthly wage for domestic workers from US\$ 170 to US\$ 200; and set a minimum monthly wage of US\$ 185 for tradesmen and microentrepreneurs.

133. The new Constitution of 2008 includes various provisions concerning the rights of workers. Article 328 establishes that pay shall be fair, providing a decent wage at least sufficient to cover the basic needs of workers and their families, and shall be exempt from all forms of attachment, except for alimony and child support payments. The Government must set the minimum legal wage, which applies to all and is compulsory, and review it on an annual basis. Wages are to be paid within the agreed time frames and may be reduced or subject to deductions only with the express authorization of the worker and in accordance with the law.

134. The Constitution and the Labour Code establish the conditions of employment that apply to all Ecuadorians. Article 33 of the Constitution provides that work is a social right and duty, as well as an economic right, a source of personal fulfilment and the basis of the economy. It also affirms that the State shall guarantee that the dignity of working persons is fully respected and that they enjoy a decent life, fair pay and healthy employment that is freely chosen or accepted.

135. Article 326 sets out the principles that should underpin employment, including the principle of fair pay. It also states that, in the event of uncertainty as to the scope of any legal, regulatory or contractual provision applying in employment matters, the interpretation most favourable to workers shall prevail.

136. Article 7 of the Labour Code also establishes that, in the event of uncertainty as to the scope of any legal, regulatory or contractual provision applying in employment matters, court and administrative officials shall apply the interpretation most favourable to workers. Articles 55, 69, 79, 97, 111, 113, 152, 196, 216 and 328 of the Labour Code contain various provisions stipulating that all workers shall be entitled to annual holidays, two bonus payments per year, each of which shall be the equivalent of a month's salary, equal pay, a share in profits, overtime pay, and paid and unpaid leave.

137. At the national level, in order to safeguard workers' fundamental rights, the Ministry of Labour and Employment adheres to the provisions of the Labour Code which establish that administrative and court officials shall be required to furnish due and timely protection for workers in order to guarantee the effective exercise of their rights (art. 5). A comprehensive inspection programme was established to monitor and verify compliance with these legal provisions.

138. The above measures paved the way for the creation of a dedicated unit of inspectors who verify compliance with the various labour regulations that have been instituted in Ecuador in the course of recent years, particularly those introduced by Constituent Mandate No. 8 of 1 May 2008, which put an end to subcontracting, outsourcing, hourly wages and other forms of the casualization of employment.

139. The unit has trained teams composed of around 40 legal, administrative and technical professionals working to address workers' many concerns in this area. Their duties include ongoing monitoring to verify compliance with labour regulations in the provinces of Pichincha, Guayas, Azuay, Tungurahua, Cañar, Manabí, Sucumbíos, Orellana, Morona Santiago and Santo Domingo de los Tsáchilas, in particular.

140. The institutional employment policy adopted by the Ministry of Labour and Employment is fully aligned with the Constitution, the Labour Code and related laws, all of which are designed to safeguard one of workers' most fundamental rights – i.e., job security. A core policy of the Ministry is therefore to make employers aware of their obligation to comply with the relevant legal provisions. These include an express provision that all employment contracts concluded by workers hired in application of Constituent Mandate No. 8 shall include a special clause stipulating that, in accordance with the provisions of article 171 of the Labour Code, workers' previous service with the contracting company must be taken into account.

141. The provisions set forth by the National Constituent Assembly in Mandate No. 8 are of particular importance because they will strengthen the organizational, administrative and financial infrastructure of the Ministry of Labour and Employment, thereby enabling it to more effectively fulfil its role as the institution responsible for monitoring and safeguarding workers' fundamental rights and providing greater legal security for employers.

1. Measures upholding the principle of equal pay for men and women for work of equal value

142. Article 331 of the Constitution stipulates that the State shall guarantee women equal access to employment, to vocational and professional training, and to development opportunities, fair pay and the option of self-employment. All necessary measures are to be adopted to eliminate inequality.

143. To help advance social equality and women's integration into the labour market on equal terms, in 2007 CONAMU and the National Statistics and Census Institute (INEC) conducted the first time use survey ever to be carried out in Ecuador. The aim was to highlight the contribution of unpaid domestic labour to society and the economy and thus to promote the formulation of rights-based policies which will lead to the achievement of social equality between men and women. The survey findings, which were published in

2008, indicate that the mean total workload (sum of total hours engaged in paid work plus total hours engaged in unpaid work, on average) is 61.56 hours for men and 77.03 hours for women nationwide and 62.54 hours for men and 75.05 hours for women in urban areas. In rural areas, the average workload is 60.11 hours for men and 82.58 hours for women.

144. Women's participation in the labour market has grown steadily over the past two decades, taking their overall participation rate in Ecuador from 30 per cent in 1998 to 52 per cent in 2006.

145. A large percentage of the working population is underemployed, with women most likely to fall into this category. Unemployment is most acute among the economically active female population. Nationwide, the unemployment rate is 9.40 for women and 4.36 for men. These levels of unemployment and underemployment indicate that, for women, access to paid work is still not effectively guaranteed.⁴

146. An analysis of the structure of the economically active population shows that women account for 40.05 per cent of employees in the modern sector, 42.08 per cent of employees in the informal sector, 20.57 per cent of employees in the agricultural sector and 94.26 per cent of employees in the domestic service sector. The situation in the domestic service sector indicates that gender-based sociocultural patterns remain prevalent.⁵

147. Although equal pay is guaranteed in principle, the practical reality remains very different, and the 2006 labour market survey confirmed the continuing existence of gender-based wage gaps. Women earn less than men throughout Ecuador. The average female wage is equivalent to 78 per cent of the average male wage or, in other words, for every US\$ 100 dollars that men receive in wages, women receive, on average, US\$ 78.⁶ It is the State's duty to develop mechanisms for narrowing this gap.

2. Social security

148. Only 22 per cent of the economically active population in Ecuador has social security coverage. The difference between men and women is in this case minimal: 22.11 per cent of economically active men have coverage compared with 22.04 per cent of economically active women. There are marked differences between levels of coverage among the different groups of women, however. Only 12 per cent of indigenous women and 18 per cent of Afro-Ecuadorian women have coverage, compared with 23 per cent of mestizo women and 26 per cent of white women.⁷ This situation means that a large part of the population cannot exercise their right to social security and has serious implications for women's lives.

149. Article 34 of the 2008 Constitution guarantees the right to social security to all persons, including those who perform unpaid work in the home, engage in rural subsistence activities or any other form of self-employment and unemployed persons.

⁴ National Council for Women, "La situación de las mujeres ecuatorianas: una mirada desde los derechos humanos", pp. 22–27.

⁵ *Ibid.*

⁶ *Ibid.*, p. 29.

⁷ *Ibid.*, p. 31.

150. The Ministry of Labour and Employment has the following statistics on this subject:
- (a) In general:
- (i) There are 139 workers associations, which between them have a total of 2,733 male members and 1,123 female members, which means that 41.1 per cent of their members are women;
- (ii) There are 121 works councils, with a total of 8,018 male members and 1,941 female members (24.2 per cent of the members are female);
- (iii) There are 33 other labour organizations with a combined membership of 154 men and 30 women (19.5 per cent of the members are female);
- (iv) The 353 registered trade unions have a combined membership of 12,786 men and 2,264 women (17.7 per cent of the members are female).
- (b) In management:
- (i) The country's 139 workers associations are headed up by 223 men and 73 women (32.7 per cent of their directors are female);
- (ii) The 121 works councils are presided over by 264 men and 82 women (31.1 per cent of their directors are female);
- (iii) The 353 trade unions are led by 637 men and 61 women (9.6 per cent of union leaders are female).

151. The second portion of Article 331 of the Constitution prohibits all forms of discrimination, harassment or violence of any sort, whether direct or indirect, targeting women in the workplace.

152. In addition, the Criminal Code makes sexual harassment a criminal offence carrying prison sentences of between 6 months and 2 years, if the victim is an adult, and of between 2 years and 4 years if the victim is a minor.

153. Article 24 of the Civil Service Organization Act standardizes and harmonizes public-sector wages and establishes the duties of public servants, which include obeying senior officials' orders, provided they are legitimate. Public servants are directed to refuse to obey superiors' orders, in writing, if the orders in question are unlawful or immoral. They are to maintain their dignity in the discharge of their duties and in their public and private lives and to ensure that they do not disturb the public order or offend public morality and do not undermine the reputation of the institution within which they work.

154. Article 42 of the Labour Code sets out the obligations incumbent on employers in the private sector, which include the obligation to treat workers with due consideration and not to subject them to verbal or physical abuse.

155. The Prosecutor-General's Office maintains a record of the number of convictions handed down in sexual harassment cases (a total of 26 since 2004):

Table 3

Sexual harassment cases

<i>Year</i>	<i>Offences reported</i>	<i>Official criminal investigations</i>	<i>Charges brought</i>	<i>Committal orders</i>	<i>Convictions</i>
2004	279	7	3	2	0
2005	354	17	11	4	0
2006	358	51	24	10	1
2007	412	66	48	16	19

<i>Year</i>	<i>Offences reported</i>	<i>Official criminal investigations</i>	<i>Charges brought</i>	<i>Committal orders</i>	<i>Convictions</i>
2008	438	47	43	20	6
2009	102	14	8	3	0

Source: Prosecutor-General's Office.

156. The Labour Code, Health Organization Act and Social Security Act contain various chapters and provisions that regulate occupational health and safety and guarantee safe and healthy conditions for workers through, inter alia, training programmes and the development of health and safety regulations.

157. The National Statistics and Census Institute has drawn up the following table of economic activities in Ecuador and the number of people working in each area:

Table 4
Number of working persons and occupations

<i>Occupational groups (1-digit code)</i>	<i>Economic activity (1-digit code)</i>				
	<i>1. Crop-farming, livestock production, hunting and forestry</i>	<i>2. Fishing</i>	<i>3. Mining and quarrying</i>	<i>4. Manufacturing</i>	<i>5. Electricity, gas and water</i>
1. Government officials and managers of Government departments or private enterprises	1 008	215	186	3 931	113
2. Scientists, academics and other professionals	674	202	325	2 714	225
3. Technicians and mid-level professionals	430	128	124	2 925	133
4. Office employees	1 712	489	658	9 061	1 307
5. Service and sales workers	992	284	139	7 082	60
6. Farmers and skilled agricultural and fishery workers	118 778	1 529	131	871	4
7. Craft and related trades workers	597	585	357	98 049	76
8. Plant and machine operators and assemblers	195	173	83	10 478	28
9. Unskilled workers	92 569	1 698	452	9 267	97
10. Armed forces		-	-	-	-
11. Not stated	31	224	94	3 165	85
12. New workers		-	-	-	-
Total	216 986	5 527	2 549	147 543	2128

<i>Occupational groups (1-digit code)</i>	<i>Economic activity (1-digit code)</i>				
	<i>6. Construction</i>	<i>7. Wholesale and retail trade</i>	<i>8. Hotels and restaurants</i>	<i>9. Transportation, storage and communications</i>	<i>10. Financial services</i>
1. Government officials and managers of Government departments or private enterprises	361	8 779	1 883	1 591	1 600
2. Scientists, academics and other professionals	1 127	3 989	299	1 001	1 534

<i>Occupational groups (1-digit code)</i>	<i>Economic activity (1-digit code)</i>				
	<i>6. Construction</i>	<i>7. Wholesale and retail trade</i>	<i>8. Hotels and restaurants</i>	<i>9. Transportation, storage and communications</i>	<i>10. Financial services</i>
3. Technicians and mid-level professionals	434	5 423	318	1 983	1 852
4. Clerical support workers	1 312	18 086	3 325	7 240	8 435
5. Service and sales workers	294	187 246	38 378	2 478	200
6. Farmers and skilled agricultural and fishery workers	14	1 944	25	100	5
7. Craft and related trades workers	3 429	7 731	400	709	619
8. Plant and machine operators and assemblers	50	622	35	1 964	5
9. Unskilled workers	1 168	42 318	5 135	1 152	394
10. Armed forces	-	-	-	-	-
11. Not stated	153	736	695	578	560
12. New workers	-	-	-	-	-
Total	8 342	276 874	50 493	18 796	15 204

	<i>Economic activity (1-digit code)</i>					
	<i>11. Real estate (sales, rentals, leasing and property development)</i>	<i>12. Public administration and defence</i>	<i>13. Education</i>	<i>14. Health care and social work</i>	<i>15. Other community, social and personal services</i>	<i>16. Domestic service</i>
1. Government officials and managers of Government departments or private enterprises	2 161	1 847	2.28'	1 357	2 211	3 109
2. Scientists, academics and other professionals	8 644	5 031	74 706	21 543	3 167	62
3. Technicians and mid-level professionals	3 691	2 007	21 488	6 054	2 204	57
4. Clerical support workers	11 565	22 614	8.26'	7 810	4 632	416
5. Service and sales workers	1 542	2 027	1 911	14 122	21 236	6 147
6. Farmers and skilled agricultural and fishery workers	21	52	2f	30	193	164
7. Officials, operators and craftsmen: mechanics and other trades	1 856	1 156	10 759	5 075	2 504	388
8. Plant and machine operators and assemblers	90	97	507	74	108	47
9. Unskilled workers	2 250	2 629	7 398	3 837	47 521	149 352
10. Armed forces		417				
11. Not stated	838	1 340	1 149	1 568	1 026	
12. New workers						
Total	32 658	39 217	128 494	61 470	84 802	159 742

<i>Occupational groups (1-digit code)</i>	<i>Economic activity (1-digit code)</i>			<i>Total</i>
	<i>17. Extraterritorial organizations and bodies</i>	<i>18. Not stated</i>	<i>19. New workers</i>	
1. Government officials and managers of Government departments or private enterprises	115	2 993		35 744
2. Scientists, academics and other professionals	172	4 453		129 868
3. Technicians and mid-level professionals	47	3 428		52 726
4. Clerical support workers	287	21 523		128 736
5. Service and sales workers	21	6 251		290 412
6. Farmers and skilled agricultural and fishery workers	2	231		124 120
7. Craft and related trades workers	12	3 906		138 208
8. Plant and machine operators and assemblers		767		15 323
9. Unskilled workers	52	3 700		370 989
10. Armed forces				417
11. Not stated	52	87 691		99 985
12. New workers			9 215	9 215
Total	760	134 943	9 215	1 395 743

Source: National Statistics and Census Institute (INEC).

G. Article 8: right to form trade unions and right to strike

158. Article 326 of the Constitution enshrines not only the right to work but also the principle that workers shall be free to organize themselves without prior authorization. This includes the right to form trade unions, guilds, associations and other forms of organization and the right to freely join and leave such organizations. Employers are likewise guaranteed the right of organization.

159. In addition, article 440 of the Labour Code stipulates that workers and employers, without distinction and without the need for prior authorization, shall have the right to form the professional associations and trade unions that they consider appropriate and to join and to leave such organizations, in accordance with the law and the articles of association of the respective organizations.

160. The Labour Code also guarantees trade unions the independence to organize their activities without interference and to federate and join international trade union organizations, subject to any legal or other restrictions on the exercise of this right that may apply.

161. The Ministry of Labour and Employment registers all trade unions that have been established in accordance with the Constitution and other relevant legislation, specifically the Labour Code. Article 443 of the Labour Code details the documentation that must be submitted in order to form a trade union: a copy of the charter, three copies of the articles of association, a provisional list of the directors and a list of the founding members, of whom there should be no less than 30 in the case of workers associations and no less than 3 in the case of employers associations.

162. Article 447 of the Labour Code stipulates that the articles of association must include the following details: the name of the organization; the legal representative of the organization; an explanation of how its leadership is to be organized; the rights and obligations of members; disciplinary penalties and grounds and procedures for the expulsion of members; a description of how trade union funds are to be managed; provisions prohibiting the trade union or professional association from taking part in political party or religious activities and from making participation in such activities obligatory for its members; an express declaration of the desire to form an association; and the circumstances in which the trade union or professional association should be disbanded and the procedure to be adopted in that event.

163. In addition, title II of the Code (arts. 221 to 261) sets forth the provisions governing the conclusion of collective contracts and the rules for collective bargaining between employers and workers; it also sets a maximum period of 30 days for the conclusion of such negotiations. In addition, it provides that, in the event of disagreement between the parties, the matter shall be referred to a conciliation and arbitration board for consideration and settlement. The board is to be composed of five members: the labour inspector or deputy labour inspector, who serves as its chair, two members nominated by the employer and two members nominated by employees. The board is to issue rulings concerning the areas of disagreement only and is to hold hearings with the aim of reconciling the parties. If a settlement is reached, the board is to draw up an agreement setting out the terms of the settlement. If no settlement is reached, the board has a further six days to conduct enquiries and must issue a decision at the end of this period. The board's decision will be immediately enforceable, although the parties will have two days in which to request clarification or an explanation, after which the board will have a further two days in which to respond. Article 248 provides that all collective agreements may be reviewed, in full or in part, upon their expiry or, if no expiration date has been set, once every two years at the request of either party.

164. In 2008, the Ministry of Labour registered 59 collective agreements covering a total of 12,076 workers nationwide. As of May 2009, there were a total of 665 collective agreements in force at the national level covering a total of 3,371 workers.

165. Article 326, paragraph 14, of the Constitution recognizes the right to strike of workers and their trade union organizations. It establishes that union representatives shall enjoy all necessary safeguards during strikes and that employers shall have the right to lock out their employees in accordance with the law.

166. Article 467 of the Labour Code recognizes workers' right to strike, subject to the provisions which it sets out.

167. The Ministry of Labour and Employment reports that there have been 5 strikes and 57 collective disputes to date in 2009. Fifteen of the disputes ended in contractual settlements between the parties, while five were resolved by decisions of the conciliation and arbitration board. Five cases were withdrawn, five were discontinued and one was dismissed. As these figures show, none of the labour disputes was ended without being given due consideration.

168. Article 471 of the Labour Code prohibits workers in the private sector from calling a strike while the compulsory mediation process provided for in article 470 of the Code is under way.

169. With regard to the public sector, article 326, paragraph 15, of the Constitution prohibits the stoppage of the following public services: health and environmental sanitation services; education; judicial services; firefighting; social security; the provision of electricity, drinking water and sewerage services; oil and gas production; fuel processing,

transportation and distribution; public transport; and postal and telecommunications services.

H. Article 9: social security

170. Article 2 of the Social Security Act provides that all persons who receive remuneration for performing a job or providing a physical or intellectual service, whether or not they have a contract of employment, shall enjoy coverage, as members, under the general compulsory social security system. This provision covers, in particular:

- (a) Economically dependent workers;
- (b) Self-employed workers;
- (c) Independent professionals;
- (d) Business directors and proprietors;
- (e) Owners of sole-proprietor enterprises;
- (f) Self-employed minors;
- (g) All other persons covered by the compulsory general social security system by virtue of prevailing legislation and special decrees.

171. Persons working in small-scale fisheries and rural farmers working the land on their own behalf or on behalf of their community who do not receive an income from a public- or private-sector employer and do not contract workers from outside the community or other third parties to undertake economic activities under their supervision are required to apply for coverage under the special rural social security system.

172. Article 3 of the Social Security Act establishes that the general compulsory social security system is to insure its members against all contingencies that might affect their capacity to work and to earn an income commensurate with their usual occupation in the event of illness, maternity, workplace accident, old age, death, invalidity (including disability), and redundancy.

173. It also establishes that the rural social security system shall provide health (including maternity) benefits for its members and shall insure heads of household against contingencies such as old age, death and invalidity (including disability). Under the compulsory general social security system, disability coverage takes the form of invalidity insurance. The law provides that a special social security system may be established for the national police force and for the Armed Forces and that the social security institutions serving these bodies shall constitute part of the comprehensive public health network and social security system.

174. Pursuant to article 234 of the Social Security Act, invalidity, old age, total permanent disability, workplace accident and dependants' pensions are to be increased at the start of each year in line with the rate of inflation for the previous year in order to offset any decline in the purchasing power of the pensions in the 12 months preceding the date of adjustment.

175. The law also establishes that the initial and ongoing pension entitlements of members who have contributed to the Ecuadorian Social Security Institute for 40 years or more shall in all cases be no less than the standard minimum wage set for the relevant occupational category by the Ministry of Labour and Employment. The minimum pension entitlements of pensioners who have paid social security contributions for less than 40 years are shown in the following table:

Table 5
Minimum monthly pension

<i>No. of years of contributions</i>	<i>As a percentage of the standard minimum wage</i>
10 years or less	50.00
Between 11 and 20 years	60.00
Between 21 and 30 years	70.00
Between 31 and 25 years	80.00
Between 36 and 39 years	90.00

Source: Ecuadorian Social Security Institute.

176. Survivors' pensions will be no less than 50 per cent of the standard minimum wage for the relevant occupational category.

177. Article 369 of the Constitution provides that:

(a) The compulsory universal social security system shall provide coverage in the event of illness, maternity, paternity, workplace accident, redundancy, unemployment, old age, invalidity, disability, death and all other contingencies specified by law. Health-care benefits due in the event of sickness and maternity shall be provided through the comprehensive public health network;

(b) Compulsory universal social security coverage shall be extended to the entire rural and urban population, irrespective of a person's employment status. Health-care services for persons who perform unpaid domestic work or caregiving activities shall be funded from State contributions and allocations. The specific funding mechanism to be used for this purpose shall be defined by law;

(c) Adequate funding shall be made available for the establishment of new benefits;

(d) There are no restricted-access social security schemes in Ecuador.

178. In Ecuador, women and men have equal access to invalidity benefits and old-age pensions in terms of eligibility criteria and the method used to calculate their entitlements.⁸

179. A new social security law is in the process of being drafted. Once adopted, the new law will facilitate the implementation of the compulsory universal social security system. In the interim, the Governing Board of the Ecuadorian Social Security Institute has issued special decisions in order to provide social security coverage to persons working in small family businesses and workers eligible for the internal revenue system's simplified taxation scheme and will soon extend health coverage to members' children and to orphans up to the age of 6.

⁸ This information is provided in guideline 21.

Table 6
Social security coverage

Social security coverage	Sex	2008		2009	
		December		March	
		Number of persons	Percentage	Number of persons	Percentage
Private health insurance	Men	92 058	1.70	102 670	2.80
	Women	97 029	1.70	102 940	2.70
Ecuadorian Social Security Institute, general social security system	Men	862 211	15.80	772 728	21.10
	Women	627 182	10.90	615 786	15.70
Ecuadorian Social Security Institute, voluntary general social security system	Men	38 248	0.70	40 608	1.10
	Women	53 819	0.90	52 387	1.30
Ecuadorian Social Security Institute, rural social security system	Men	287 110	5.30	21 949	0.60
	Women	278 311	4.80	19 944	0.50
Armed Forces Security Institute and Police Social Security Institute	Men	99 151	1.80	99 307	2.70
	Women	67 209	1.20	69 836	1.80
Universal health insurance system	Men	4 947	0.10	2 485	0.10
	Women	10 098	0.20	4 469	0.10
Municipal social security schemes	Men	47 029	0.90	58 330	1.60
	Women	162 553	2.80	174 050	4.40
Preventive medicine	Men				
	Women				
None	Men	4 035 666	73.80	2 555 978	69.90
	Women	4 450 288	77.40	2 872 041	73.40
Total	Men	5 466 420	100.00	3 654 055	100.00
	Women	5 746 489	100.00	3 911 453	100.00

Source: National Statistics and Census Institute.

180. The Government of Ecuador is developing a national system to promote social inclusion and equity in accordance with article 340 of the new Constitution:

“Article 340. The national system for social inclusion and equity is composed of a set of coordinated, interlinked systems, institutions, policies, standards, programmes and services designed to ensure the exercise and enforceability of the rights enshrined in the Constitution and the achievement of development objectives.

The system shall be coordinated with the National Development Plan and the national decentralized system of participatory planning. It shall be guided by the principles of universality, equality, equity, progressivity, multiculturalism, solidarity and non-discrimination and shall operate in accordance with criteria of quality, efficiency, effectiveness, transparency, accountability and participation.

The system encompasses the fields of education, health, social security, risk management, physical education and sport, habitat and housing, culture, communication and information, leisure, science and technology, demographics, safety and security, and transportation.”

181. The aim of the health system implemented by the current Administration through the Ministry of Public Health is to ensure access to health care for the country's entire population by means of a regional planning programme underpinned by an approach to the promotion of health that encompasses epidemiological, sociocultural, gender-based and intercultural considerations.

182. Immigrants in Ecuador have access to health care. There are no restrictions on health services for any person, irrespective of his or her immigration status.

183. The national health policy is incorporated in all of the country's laws, from the Constitution on down, and guarantees universal access to health-care services for the entire population, including migrants and their families. There is therefore universal coverage and equitable access without discrimination for all persons in accordance with their health-care needs.

184. The law specifies that, in medical emergencies, all persons, whether Ecuadorian or foreigner, have a right to receive treatment in any public or private facility, irrespective of their ability to pay. Health services are available to all immigrants in Ecuador, who are guaranteed access on the same terms as Ecuadorian nationals.

185. A survey conducted in 2007 by the Office of the United Nations High Commissioner for Refugees (UNHCR), with assistance from the Millennium Social Research Centre (an institution supported by the National Secretariat of Planning and Development, the United Nations Development Programme and the Ecuador campus of the Latin American Social Sciences Faculty), found that 9 per cent of asylum-seekers and refugees receive humanitarian aid and that, for 14 per cent of asylum-seekers, the aid they receive through humanitarian organizations such as UNHCR, the Red Cross and the Hebrew Immigrant Aid Society constitutes their only source of income. This humanitarian aid is used primarily for food (63 per cent), followed by health services (13 per cent), education and housing (around 10 per cent each).⁹

186. The survey results indicate that less than 10 per cent of refugees and asylum-seekers in Ecuador are enrolled in social programmes. According to the survey, aid programmes accessed by asylum-seekers include, first and foremost, food and nutrition programmes; secondly, the Human Development Voucher (a monthly cash subsidy for poor families); and, thirdly, NGO aid.

187. As mentioned above, the Free Maternity and Child Health Care Act was passed in 2007. However, access to health care remains limited, primarily because people are not aware of the benefits that this law affords women and children. According to the findings of the aforementioned survey, 50 per cent of refugees and asylum-seekers do not know that they are entitled to free maternity and child health care. One third (34 per cent) know that they are entitled to such care, while just under one fifth (16 per cent) mistakenly believe that they are not entitled to these health-care services.¹⁰

188. In 2004, the Ministry of Foreign Affairs issued a memorandum formally requesting the Ministry of Education and Culture to admit undocumented refugees to the Ecuadorian education system using a system of placement tests. The proposal was approved by the Office of the Deputy Minister of Education in December of the same year.

189. In 2006, the Ministry of Foreign Affairs and the Ministry of Education signed Ministerial Decision No. 455, which established the regulations governing refugees' access

⁹ National Council for Women (see note 4 above), pp. 45 and 65.

¹⁰ *Ibid.*, p. 53.

to the Ecuadorian education system. Pursuant to these regulations, all refugees and asylum-seekers have the right to an education even if they lack the relevant documentation.

190. The findings of the 2007 UNHCR survey indicate that, while 73 per cent of the communities in which refugees and asylum-seekers have tended to settle have both primary and secondary schools, 21 per cent have a primary school only and 4.5 per cent have no educational establishments.¹¹ Survey respondents were also asked whether they were currently studying. The corresponding cycle (i.e., primary, secondary or higher education), rather than the specific grade level, was noted down in order to determine what percentage of school-age persons were in education. The survey report indicates that 63 per cent of refugees and asylum-seekers are studying.¹²

191. The current Constitution establishes that education is a lifelong human right and an absolute and unconditional obligation of the State and that, as a guarantee of equality and social inclusion and an indispensable prerequisite for good living, it shall therefore constitute a priority area for public policymaking and State investment. The Constitution also guarantees universal access, without discrimination, to a preschool, primary and secondary education.¹³ General comment No. 13 of the Committee likewise rightly affirms that "... education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities".¹⁴

192. In accordance with these provisions, and with a view to reducing dropout rates among child asylum-seekers and safeguarding their rights by putting the best interests of the child first, the Ministry of Foreign Affairs, Trade and Integration has reached agreements with the Ministry of Education that give asylum-seekers and refugees unconditional access to educational services. Ministerial Decision No. 337, issued on 26 September 2008, guarantees this right to all persons, whether their immigration status is regular or irregular. Article 1 of the decision expressly stipulates that children and indigenous people in border areas shall not be denied access to education.

193. The decision also provides that placement tests will be given to children who have no school records. It is important to remember the context in which these people have sought asylum; often they have been forced to flee their country to protect their lives, leaving their belongings and personal documentation behind.

194. Ecuador has made progress in guaranteeing the right to work, and persons recognized as having refugee status may now work on a self-employed basis or as employees. In the case of asylum-seekers, however, obstacles remain.

¹¹ Office of the United Nations High Commissioner for Refugees (UNHCR), *La población colombiana en necesidad de protección internacional residente en el Ecuador. Encuesta 2007* (Colombians residing in Ecuador in need of international protection, 2007 survey), national report, p. 50.

¹² *Ibid.*

¹³ Article 26 states that education is a human right, that it constitutes a priority area for public policymaking and that individuals, families and society as a whole have a right and a responsibility to participate in the educational process. Article 28 states that education shall promote the general welfare of the public and shall not serve individual or corporate interests. It also guarantees universal access, continued attendance, mobility and the right to complete one's education to all persons, without discrimination, and establishes that attendance at the preschool, primary and secondary or equivalent levels is compulsory.

¹⁴ General comment No. 13 of the Committee on Economic, Social and Cultural Rights on the right to education (art. 13 of the Covenant) (E/C.12/1999/10), para. 1.

195. Looking to the future, the Government of Ecuador intends to issue work permits to persons holding refugee status under article 23 of Executive Decree No. 3301 of 1992, which establishes that “presentation of the identification document issued to a refugee by the Ministry of Foreign Affairs shall be regarded as a sufficient basis for the issuance by the Ministry of Labour and Human Resources of a work permit”.

196. These work permits will be required for any persons wishing to engage in a remunerated activity (the current US\$ 60 fee is to be waived in the future). Until then, the Ministry of Labour will continue to issue renewable 90-day provisional work permits. However, because refugees must have a 12-IV refugee visa before they obtain a work permit, in practice asylum-seekers (whose asylum-seeker certificates are not equivalent to a refugee visa) are unable to obtain a permit. As a result, the exercise of their right to work is restricted. The provisional nature of asylum-seekers’ status means that the only forms of work open to them are temporary activities, such as working on a self-employed basis under an informal trading permit obtained from the municipal authorities. In order to engage in such activities, asylum-seekers must submit a duly completed application accompanied by their asylum-seekers’ certificate, a health certificate issued by the municipal health unit, two passport photographs and proof of payment of the respective fee.

197. An important development in 2009 was the introduction of a large-scale registration programme (the *Registro Ampliado*, or “enhanced registry”) for asylum-seekers of Colombian nationality present in Ecuadorian territory. This Government initiative has been launched with the aim of granting refugee status to all persons in need of asylum; it is estimated that approximately 35,000 people had been registered by the time that this report was submitted. Under this registration programme, refugee cards are issued to new asylum-seekers and to asylum-seekers who have already applied for refugee status on the same day that they present themselves at the registry. This undoubtedly makes it more feasible for them to become gainfully employed prior to obtaining authorization to work from the Ministry of Labour under the procedure described above. The Directorate-General for Refugees of the Ministry of Foreign Affairs has informed the Government of Ecuador that it issued 10,603 refugee visas between 23 March and 4 July 2009 during the first phase of the registration programme in the northern province of Esmeraldas, which borders on Colombia.

I. Article 10: the right to marriage; social services funding for childcare; people with disabilities; maternity

198. Under article 64, paragraph 2, of the current Constitution, marriage is defined as a union between a man and a woman that is based on the free consent of the two parties and their equality of rights, obligations and legal capacity.

199. The Constitution of 1998 and the Constitution in force since 2008 both guarantee the right to found a family, whether on the basis of a legally constituted marriage or a “stable and monogamous” common-law union. The Constitution guarantees men and women the right to enter into marriage with their free and full consent.

200. The Civil Code defines marriage as a solemn contract whereby a man and a woman unite in order to live together, procreate and help each other. An essential part of that contract is consent, without which the marriage is null and void.

201. Under article 83 of the Civil Code, men and women who have reached the age of 18 years may enter into marriage. Men and women under the age of 18 may marry with the prior consent of their parents (father and/or mother) or, in their absence, of their closest adult relatives.

202. Article 35 of the Constitution stipulates that elderly persons, children and adolescents, pregnant women, persons with disabilities, persons deprived of their liberty and those with catastrophic or highly complex illnesses shall receive specialized services on a priority basis in the public and private sectors. Services will also be extended on a priority basis to persons at risk, victims of domestic and sexual violence, abused children and the victims of natural and man-made disasters. The State shall provide special protection to persons who are doubly vulnerable.

203. Moreover, the Code on Children and Adolescents (published under Act No. 100 in issue No. 737 of the *Registro Oficial* of 3 January 2003) is designed to ensure that children and adolescents living in Ecuador receive the full protection that the State, society and families should provide with a view to achieving their integral development and ensuring their full enjoyment of their rights in freedom and with dignity and equity.

204. This legislation governs children's and adolescents' rights obligations and responsibilities, as well as the means of giving them effect, guaranteeing them and protecting them in accordance with the principle of the best interests of children and adolescents and the doctrine of comprehensive protection.

205. Since 2007, the Social Agenda for Children and Adolescents (ASNA) ("Working together for equity from the very beginning") has also been in place. It sets forth the following policy objectives:

- (a) No infant under 28 days of age should die of preventable causes;
- (b) No child or young person should go hungry or suffer from malnutrition;
- (c) No child or young person should go without an education;
- (d) No child or young person should suffer ill-treatment;
- (e) No child or young person should carry out dangerous work;
- (f) Active participation in society and a sense of civic duty should be promoted.

206. In the context of the challenges involved in the implementation of the ASNA social agenda, the National Council for Children and Adolescents (CNNA), which is the lead agency for policies relating to children and young people, and the cantonal councils that deal with issues having an impact on children and adolescents are responsible for ensuring that the funding required to accomplish the ASNA objectives is allocated in a timely manner. Policy analysis therefore needs to be broadened to include an assessment of the implications of resource allocations, since safeguarding the rights of children and adolescents requires well-coordinated procedures for the allotment of sufficient resources.

207. It is important to monitor Government allocations for social expenditure on an ongoing basis, particularly in the case of funding earmarked for the improvement of the living conditions of children and adolescents. Social investments of this sort are a key instrument of fiscal policy and are in keeping with Government initiatives and priorities.

208. Monitoring the central government's actions and priorities by means of an analysis of its budget is a highly useful means of safeguarding people's rights and ensuring their universality. The main tool of economic policy is the budget and, as such, it has an influence on people's well-being and on social development. Budget decisions have the greatest impact on people's daily lives because they determine — among other services required to promote integral development — the quality of public education to be provided to children and adolescents, the kind of health-care services that will be furnished, and the kinds of social programmes that will be used to narrow the gap between the rich and the poor.

209. For that reason, no assessment or follow-up of the ASNA social agenda can omit an examination of trends in executed budget expenditures¹⁵ in the social sector and for specific social programmes.

210. A brief, comparative analysis of central-government budget execution in the social sector¹⁶ shows that social spending increased markedly between 2007 and 2008. From 2007, when outlays amounted to US\$ 2.69 million, the figure rose by 44 per cent to US\$ 3.892 million in 2008. Information on the funds actually spent by the Government on key ASNA social programmes is set out below.

1. Budget execution for ASNA social programmes

211. Information on the execution of the budget for social programmes designed to put ASNA policies into practice is set forth below, along with a parallel analysis of the social programmes as such.

Table 7

Budget execution of Ministry of Health social programmes under Policy 1

<i>Programme</i>	<i>Allocated budget</i>	<i>Executed budget</i>	<i>Percentage executed</i>
Comprehensive Care Programme (Life-Cycle Model)	1 935 159.86	1 258 557.96	65
Free Maternity and Child Health Care Programme	24 948 782.00	23 630 142.00	95

Source: Prepared by CNNA on the basis of the Government Information System.

212. The **Comprehensive Care Programme (Life-Cycle Model)** used 65 per cent, or US\$ 1,258,558, of the budget allocated to it.

213. The **Free Maternity and Child Health Care Programme** used almost all of its available resources, registering a quite satisfactory budget execution rate of approximately 95 per cent. It is clear, however, that more resources are needed to provide the additional services and care that could not be covered.

214. In aggregate terms, the programme turned in a good performance and met the majority of its goals. Several important areas, however, require improvement. The success of the programme depends in large measure on the availability of resources and the work done on a local level.

Table 8

Budget execution of social programmes under Policy 2

<i>Institution</i>	<i>Programme</i>	<i>Allocated budget</i>	<i>Executed budget</i>	<i>Percentage executed</i>
Ministry of Economic and Social Inclusion	Ecuador <i>Alimentate</i> food programme	20 000 000.00	16 926 741.00	85

¹⁵ The term "executed expenditures" refers to payments due for work, goods and services that have been contracted for and which therefore constitute an actual payment obligation, regardless of whether that payment has been made or not.

¹⁶ For the purposes of this study, the social sector is defined as comprising: the education, health care, economic and social inclusion, labour, urban development and housing subsectors.

<i>Institution</i>	<i>Programme</i>	<i>Allocated budget</i>	<i>Executed budget</i>	<i>Percentage executed</i>
Ministry of Education	School Meals Programme	54 687 634.00	54 318 961.98	99
Ministry of Health	Food and Nutrition Programme	14 000 000.00	14 000 000.00	100

Source: Prepared by CNNA on the basis of the Government Information System.

215. The table shows that the average budget execution of these programmes was well above 80 per cent.

216. The Ecuador *Aliméntate* (“feed yourself”) food programme used 85 per cent of its total allocation of US\$ 20 million, and US\$ 54.3 million was spent on the School Meals Programme, which was equivalent to 99 per cent of its allocated funding. The Ministry of Health’s Food and Nutrition Programme used all of its budget of US\$ 14 million.

Table 9

Budget execution of social programmes of the Ministry of Economic and Social Inclusion and the Ministry of Education under Policy 3

<i>Institution</i>	<i>Programme</i>	<i>Allocated budget</i>	<i>Executed budget</i>	<i>Percentage executed</i>
Ministry of Economic and Social Inclusion	Children’s Development Fund	32 590 296.00	55 181 540.58	169
	Child Rescue Operation	27 958 673.00	25 060 721.00	90
	Directorate for Comprehensive Child and Youth Services	564 639.00	564 369.00	100
Ministry of Education	Spinning for Development			
	School Uniforms Programme	25 000 000.00	21 126 562.00	85
	Textbooks Programme	18 000 000.00	18 000 000.00	90

Source: Prepared by CNNA on the basis of the Government Information System.

217. This policy is implemented through social programmes of the Ministry of Economic and Social Inclusion and the Ministry of Education. The Children’s Development Fund spent more than 150 per cent of the resources that had been allocated to it. The Child Rescue Operation and the Directorate for Comprehensive Child and Youth Services used 90 per cent and 100 per cent of their allocations, respectively. The Spinning for Development School Uniforms Programme and the Textbooks Programme used 85 per cent and 90 per cent of their respective budget allocations.

Table 10

Budget execution of social programmes of the Ministry of Labour and Employment under Policy 4

<i>Programme</i>	<i>Allocated budget</i>	<i>Executed budget</i>	<i>Percentage executed</i>
Ministry of Labour and Employment – Elimination of the Worst Forms of Child Labour Programme	462 000.00	461 990.00	100

Source: Prepared by CNNA on the basis of the Government Information System.

218. The Ministry of Labour and Employment used 100 per cent of the resources allocated (US\$ 461,990) to its Elimination of the Worst Forms of Child Labour Programme.

219. The analysis of social investment in 2008 has thus revealed:

(a) Shortcomings and imbalances between budget execution and institutional management (a failure to match planning processes with budgets and over-budgeting);

(b) A need to strengthen the ministries' internal capacities and, above all, to review their institutional management models in order to foster the introduction of results-based budgeting;

(c) Weaknesses in social planning processes that undermine attempts to achieve optimum budget performance;

(d) A need to increase the efficiency of planning procedures by establishing clear goals, indicators and cost projections and of plans, programmes and/or social projects by introducing appropriate timetables for their implementation;

(e) The need for internal and external follow-up and evaluation mechanisms;

(f) A need to improve social programme management through greater transparency and the analysis of processes, results and impacts.¹⁷

220. The Institute for Children and the Family (INFA) was created in accordance with Executive Decree No. 1170 of July 2008. INFA promotes social mobilization efforts and political initiatives based on equitable power-sharing by strengthening and promoting specific mechanisms for the participation of children and adolescents in civic affairs at a local level. These mechanisms will be linked in with specific regions and community development plans with the aim of progressively improving the quality of life and fostering the creation of close-knit communities. INFA provides children and adolescents with a forum in which to be heard, to participate and to voice their opinions on issues that affect them.

221. The Institute's strategies for encouraging community involvement will be based on capacity-building for stakeholders (families, communities, children and adolescents).

Table 11
Child and youth service coverage

<i>Year</i>	<i>Child and youth service coverage</i>	<i>Investment</i>
2007	511 779	169 564 025
2008	614 323	210 681 453
2009	614 323	198 000 000

Source: INFA.

222. The term "coverage" refers to the services provided to children and adolescents to promote their development, provide special protection and emergency care, and encourage participation.

¹⁷ This information is contained in the 2008 ASNA report entitled "Informe de vigilancia 2008 de la Agenda Social de la Niñez y Adolescencia".

Table 12
Programmes and services

<i>Area</i>	<i>Programmes and services</i>
Child development	Child development centres “Growing with our Children” project Wawa Kamayuk Wasi Other alternative programmes
Special protection	Specific projects aimed at: <ul style="list-style-type: none"> • Elimination of child labour • Specialized medical care and social assistance for people with disabilities • Elimination of child begging • Emergency protection for children living in prisons • Services for displaced children and adolescents, those living in shelters and children of migrants • Elimination of delays in the registration of births and provision of identity cards for all • Elimination of violence • Human trafficking
Risks and emergencies	Specialized care for children and adolescents in case of natural and man-made disasters Medical aid
Participation	Participation of families and communities Participation of children and adolescents

Source: INFA.

223. Statistics are available only as far back as 2007, which was when the policy proposal for the consolidation of programmes for children and adolescents was made. That policy was made effective in July 2008 with the establishment of INFA through the amalgamation of the now discontinued Child Rescue Operation, Children’s Development Fund and Comprehensive Child and Youth Services programmes and the former National Institute for Children and the Family (INNFA).

2. “Ecuador without Barriers” programme

224. In the framework of the “Ecuador without Barriers” programme and with the backing of the Office of the Vice-President, the National Council for Persons with Disabilities (CONADIS) designed and is now implementing the following investment projects.

Provision of technical aids, medicines and medical supplies to low-income persons with disabilities, stages I and II (2007 and 2008)

225. This project was planned in two stages, the first of which was completed successfully in 2007. The second, in 2008, is nearing completion. The aim has been to help low-income persons with disabilities to gain access to the technical aids, medicines and medical supplies they need to improve their quality of life.

226. The aids that have been delivered include: walkers, hearing aids, walking sticks, postural vehicles for sufferers of infantile cerebral palsy, bedsores cushions and mattresses, recorders for the blind, kits for the visually impaired, crutches, orthoses, prostheses, nappies for adults and children, talking clocks and wheelchairs. A total of 8,801 persons were beneficiaries of this project.

Establishment and operation of early learning centres, 2007–2008

227. The main aim of this project is to establish and equip 80 early learning centres to service their respective communities. To achieve this goal, 80 professionals had to be trained to run the centres and provide early stimulation treatment for children at risk who exhibit developmental anomalies. By late 2008, 1,865 children had received a total of 29,889 treatment sessions.

Defence of the rights of persons with disabilities, 2008

228. The Office of the Advocate for Persons with Disabilities was set up within the National Council for Persons with Disabilities (CONADIS) with a mandate to defend the rights of persons with disabilities, work out strategies to that end in cooperation with public and private bodies and provide technical assistance to provincial commissions.

229. In order to carry out its mandate, the Office has provided legal assistance, directly or indirectly, to complainants in the following areas: right of transit, labour issues, children's rights, gender issues, civil and criminal cases, social security and health care, education, cases under administrative law, the importation of vehicles, the Internal Revenue Service and the certification of documents.

230. Outstanding achievements in 2008 include the training of 147 staff members of public- and private-sector institutions and the provision of 4,514 disabled persons with legal assistance, legal advice, assistance in reporting the loss of identity cards, and advice over the telephone.

231. In 2009, 531 persons with disabilities received legal advice and assistance or were helped to lodge complaints before the appropriate courts.

232. In addition, the Office of the Vice-President of Ecuador has carried out various projects, programmes and activities aimed at reinforcing the right to health. Achievements include the following:

(a) The provision (purchase and delivery) of technical aids, medicines and medical supplies to low-income persons with disabilities around the country. By June 2009, 6,500 persons had benefitted from such assistance. The budget for this initiative amounted to US\$ 1.8 million;

(b) The establishment and implementation of a system for caring for persons whose physical disabilities and disabling pathologies lead to complications. This system includes a centre for the treatment of bedsores and other pathologies linked to disability and a network of decentralized treatment centres around the country. Postgraduate programmes in health and disability have been developed, 150 health professionals have been trained in the provision of comprehensive treatment to persons with physical disabilities and 25,000

manuals on the prevention of complications and the maintenance of independent living for persons with disabilities had been published by November 2008. The budget for this initiative amounted to US\$ 282,775;

(c) The installation of a cutting-edge centre for the treatment of bedsores and other pathologies linked to physical disability on the seventh floor of the Eugenio Espejo Hospital;

(d) The establishment of a physiotherapy unit in the School of Medicine of the Universidad Central del Ecuador was set for completion by the end of 2009. The budget for this initiative amounted to US\$ 400,000;

(e) A pilot project for the integration and reintegration of disabled persons into a system of comprehensive care; the development of a nationwide system of comprehensive care for persons with cerebral palsy and severe intellectual disabilities; the purchase of equipment for 19 foundations around the country that treat persons with severe intellectual disabilities; and the development in November 2008 of a treatment model based on best practices for institutions that care for persons with severe intellectual disabilities and multiple disabilities. The budget for this initiative amounted to US\$ 114,624;

(f) The construction of a model treatment centre in Conocoto and two others (under way) in Pichincha and Loja; the Centre for the Protection of Disabled Persons in Cuenca; and a reception centre for persons with severe intellectual disabilities in Manabí. The 2009 budget for these initiatives amounted to US\$ 1.5 million.

233. In the past three years, Ecuador has allocated the following amounts under the budget: US\$ 4,464,000 (as at December 2007); US\$ 5,578,048 (December 2008) and US\$ 5,541,000 (December 2009).

234. In general terms, women employees are subject to the common standards set forth under legislation and regulations governing work contracts. There are some special legal provisions aimed at protecting women, especially in their role as mothers.

235. The Constitution stipulates that the State shall ensure that women have equal access to work, professional training and opportunities for promotion, fair remuneration and the right to work independently. All forms of discrimination, harassment and acts of violence of any kind, whether direct or indirect, directed against women in the workplace are inadmissible. Articles 43 and 332 establish the following:

“Article 43. The State shall safeguard the rights of pregnant and breastfeeding women to:

- (1) Not be discriminated against in education, the social sector or the workplace because of their pregnancy;
- (2) Free maternity health-care services;
- (3) Protection of their lives as a matter of priority and comprehensive health care during pregnancy, as well as during and after childbirth;
- (4) Adequate facilities to assist in their recovery during the post-natal period and while they are breastfeeding.

[...]

Article 332. The State shall ensure that the reproductive rights of all workers are respected by, inter alia: eliminating occupational reproductive-health risk; ensuring that the fact that a woman is pregnant or the number of children a person may have do not limit access to employment and job security; and safeguarding maternity and breastfeeding rights and the right to paternity leave.

The dismissal of a working woman because of pregnancy or maternity, as well as discrimination connected with reproductive roles, shall be prohibited.”

236. In an effort to ensure the protection of reproductive rights, steps are being taken with a view to the elimination of any risks in the workplace that could adversely affect reproductive health, the provision of access to employment and job security regardless of whether a woman is pregnant or of the number of children that a person may have, and the protection of maternity and breastfeeding rights, as well as the right to paternity leave. The dismissal of female workers because of pregnancy or maternity is expressly prohibited, as is discrimination connected with reproductive roles.

237. Women who have paid their contributions under the general compulsory social security system for 12 consecutive months prior to giving birth are entitled to maternity insurance. This insurance covers prenatal obstetric, childbirth and post-natal care, as well as full medical care, including pharmaceutical and hospital benefits, for the infant during its first year of life.

238. Under the Social Security Act, the health-care coverage to be provided to children during their first year of life has been extended to children up to the age of six. Insured women also receive a subsidy amounting to 75 per cent of their most recent salary for 2 weeks prior to giving birth and 10 weeks thereafter. The remaining 25 per cent is paid by the employer, who must also pay the appropriate contributions to the Ecuadorian Social Security Institute, calculated on the basis of the full wages or salary paid to the insured prior to this period.

239. The Institute is obligated to provide maternity benefits to all those who have met the above-mentioned requirements, even if their employers are in arrears; payment of these benefits does not exempt such employers from liability.

240. In cases where the woman has not paid contributions for the minimum required period, the employer must pay the full amount.

241. The Constitution provides that the State shall guarantee workers' reproductive rights. This includes the right to paternity leave as provided for under article 152 of the Labour Code, which states that:

(a) The father shall be entitled to 10 days of paid leave when his child is born normally. In cases of multiple births or where the birth is carried out by Caesarean section, the leave shall be extended by five days;

(b) Paid paternity leave shall be extended by a further eight days if the child is born prematurely or in a state that requires special care;

(c) The father shall receive 25 days of paid leave if the child is born with a degenerative, terminal or irreversible illness, or with a severe disability;

(d) Should the mother die during labour or during her period of maternity leave, the full or remaining entitlement of that leave shall be made available to the father.

242. Under the Social Security Act, regulations are in place to protect working mothers:

(a) A female worker's contract may not be rescinded because she is pregnant. In case of dismissal, she shall be entitled to compensation equivalent to one year's salary, as set out in article 153 of the Labour Code;

(b) A pregnant woman shall not work for 2 weeks prior to giving birth or 10 weeks thereafter. This interruption of employment shall not be considered to be a valid reason for terminating employment, and the woman shall be remunerated as set forth above;

(c) Illness caused by pregnancy or childbirth shall not be deemed grounds for termination, unless the illness persists for more than one year (article 154 of the Labour Code); this regulation shall not apply to contract, casual or temporary workers, to workers in probationary periods or apprenticeships, or to those performing domestic service. In any event, no remuneration beyond the 12 weeks set forth in the previous subparagraph shall be payable;

(d) During the nine months after a woman has given birth, her working day shall be of six hours in duration, with these hours being distributed in compliance with the relevant collective agreement or internal regulations or by mutual accord. In companies with 50 or more employees, the mother shall be entitled to the use of a day-care service furnished by her employer (article 155, paragraph 3, of the Labour Code).

243. With regard to the day-care service and facilities for mothers who wish to breastfeed, the above-mentioned regulation establishes that, in companies with 50 or more employees, the employer shall furnish a day-care service for employees' children in or near the company or workplace premises. The employer is to provide the necessary space, personnel, meals and equipment and furnishings free of charge.

244. Article 152 of the Labour Code and article 29 of the Civil Service Organization Act establish that women shall have 12 weeks of paid maternity leave and provide for an extension of that period by a further 10 days in the case of multiple births. They also establish that the Ecuadorian Social Security Institute shall provide a subsidy during that period and that a pregnant woman shall receive obstetric care before, during and after giving birth. Female workers shall receive two hours of paid maternity leave per day until their child reaches the age of one year.

3. Child labour

245. Title V, chapter I, of the Code on Children and Adolescents regulates child labour in Ecuador and entitles children and adolescents to be protected by the State, society and their families against economic or labour exploitation, as well as against all forms of slavery, servitude, forced labour or work that is harmful to their health or physical, mental, spiritual, moral or social development, or that could interfere with the exercise of their right to education.

246. The minimum working age is 15 years for all forms of work, including domestic service, apart from the exceptions set forth in the Code, other legislation and international instruments that have the force of law in Ecuador.

247. CNNA may, on its own initiative or at the request of any public or private entity, set higher minimum ages than that indicated in the preceding paragraph in accordance with the Code, the law and international instruments ratified by Ecuador.

248. The working day for adolescents may not exceed six hours per day for a period of more than five days per week and is to be organized in such a way that it does not interfere with the effective exercise of their right to education. The parents or guardians of adolescents who work, as well as their employers or other persons for whom they carry out production activities, are responsible for ensuring that they complete their basic education and meet their academic obligations.

249. The Ministry of Labour and Employment shall maintain a canton-by-canton register of adolescents who work and provide the information recorded therein on a regular basis to the corresponding cantonal councils for children and adolescents. How the register is to be maintained and what information is to be included are to be specified in the implementing regulations.

250. The Code on Children and Adolescents provides that adolescents shall not be permitted to work in the following cases:

- (a) In mines, rubbish dumps, abattoirs, quarries or any other kind of extractive industry;
- (b) In activities that involve handling explosives, drugs, toxic material, or other substances that could be dangerous or harmful to their lives, physical or mental development or health;
- (c) In brothels or areas where prostitution is tolerated, premises where gambling takes place and/or alcoholic beverages or other substances are sold that could be injurious to an adolescent's moral and social development;
- (d) In activities that require the use of dangerous equipment or where noise levels exceed legal limits;
- (e) In activities that could exacerbate any disability that the adolescent in question may have;
- (f) In activities that are prohibited by other legislation, including the international instruments ratified by Ecuador; and
- (g) In households whose members have a criminal record as perpetrators of abuse or ill-treatment.

251. It is the responsibility of CNNA to determine which specific types of work are dangerous, harmful or hazardous and are to be prohibited for adolescents, taking into account the nature and conditions of the work and potential risks for adolescents' lives, persons, health, education, security and full development.

252. The Code sets forth protection measures in the event of a violation of the provisions of title V. Judges and the appropriate administrative authorities may order one or more of the following protection measures in respect of children and adolescents, without prejudice to other measures provided for in the Code:

- (a) Termination of the child's or adolescent's employment;
- (b) Placement of the child or adolescent and/or his or her family in a protection programme;
- (c) Temporary removal of the child, adolescent or aggressor from the family environment, as appropriate.

253. The necessary precautions shall be taken in order to prevent the application of these measures from impinging on the rights and guarantees applying to children and adolescents, aside from the restrictions inherent in each such measure, and to ensure that they are cared for in a way that is compatible with their right to a life with dignity.

254. Violations of the provisions on child labour are subject to the following penalties:

- (a) An official warning to the parents or guardians and to persons who employ children or adolescents or profit directly from their labour;
- (b) A fine of between US\$ 50 and US\$ 300 if the offenders are the parents or guardians of the children or adolescents in question;
- (c) A fine of between US\$ 200 and US\$ 1,000 in the case of employers or any person who profits directly or indirectly from the work of a child or adolescent;
- (d) Closure of the establishment in which the work was carried out in the case of repeat offences.

255. According to figures from the National Statistics and Census Institute (INEC), 7 per cent of adolescents under the age of 18 were working in Ecuador in March 2009.

256. The Ministry of Labour and Employment plans to regulate the situation of working adolescents who are above 15 years of age and to achieve the gradual elimination of child labour. To that end, it is concentrating on the following three key points:

(a) Defining technical guidelines for the application and development of programmes and projects on child labour by various local, international, public and private bodies;

(b) Developing technical instruments for evaluating, monitoring and following up on the various programmes and projects dealing with child labour;

(c) Raising awareness throughout society of the harmful effects of child labour with a view to its elimination.

257. The Ministry is also carrying out several projects, the most noteworthy of which are:

(a) The Child Labour Monitoring and Inspection Unit;

(b) The generation of participatory processes to engage public and private bodies in direct action initiatives for the prevention and gradual elimination of child labour in sectors in which the worst forms of child labour occur.

258. The Child Labour Monitoring and Inspection Unit was set up in order to meet the need for specialized inspectors to ensure that the laws on working conditions for adolescents over the age of 15 are enforced and that labour by children under the age of 15 is progressively eliminated.

259. The inspection system of the Ministry of Labour and Employment is the only nationwide mechanism for carrying out workplace inspections to ensure that employers and workers meet their obligations under the corresponding labour contract. Inspections thus are comprehensive, covering labour conditions, contractual arrangements, occupational health and safety, social work, disability and outsourcing, and do not concentrate on any particular issue, even though individual reports or complaints may refer to a specific matter.

260. Inspections are made on the basis of reports received, on the Unit's own initiative or at the request of other parties and are also organized by economic sector in line with plans drawn up by the child labour inspectors. The inspectors coordinate their work with child protection agencies in order to ensure that the basic needs of children and adolescents who are located in the course of their inspections are met.

261. Through its implementation of this project, the Ministry of Labour and Employment fulfils its duty to uphold the rights of child and adolescent workers and to prevent violations of those rights within the framework of the Labour Code and the Code for Children and Adolescents.

262. This system functions on an ongoing basis; 1,423 inspections were carried out around the country between January and June 2007.

Elimination of the worst forms of child labour

263. An initiative has been launched to eliminate child labour in the country's rubbish dumps as part of a coordinated effort on the part of public and private agencies to take direct action to eliminate the worst forms of child labour.

264. Various direct intervention programmes, including initiatives by the International Labour Organization (ILO), Movistar, the United Nations Children's Fund (UNICEF), INFA, the Ministry of Social Welfare, and Desarrollo y Autogestión ("Development and

self-management" (DYA)), are being implemented in rubbish dumps in Quito's Zámiza and La Bota districts, in Pichincha province, as well as in Santo Domingo de los Tsáchilas; Manta and Portoviejo, in Manabí province; El Guabo and Pasaje, in El Oro province; and Esmeraldas and Súa, in Esmeraldas province.

265. The Ministry of Labour and Employment, which is responsible for implementing policies on the prevention and progressive elimination of child labour, has set the following objectives in coordination with INFA, the Ministry of Economic and Social Inclusion, Movistar, UNICEF, DYA and ILO:

- (a) To assess the extent of child labour in rubbish dumps in Ecuador;
- (b) To identify the kind of work done by children in rubbish dumps;
- (c) To design a strategy and project for the elimination of child labour in rubbish dumps.

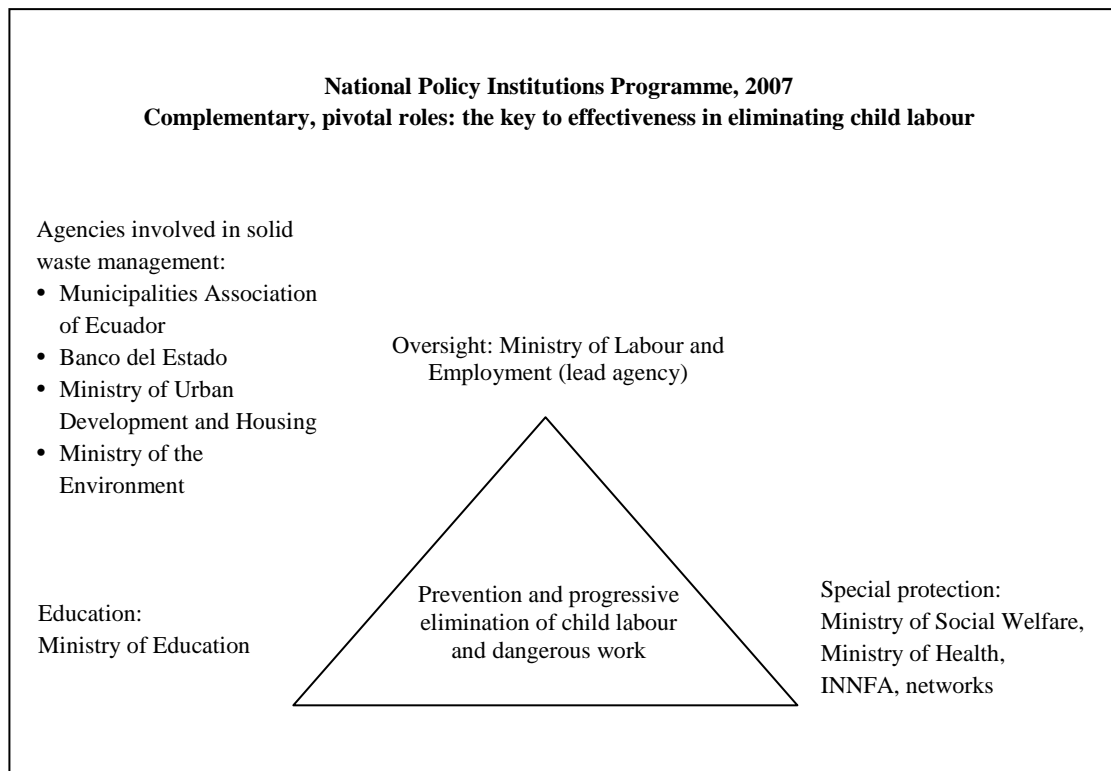
266. The main activities carried out between July and September 2007 include the following:

- (a) Design of research projects and instruments;
- (b) Recruitment of a technical team;
- (c) Coordination of survey preparations with decentralized territorial units of INNFA and the technical project team;
- (d) Data entry and data processing;
- (e) Analysis of information from 115 cities;
- (f) Design of a project for implementation in cities in which child labour in rubbish dumps is prevalent;
- (g) A project review workshop (attended by all institutional stakeholders);
- (i) Presentation and review of a report on the situation on the ground and action taken (30 September);
- (ii) Publication of the report (October).

267. Progress made:

- (a) Identification of children in the rubbish dumps of Manabí province (DYA team):
 - (i) Santa Ana: six children;
 - (ii) 24 de Mayo: 10 children;
 - (iii) El Carmen: 10 children;
 - (iv) Jipijapa: 35 children;
 - (v) Chone: 60 children;
 - (vi) Flavio Alfaro: none;
 - (vii) Bahía: 16 children.
- (b) Identification of children in the rubbish dumps of Esmeraldas province (Esmeraldas decentralized territorial unit team):
 - (i) Súa-Atacames: 20 children;
 - (ii) Muisne: 12 children;

- (iii) Quinindé: 15 children;
- (iv) Borbón: none;
- (v) San Lorenzo: none.
- (c) Identification of children in the rubbish dumps of Sangolquí, in Pichincha province, and Pueblo Viejo, in Los Ríos province (DYA team):
 - (i) Four children found in Sangolquí rubbish dump were removed from the site;
 - (ii) Twenty children were found working in the rubbish dumps of Pueblo Viejo.

Figure 2

Source: Ministry of Labour and Employment.

4. Elderly persons

268. Article 36 of the current Constitution provides that elderly persons shall receive priority and specialized care in the public and private sectors, particularly with regard to social and economic inclusion and protection against violence. For these purposes, persons who have reached 65 years of age shall be considered elderly.

269. Article 37 stipulates that the State shall guarantee elderly persons the following rights:

- (a) Access to specialized health care and to medicines free of charge;
- (b) Paid work that is suited to their skills and their limitations;
- (c) Universal retirement coverage;
- (d) Discount rates for public utilities, reduced fares on private transport, and reduced admission fees for entertainment events;

- (e) Tax exemptions;
- (f) Exemption from payment of notary and registry fees under the terms established by law;
- (g) Provision of decent housing, with the selection of dwellings subject to the consent of the persons concerned and their views.

270. Article 38 stipulates that the State shall establish policies and service programmes for the elderly that take into account specific differences between urban and rural areas, gender inequities, ethnicity, culture and the inherent differences between individuals, communities, peoples and nations; the State shall also foster, to the greatest degree possible, personal independence and involvement in the definition and implementation of these policies. In particular, the State shall adopt measures to:

- (a) Ensure that elderly persons have access to adequate food, health care, education and daily assistance in specialized centres as part of the full protection of their rights. Centres shall be established to house those who cannot be looked after by their relatives or who do not have a permanent place of residence;
- (b) Provide special protection against any form of economic or labour exploitation. The State shall implement policies aimed at encouraging elderly persons to participate and work in public and private institutions where their experience can make a contribution and it shall develop job-training programmes tailored to their vocations and aspirations;
- (c) Develop programmes and policies aimed at increasing the personal autonomy of the elderly, reducing their dependence and achieving their full integration into society;
- (d) Protect elderly persons against all forms of violence, ill-treatment, sexual or any other kind of exploitation and the neglect that may lead to such situations;
- (e) Develop programmes aimed at promoting recreational and spiritual activities;
- (f) Ensure that preferential care is provided to elderly persons in times of disaster, armed conflict or any other emergency;
- (g) Establish a separate system for the application of custodial measures. If no alternative measures are applied, prison sentences shall be served in appropriate facilities. Elderly persons in pretrial detention shall be held under house arrest;
- (h) Provide protection, care and special assistance for elderly persons with chronic or degenerative illnesses;
- (i) Provide financial assistance and psychological care to ensure the physical and mental well-being of the elderly;
- (j) Make the abandonment of elderly persons by their relatives or institutions responsible for their protection a punishable offence.

271. The Ministry of Economic and Social Inclusion is also building the country's first geriatric research institute in Vilcabamba canton, in the province of Loja.

272. According to data compiled by the Ministry up to April 2009, 279,661 elderly persons were receiving Human Development Vouchers.

5. The rights of asylum-seekers and family reunification

273. Consideration of this issue has focused on three basic economic, social and cultural rights — the rights to health, education and work — whose fulfilment are at the core of the State's obligation¹⁸ to ensure an adequate standard of living.¹⁹

274. In 2004, Ecuador took a step forward in the protection of the right of refugees and asylum-seekers to health care with the issuance of Executive Decree No. 118, which was published in *Registro Oficial* No. 458 on 10 November 2004. The decree reiterates the legal obligation set forth in the Constitution of 1998 to provide guaranteed, permanent and uninterrupted access to health-care services in accordance with such principles as equity and universality.²⁰

275. The State has thereby ensured that persons with refugee status and asylum-seekers enjoy the same right to access to health care as Ecuadorian nationals and, in so doing, has reaffirmed the principles of equality and non-discrimination.

276. As mentioned above, the Free Maternity and Child Health Care Act was passed in 2006. This law provides the implementing regulations for the protection of women's sexual and reproductive rights and the right to health care of children under 5 years of age as set forth in the current Constitution. "This law is designed to overcome economic barriers that impede access to health care by covering the cost of medicines, micronutrients (vitamins), medical and laboratory supplies, and blood and blood components used in the provision of sexual and reproductive health care and child health care."²¹ These services are made available free of charge to all mothers and children under the age of 5, including refugees and asylum-seekers.

277. In 2007, the National Development Plan was approved. Under objective 1 of the Plan, goals 3.6, 3.8 and 3.11 are to expand women's health services, slow the rate of HIV/AIDS infection, raise the quality of health care and improve the manner in which that care is delivered. The aim is to ensure that everyone in Ecuador, including refugees and asylum-seekers, benefits from these improvements.

278. According to a survey conducted by the Office of the United Nations High Commissioner for Refugees (UNHCR), around 70 per cent of refugees, asylum-seekers and persons in need of international protection but not registered as asylum-seekers (also known as the "invisible ones"), have access to health services. The survey report goes on to note that, of that group, 30 per cent of families resident in the northern border area report that there are no health services available, compared with 15 per cent in the rest of the country. In the northern border area, only one quarter (24 per cent) of households report the

¹⁸ Article 11, paragraph 1, of the Covenant: "The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent."

¹⁹ In this report, the relevant legislation on each right will be reviewed in succession. The existing family reunification mechanisms for refugees will also be reviewed briefly.

²⁰ Article 42 of the 1998 Constitution establishes that: "The State shall guarantee the right to health, its promotion and protection through the development of food security, an adequate supply of drinking water and basic sanitation, the promotion of healthy family, work and community environments, and the provision of ongoing, uninterrupted access to health services in accordance with the principles of equity, universality, solidarity, quality and effectiveness."

²¹ The Government of Ecuador, Free Maternity and Child Health Care Act, President Rafael Correa, available on the Internet at: www.maternidadgratuita.gov.ec/new/; viewed on 26 May 2009.

availability of public and private health services, compared with 56 per cent in the rest of the country.²²

279. The current Constitution states that access to health care is a right guaranteed by the State, the fulfilment of which is linked to the exercise of other rights, whereby it is understood that there should be permanent and timely access, without exception, to health services in line with the principles of equity and universality.²³ The right to health is understood as a fundamental human right and prerequisite for the exercise of other human rights that call for a proactive attitude, together with direct and compensatory negative intervention, on the part of the State.²⁴

280. The principle of family unity is upheld in article 17 of Executive Decree No. 3301, which establishes regulations with regard to relatives of refugees in Ecuador. On the basis of those regulations, family reunification procedures have been established by the Directorate-General for Refugees of the Ministry of Foreign Affairs, Trade and Integration, whereby close relatives of persons with refugee status in Ecuador are entitled to the same status by association.

281. According to data provided by the Directorate-General, in the interest of maintaining family unity, 4 applications for family reunification were approved in 2003, 12 in 2004, 161 in 2005, and 200 in 2006. No applications were refused in those years. In 2007, 231 applications were approved and 5 were denied.

282. Instructions concerning family reunification provisions have been prepared in line with the general procedures of the Directorate-General for Refugees. In accordance with the guidelines provided by UNHCR and these instructions, a degree of financial and emotional dependency justifying family reunification must be demonstrated, except in the case of spouses or children. For spouses, it was decided that a short interview and a statement under oath of their civil status should suffice.

283. In the absence of a definition of the concept of family in any international instrument, it has been established that, for the purposes of reunification, the family will be defined as including, as a minimum, the nuclear family: spouses, minor children and other relatives judged to be eligible because of cultural considerations and factors of economic and emotional dependency.

284. Under the current Constitution, approved on 28 September 2008, the family, however constituted, is viewed as the basic unit of society, and the Constitution guarantees conditions that wholly support the fulfilment of its purpose. In order to safeguard the rights of family members, the State assists families that have become dispersed for whatever

²² UNHCR (see footnote 11 above), p. 52.

²³ Article 32: "Health is a right guaranteed by the State, the fulfilment of which is linked to the exercise of other rights, including the right to water, food, education, sports, work, social security, healthy environments, inter alia, that contribute to good living conditions. The State shall guarantee this right by means of economic, social, cultural, educational, and environmental policies, and through uninterrupted and timely access, without exception, to comprehensive health-care, including sexual and reproductive health-care, programmes, initiatives and services. The provision of health services shall be governed by the principles of equity, universality, solidarity, interculturalism, quality, efficiency, effectiveness, prevention and bioethics and shall reflect a sensitivity to gender and generational issues."

²⁴ Xavier Pons Rafols (ed.), *La Declaración Universal de Derechos Humanos*, Asociación para las Naciones Unidas en España, Icaria Antrazyt, Madrid, 2000, p. 407.

reason.²⁵ In 2008, 295 applications for family reunification were approved and 8 were denied.

285. Ecuador is working actively to meet the new challenges posed by the issue of refugees, particularly with regard to the effective exercise of economic, social and cultural rights, and with special emphasis on expanding the scope of asylum-seekers' rights. As this report makes clear, legislative measures have been adopted in order to protect the rights of asylum-seekers in accordance with article 2 of the Covenant. In this respect, considerable progress was made in 2009 with the enhanced registration project for asylum-seekers.

286. With the aim of meeting the general obligation incumbent upon the State to respect and safeguard human rights, regardless of any circumstance or consideration, including a person's immigration status, Ecuador has established a policy on asylum and thereby has become the first country in Latin America to implement State guidelines on the matter. The new policy was officially made public on 16 September 2008 and provides for major programmes and projects to strengthen the protection of refugees in Ecuador.

287. Among other initiatives, the aforementioned project for the enhanced registration of Colombian asylum-seekers in Ecuador is designed to permit refugee status to be granted to more than 50,000 Colombians in need of international protection who, for economic reasons, or because they were unaware of the existence of the status of refugee, or out of fear or mistrust, had never reported to the appropriate Ecuadorian authorities in order to regularize their immigration status. The steps being taken to grant these persons refugee status are motivated by the desire to afford greater protection for their lives, personal well-being, security and freedom.

6. Domestic violence

288. Article 13 of the Violence against Women and the Family Act provides for measures to protect the victims of violence. It empowers the authorities to oblige the aggressor to leave the family home if cohabitation poses a risk to the physical or mental well-being of the woman. They can also allow the victim to return to the common home at the same time as the aggressor is obliged to leave, thereby ensuring the right to housing for women victims of domestic violence.

289. Among the improvements contained in the 2008 Constitution, article 66 stipulates the following:

“Article 66, paragraph 3, on the right to personal well-being, which includes:

(b) A life without violence in the public and private spheres. The State shall adopt the measures needed to prevent, eliminate and punish all forms of violence, especially violence against women, children and adolescents, the elderly, persons with disabilities and against any disadvantaged or vulnerable persons; the same measures shall be taken to combat violence, slavery and sexual exploitation.”

290. Article 77, paragraph 8, provides basic guarantees in criminal proceedings involving deprivation of liberty and states, for instance, that: “No one can be required to testify in a criminal trial against one's spouse, life partner or relatives up to the fourth degree of consanguinity or second degree of affinity, except in cases of domestic, sexual and gender violence. Voluntary testimony by the victims of a crime or by the relatives of such victims,

²⁵ Article 69: “To protect the rights of family members: ... 4. The State shall protect mothers, fathers and heads of household in the fulfilment of their obligations and shall place priority on assistance for families that have become dispersed for whatever reason.”

regardless of the degree of kinship, shall be admissible. Such persons may lodge complaints and pursue the corresponding criminal proceedings.”

291. Article 81 states that: “Special and expeditious procedures shall be established under the law to bring to trial and punish perpetrators of crimes of domestic violence, sexual offences, hate crimes and crimes committed against children, adolescents, young people, persons with disabilities, elderly persons and persons who, because of their specific characteristics, require greater protection. Specialized prosecutors and defence lawyers shall be appointed to deal with these cases, in accordance with the law.”

292. The Offices of Commissioners for Women and the Family will be replaced by specialized judges assigned to hear cases involving violence against women and family members (*juezas y jueces de violencia contra la mujer y la familia*), as provided for under article 232. Where there are no such judges, judges responsible for hearing ordinary criminal cases (*juezas y jueces de contravenciones*) shall take their place, in accordance with article 231. In the absence of either of those categories of judges, they shall be replaced by Family, Women’s and Juvenile Court judges. The National Directorate for Gender Issues of the Ministry of the Interior is working through the transition process with the concerned stakeholders.

293. In addition to these legislative developments, several acts, regulations and ordinances have been promulgated on domestic violence and violence directed against women and children. The main ones include:

- Violence against Women and the Family Act (*Registro Oficial* No. 839, 11 December 1995).
- Code on Children and Adolescents (Act No. 100, *Registro Oficial* No. 737, 3 January 2003).
- Criminal Code (*Registro Oficial* No. 45, 23 June 2005), amended to include the offences of human trafficking, sexual exploitation of children and adolescents, child pornography and sexual tourism. Penalties for the offence of rape have been toughened, and the aggravating circumstance of knowingly infecting another person with a disease has been introduced for sexual offences, along with an exemption from responsibility for persons who cause injury or death while defending themselves against sexual violence.

294. According to a baseline survey of the Equal Opportunities Plan, 53,510 cases of domestic violence have been reported by women to the Offices of Commissioners for Women and the Family.²⁶

295. In 2006, the Offices of Commissioners for Women and the Family ordered 172,156 protection measures in response to the complaints they received. The most commonly issued measures were protection orders for victims of violence, of which there were 47,812; 36,545 orders prohibiting acts of persecution or intimidation by aggressors or third parties were also issued.²⁷

²⁶ CONAMU, “Situación de las mujeres ecuatorianas: una mirada desde los derechos humanos”, Quito, 2008, pp. 51 and 67.

²⁷ *Ibid.*, p. 52.

Table 13
Reported cases of domestic violence

<i>Year</i>	<i>Reported cases</i>
2004	56 845
2005	57 385
2006	61 339

Source: National Directorate for Gender Issues of the Ministry of the Interior and the Police and the Analysis and Information Unit of the Ecuador Integrated System of Social Indicators, National Council for Women (CONAMU), Social Indicators System on Women and Gender Inequality (SIMUJERES) 2008. The figures given here refer to cases reported to the Offices of Commissioners for Women and the Family.

296. According to a demographic survey of maternal and child health, 31 per cent of women have been subjected to physical violence, 41 per cent to psychological violence and 12 per cent to sexual violence. The survey results also indicate that 86.1 per cent of women have at some time been forced to have sex or suffered sexual abuse by persons whom they knew. According to the Judicial Statistics Unit of the Public Prosecution Service, the Service had received 10,204 reports of sexual offences up to 2007.

297. In 2006, 92 offences of sexual exploitation of children and adolescents were reported to the National Directorate of Special Police for Children and Adolescents. In 2007, 58 cases of sexual exploitation were reported, along with 44 cases of prostitution, 6 of child pornography and 8 of sexual tourism.²⁸

Table 14
Reports of sexual offences²⁹

(Public Prosecution Service. Sexual offences: rape and domestic violence. National summary)

<i>Sexual offences</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>Total</i>	<i>Percentage</i>
Rape	3 056	3 724	3 668	10 448	42.07
Domestic violence	1 182	1 319	1 154	3 655	14.72
Total	7 744	8 144	8 945	24 833	100.00

Source: Prepared by the CONAMU research team on the basis of figures from the Public Prosecution Service of Ecuador.

298. The enactment of specific legislation on domestic violence was a major step forward for Ecuador at the time, but in recent decades it has become clear that more must be done to protect victims of domestic violence by, in particular, creating judicial and administrative mechanisms to ensure that female victims of violence have effective access to restitution, reparations or other just and effective remedies.

299. A further important development has been the introduction of the National Policy on the Eradication of Violence, established by Executive Decree No. 620 of 20 September

²⁸ *Ibid.*, p. 51.

²⁹ Council of Latin American Women (CLADEM), *Femicidio. Monitoreo sobre Femicidio/Femicidio. Bolivia, Ecuador, Paraguay, Perú, República Dominicana, El Salvador, Guatemala, Honduras, México, Nicaragua y Panamá*, 2008, p. 118.

2007. The aim of this human rights-based policy is to eradicate gender violence against children, adolescents and adult women. This is to be achieved through the development of a plan for the design and implementation of actions and measures, including mechanisms of inter-agency coordination at all levels of the State. The broad strategic aims of the policy are: to bring about change in sociocultural patterns; to create a comprehensive system of protection; and to facilitate access to justice and registration systems.

300. In order to implement the decree, an inter-agency coordination committee was set up. Its members include the Ministry of the Interior and the Police, the Ministry of Education, the Ministry of Health, the Ministry of Economic and Social Inclusion, CONAMU, CNNA, INFA and the Ministry of Justice and Human Rights.

301. In 2006, a protection programme for victims of gender violence, which is intended to assist victims of sexual exploitation as well, was established as part of the CONAMU Pro Mujeres Fund. The programme is directed by a technical commission and has its own body of regulations.

302. For several years now, CONAMU has worked to alert the general public to the criminal nature of acts of domestic violence by broadly disseminating the content of relevant international instruments such as conventions, declarations, action plans, observations of United Nations committees and their recommendations with regard to Ecuador, along with domestic legislation on the right of women to a life free of violence.

303. Measures are in place to improve the attitude of staff in the justice system by building their skills and technical capacity for dealing with cases of domestic violence. In 2007, CONAMU ran training workshops on sexual violence for workers in various areas of education, the health-care sector and civil society. Work has also been done with local governments on the dissemination of information on people's rights, particularly in the context of gender, sexual and domestic violence.

304. Training programmes concerning gender issues were also run for justice officials between 2001 and 2004 under the auspices of the Public Prosecution Service's training college and the Council of the Judiciary.

305. In order to enhance the training opportunities available to justice system staff in connection with issues of justice and gender, the Council of the Judiciary, the Ministry of Justice and Human Rights and CONAMU have joined the Latin American Faculty of Social Sciences (FLACSO) in the past year to develop a modular course of study focused on the development of practical and analytical skills that will help staff members to mainstream the gender perspective into the justice system.

306. Moreover, as set forth in goals 9.1 and 10.3 under objective 9 of the National Development Plan,³⁰ the State is committed to reducing violence against women, children and adolescents and to encouraging public involvement and institutional innovation as means of fostering participatory governance. Through CONAMU, a management goal was set for 2009 of having at least eight ministries implement policies focusing on gender by 2013 and at least three coordinating ministries working to put gender-focused sectoral policies in place. In addition, the budget allocation for projects, plans and programmes with a gender focus has been increased by 0.6 per cent.

³⁰ Annex to the National Development Plan, National Secretariat of Planning and Development, 2008.

7. Trafficking in human beings

307. Title II, chapter six, article 66, paragraph 29, of the current Constitution stipulates that the State shall adopt measures to prevent and eliminate trafficking in persons, protect victims of trafficking and other violations of the right to liberty, and reintegrate them into society. Victims of human trafficking shall not be revictimized, particularly in the process of obtaining and assessing evidence, and they shall be protected from any threats or other forms of intimidation.

308. Additionally, article 78 establishes that victims shall receive full protection and reparation, which shall include being informed about the facts of the case, the restitution of rights, compensation, rehabilitation, the assurance of non-repetition, and satisfaction with respect to the infringed right. To this end, a system for the protection and assistance of victims, witnesses and participants in the proceedings shall be established under the auspices of the Prosecutor-General's Office, in coordination with other concerned parties. Victims of trafficking for the purpose of sexual exploitation are not barred from bringing criminal proceedings against their spouse, partner or relatives up to the fourth degree of consanguinity or second degree of affinity.

309. Under title II, chapter eight, article 79, of the Constitution, Ecuadorians accused of crimes of human trafficking outside the country and identified on Ecuadorian territory shall be tried in accordance with Ecuadorian criminal procedure.

310. Lastly, title VIII, on international relations, chapter one, on principles of international relations, article 416, of the Constitution establishes that the State shall take the necessary measures to protect the rights of foreign victims of human trafficking, even if they have an irregular migration status.

311. It was established under chapter III.1, article 190.3, of the Criminal Code Reform Act of 2005, which defines the offences of sexual exploitation of persons under 18 years of age, that human trafficking shall be punishable by a prison sentence of between 6 and 9 years when the offence does not constitute sexual exploitation and of between 9 and 12 years if the victim is under 18 years of age.

312. The greatest change brought about by this reform of the Criminal Code concerns the punishment of trafficking for purposes of sexual exploitation, for which prison sentences of up to 25 years (maximum regime) may be imposed in the case of the victim's death. In cases where the victim is aged under 14 years, the prison sentence shall be up to 16 years.

313. Ecuadorian law defines child pornography and sexual tourism as distinct crimes, but these offences are, nonetheless, related to trafficking. The same aggravating and extenuating circumstances apply as in cases of human trafficking.

314. Since 2004, Ecuador has made it a high-priority matter of policy to combat human trafficking, the smuggling of migrants, sexual and labour exploitation and other forms of exploitation and prostitution.

315. The National Plan to Combat Human Trafficking, Smuggling of Migrants, Sexual, Labour and Other Forms of Exploitation, and Prostitution of Women, Children and Adolescents, Child Pornography and the Corruption of Minors was approved and promulgated in 2006. It is now administered by the Ministry of Justice and Human Rights, which was established in 2007, and comprises three thematic subcommittees:

- (a) Subcommittee on Prevention:
 - Ministry of Education, which heads the Subcommittee
 - Ministry of Foreign Affairs, Trade and Integration
 - Ministry of Economic and Social Inclusion

- Ministry of Tourism
 - National Secretariat for Migration
 - National Council for Women
 - National Council for Children and Adolescents
- (b) Subcommittee on Investigation and Punishment:
- Ministry of the Interior, Police and Worship, which heads the Subcommittee
 - Prosecutor-General's Office
 - Ombudsman's Office
 - National Secretariat for Migration
 - Ministry of Labour and Employment
- (c) Subcommittee on Protection and the Restitution of Victims' Rights:
- Ministry of Economic and Social Inclusion, which heads the Subcommittee
 - National Secretariat for Migration
 - Ministry of Foreign Affairs, Trade and Integration
 - Ministry of Health
316. The plan is structured around themes, policies and strategic objectives:
- (a) Prevention:
- (i) **Policy.** The State will promote the formulation of programmes, projects and actions aimed at changing sociocultural attitudes, identifying potentially criminal behaviour, eliminating risk factors and encouraging the reporting, enforcement and prosecution of offences covered under the plan;
- (ii) **Strategic objective 1.** To compile qualitative and quantitative information on the nature and extent of the issues concerned, as well as on stakeholders, behaviour and offences, as a basis for promoting sociocultural change, decision-making and the implementation of appropriate policies, plans and programmes;
- (iii) **Strategic objective 2.** To design and carry out a communication strategy aimed at various levels of society and institutions in order to educate people and raise their awareness about the extent and seriousness of the problems addressed in the plan. The strategy will also focus on encouraging prevention, the reporting of offences and protective measures, all of which can help alter preconceived ideas and cultural practices;
- (iv) **Strategic objective 3.** To develop education, training and awareness-raising programmes for various stakeholders in society who currently or who may in the future play a part in detection, prevention, recovery and the reparation of rights in areas covered by the plan.
- (b) Investigation and punishment:
- (i) **Policy 2.** The State is committed to investigating and elucidating the facts surrounding offences covered by the plan and punishing those responsible, thereby protecting victims, witnesses and other persons involved in proceedings. It will also ensure that trial proceedings abide by the principles of universality, promptness, discretion to prosecute, efficiency, cost-free access to justice and immediacy;

(ii) **Strategic objective 1.** To strengthen the institutional structure of the judiciary, Public Prosecution Service and specialized police units in order to equip the country with specialized judicial personnel and teams able to deal with the matters covered by the plan and to facilitate coordination between institutions;

(iii) **Strategic objective 2.** To reinforce and upgrade the Public Prosecution Service's victim and witness protection system by adapting existing legal provisions, setting up protective mechanisms and furnishing suitable human, technical and financial resources;

(iv) **Strategic objective 3.** To carry out social and legal studies in order to better understand the approach and practices of justice officials and the shortcomings of the legal system as a basis for subsequently drafting modifications and reforms.

(c) Protection and the restitution of victims' rights:

(i) **Policy 3.** The State will guarantee full protection for all victims inside the country and for all Ecuadorian victims outside the country and will strengthen the response capability of public and private institutions, families and the State to provide comprehensive, personalized support services. These services will include coordinated structures for communication, education, support and social rehabilitation with a view to promoting victims' social integration and improving their standard of living, thereby facilitating reparation and restitution and full enjoyment of their rights;

(ii) **Strategic objective 1.** To develop and implement comprehensive, personalized support services that forestall revictimization and ensure reparation, the restitution of rights and proper conditions for the full enjoyment of rights;

(iii) **Strategic objective 2.** To ensure coordination between institutions in order to ensure comprehensive support, the restitution and enjoyment of rights and social rehabilitation;

(iv) **Strategic objective 3.** To promote the implementation of international cooperation policies on the rescue and repatriation of victims, the prevention of revictimization and the protection of rights.

317. The member institutions of the National Plan to Combat Human Trafficking saw a need for a monitoring and assessment system for the plan in order to ensure that goals are met and planned activities are carried out. This system also makes it possible to identify problems that arise in the course of the implementation of projects and programmes to combat these crimes and to identify the appropriate preventive and corrective measures in a timely fashion. The system will also serve as a tool for assessing the impact, effectiveness and results of the plan, as well as fostering a culture of transparency and accountability in the way that such crimes are dealt with.

318. At the time of writing, the member institutions had developed an operational plan for 2009 which contains specific information on the plan's goals and on the activities in each of the plan's areas of action that are to be carried out by each institution during the year. Results and progress will be monitored periodically by the members.

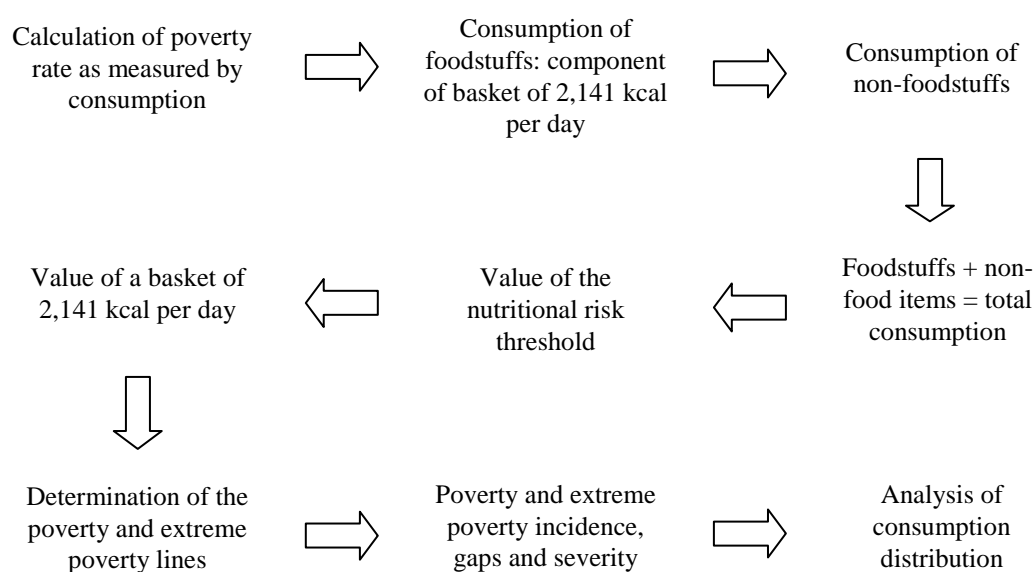
J. Article 11: the right to the continuous improvement of living conditions

1. The national poverty line³¹

319. In Ecuador, the most frequently used system for monitoring the poverty rate is an indirect method whereby a household is considered to be poor if its level of income or consumption is lower than the cost of a basic basket of goods and services, which is used to set the poverty line. This method focuses on the level of deprivation to which low-income households may be exposed, given that income is the means by which basic needs are met rather than an end in itself. The following method is used for this calculation:

Figure 3

National poverty line



Source: Standard of Living Survey, fifth round, National Statistics and Census Institute (INEC), 2005.

320. The poverty and extreme poverty lines are used to frame social policies, as they provide insight into the socio-economic situation of Ecuadorian families. The extreme poverty line is the monetary value of a basic basket of foodstuffs that reflects the cost of meeting minimum nutritional requirements. Households in which consumption is not sufficient to meet even minimum nutritional requirements are considered to be “indigent”. The value assigned to a basket of 2,141 kcal per person per day is equivalent to the extreme poverty, or indigence, line.

321. The poverty line is calculated by dividing the extreme poverty line by the Engel coefficient. It is equivalent to the monetary value of a basic basket of goods and services for one person over a set period of time. Households where per capita consumption falls below this line are considered “poor”.

³¹ *Las condiciones de vida de los ecuatorianos*, Standard of Living Survey, fifth round, National Statistics and Census Institute (INEC), 2005.

322. The unsatisfied basic needs method, also known as the direct or social indicator method, classifies households as either poor or not poor depending on whether their basic needs (access to education, health, nutrition, housing, urban services and employment opportunities) are met or not. Households with unsatisfied needs are considered poor (structural poverty).

323. Employment, together with the two main methods for measuring poverty (the direct method (whether basic needs are met) and the indirect method (based on income and consumption)), have been used to develop a third method, known as the integrated poverty measure. Katzman's typology (1989) is based on a cross-classification of the two categories used in each of the two main methods.

Figure 4

Katzman's typology

<i>Katzman's typology</i>		<i>Basic needs</i>	
		<i>Not poor</i>	<i>Poor</i>
Poverty line	Not poor	Socially integrated 47.2 per cent (6 229 820 persons)	Inertial poverty 14.6 per cent (1 925 502 persons)
	Poor	Recently impoverished 7 per cent (926 628 persons)	Chronic poverty 31.3 per cent (4 131 915 persons)

Source: Standard of Living Survey, fifth round, National Statistics and Census Institute (INEC), 2005.

324. According to data provided by the Social Programme Beneficiary Selection System (SELBEN), 89.9 per cent of the indigenous population live in poverty, as measured by the unsatisfied basic needs method (20 points above the national average of 61.3 per cent), of which 69.84 per cent live in extreme poverty (approximately 40 points above the national average of 31.9 per cent). These telling figures show indigenous persons to be the poorest of the poor, with a two-point gap between men and women. The Development and Cultural Diversity Programme seeks to reduce poverty, to promote social integration and intercultural dialogue, and to curb the ethnically and culturally motivated discrimination and exclusion that prevents members of the population from fully exercising their rights. The Ministry for Natural and Cultural Heritage, in cooperation with the United Nations system, is responsible for implementing the programme and has been allocated resources from the fund for the achievement of the Millennium Development Goals set up by the Government of Spain.

325. The State's main initiative for combating poverty is the Human Development Voucher, which had been approved by executive decree in September 1998 and was hitherto known as a "solidarity" or "poverty" voucher. By Executive Decree No. 347 of May 2003, the solidarity voucher initiative was replaced by the Human Development Voucher, which is intended for families and individuals located in the bottom two quintiles in the SELBEN welfare index of the Technical Secretariat of the Social Front. In 2003, the value of the Human Development Voucher was increased to US\$ 11.50. This increase was not accompanied by any further requirement for households in the first or second quintile whose head, or the latter's spouse, were over 65 years of age or had a disability card issued by the National Council for Persons with Disabilities (CONADIS). The value of the voucher for families in the second-poorest quintile was the same (US\$ 11.50) and was subject to the requirements set out by the Social Protection Programme.

326. By Executive Decree No. 12 of January 2007, the value of the Human Development Voucher was increased to US\$ 30 for households in the first and second quintiles. The same decree also approved a secondary assistance scheme for older persons who were among the poorest 40 per cent of the elderly population and persons with disabilities rated at 40 per cent or greater, as attested to by a card issued by the National Council for Persons with Disabilities (CONADIS), in the first or second quintile of the SELBEN welfare index. Unlike the Human Development Voucher, which is a household allowance, the subsidiary welfare scheme provides financial assistance to each member of the household who meets the requirements.

Table 15
Human Development Voucher

Year	<i>Voucher recipients</i>				<i>Total number of beneficiaries</i>	<i>Total investment*</i>
	<i>Mothers</i>	<i>Older persons</i>	<i>Persons with disabilities</i>	<i>Children with disabilities</i>		
2002	940 767	226 681	9 075		1 176 523	
2003	1 047 499	226 880	8 883		1 283 262	
2004	840 305	218 292	7 876		1 066 473	
2005	917 037	211 940	7 596		1 136 573	163 830 899
2006	979 008	198 056	5 039		1 182 103	178 782 573
2007	1 005 967	243 852	19 923		1 269 742	382 546 028
2008	1 011 955	274 522	22 915	1 458	1 310 850	399 825 268
2009**	1 007 903	276 610	23 557	1 986	1 310 056	31 813 740

Source: Ministry of Economic and Social Inclusion.

* Based on the total number of persons who actually cashed the vouchers.

** Number of beneficiaries as of March 2009. The figures for previous years are as of December.

327. An analysis of the central government's budgetary transfers to social sectors in 2007 undertaken by the Ministry of Economics and Finance and the Ministry for the Coordination of Social Development, with the support of UNICEF and the Faro Group, highlights the following achievements:

(a) The year 2007 bore witness to an increase in fiscal resources and an improvement in the management of transfers. The central government paid out US\$ 4.218 billion and managed to increase the proportion of the budget devoted to transfers from 88 per cent in 2006 to 98 per cent in 2007. This indicates that more resources were placed at the disposal of the various governmental agencies on a more timely basis for the implementation of their activities;

(b) In 2007, the social sector, comprising the Ministry of Education, the Ministry of Public Health, the Ministry of Economic and Social Inclusion, the Ministry of Labour and Employment and the Ministry of Urban Development and Housing, received a total of US\$ 2.313 billion in fiscal resources. This sum was 45 per cent more than the sector's budgetary allocations in 2006 and amounted to 55 per cent of sectoral resource transfers registered up to December 2007. This means that the social sector received a larger share of budgetary resources than other areas such as the defence, production and administrative sectors. This sectoral order of priority in budgetary allocations attests to the importance attached to human development and the fight against poverty under the country's current fiscal policy.

328. The progress achieved in terms of improved fiscal management and greater emphasis on the social sector is indicative of the Government's progressive budgetary management reform efforts. Both the Government and civil society institutions hope to build upon that progress in the fiscal years ahead by furthering an approach based on shared responsibility for fiscal expenditure to benefit the most vulnerable population groups; to improve the corresponding mechanisms in order to make them more equitable and ensure that they provide a basis for a results-based evaluation of the quality and impact of public spending; to refine mechanisms for ensuring accountability and transparency in public finances; and to improve the budgetary management of social investment.

329. In an effort to ensure that the Human Development Voucher benefits those who have real need of it, the Ministry for the Coordination of Social Development and the National Statistics and Census Institute have rolled out a social registration programme in 995 parishes in 220 cantons of the country's 24 provinces. Between December 2007 and June 2009, 2,400,000 households had been visited. During this period, data was collected from areas where no census had previously been carried out. In order to reach these areas, it was necessary to hire light aircraft, motorboats and other complicated modes of transport. This ambitious project reached thousands of homes that had not been registered by previous initiatives.

330. Several variables were taken into account when registering the members of these households: basic services, housing conditions, the members' employment status, waste disposal methods used by the household, overcrowding and their water-supply sources, among others. Information was not recorded on such matters as whether the family was registered with the social security system or whether the children attended a school that charged a monthly fee. The project cost US\$ 13,400,000, and the value of the Human Development Voucher is set to rise from US\$ 30 to US\$ 35 in August 2009.

2. The right to adequate food

331. Article 13 of the Constitution states that: "Individuals and communities have the right to secure, permanent access to an adequate supply of healthy, nutritious food, which should preferably be produced locally and in keeping with their various identities and cultural traditions. The Ecuadorian State shall undertake to promote food sovereignty."

332. On the subject of food and nutrition, chapter II, article 16, of the Health Act states that: "The State shall develop an intersectoral policy on food and nutrition security aimed at eradicating bad eating habits and upholding and promoting traditional knowledge and practices, as well as encouraging the use and consumption of regional produce. The policy shall guarantee permanent access to an adequate supply of healthy, varied, nutritious, safe food."

333. On the subject of consumption and nutrition, in title IV of the Food Sovereignty Act, article 27, which deals specifically with incentives for healthy eating, provides that: "In order to reduce and eradicate undernourishment and malnutrition, the State shall undertake to encourage the consumption of nutritious food, which should preferably be agroecological and organic in origin, by supporting the marketing of such foods, advertising campaigns and nutritional education activities to promote healthy eating, the identification of their nutritional values and nutrition labelling, and the coordination of public policies."

334. When measured using the new World Health Organization (WHO) reference standards on undernourishment, the 2004 rate of undernourishment stood at 29 per cent, while the Standard of Living Survey showed that, in 2006, the rate of chronic undernourishment in children aged 5 years and under amounted to 26 per cent. Furthermore, 14 per cent of schoolchildren and 22 per cent of adolescents were either obese or overweight.

335. The Ministry of Public Health has launched various programmes to safeguard the right to adequate food. The main programmes include the National Food Supplement Programme (formerly the Food and Nutrition Programme, 2000), which provides free nutritional supplements called *Mi papilla* to children aged 2 years and under, as well as the *Mi bebida* supplement to pregnant women and breastfeeding mothers. Distribution of the *Mi papilla* supplement was found to have reduced anaemia by 48 per cent.

336. Furthermore, the National Micronutrient Programme provides iron and vitamin A supplements to children countrywide. Under this programme, the iron intake of children under 1 year of age has increased from 20 per cent to 40 per cent, while the iron intake of pregnant women has increased from 40 per cent to 71 per cent. The vitamin A intake of children aged between 6 and 11 months has risen from 12 per cent to 15 per cent while the vitamin A intake of children aged between 1 and 3 years has climbed from 12 per cent to 149 per cent.

337. The Food and Nutrition Education Programme has developed a series of pedagogic materials, such as a manual for health workers on healthy eating that includes 17 modules on food and nutrition, and guidance is also offered to health workers and mothers through the programme's operational units. The year 2006 saw the establishment of food and nutrition networks and the launch of the campaign entitled *Un Ecuador sin malnutrición sí es posible* ("We can free Ecuador from malnutrition"). Supplementary materials such as healthy-eating guides for schoolchildren and adolescents, procedural manuals for hospitals staff and guides for school cafeterias have also been produced.

338. Ecuador guarantees equal access to food, land, credit and natural resources through its governmental institutions. These institutions endeavour to ensure equal access in accordance with article 2 of the Food Sovereignty Act, which states:

"Article 2: The provisions set forth herein are comprehensive, intersectoral and concern the public domain and social interest. They regulate the exercise of the right to live well (*sumak kawsay*) as it relates to food sovereignty. The scope of its provisions extends to agricultural food production, agricultural diversity and seeds; research and the exchange of information; food production, processing, conservation, storage, trade, marketing and consumption; the healthfulness of food and food quality, safety and nutrition; social participation; regional planning; the agricultural frontier; water resources; rural and agrifood development, agro-industry, and rural and agricultural employment; associations and communities of microentrepreneurs, microenterprises and micro-small and medium-sized producers and funding arrangements; and all mechanisms pertaining to food sovereignty. The standards and policies deriving from this Act shall ensure unconditional respect for the rights of nature and the management of natural resources, in keeping with the principles of environmental sustainability and good production practices."

339. Ecuador has taken a number of practical steps through the Independent Agricultural Research Institute to consolidate policies on research, technology transfer and the provision of services, all of which have been approved for the period 2006–2016. These measures are centred on the implementation of strategies based on the principle of complementarity with a view to boosting agricultural trade by working towards that objective together with producers' trade unions, NGOs, public bodies, regional development organizations, municipal bodies, provincial councils, suppliers, polytechnic colleges, universities, international centres for agricultural research, financial bodies, international cooperation agencies, and horizontal cooperation and development programmes. This institutional focus has paved the way for the entry into force of 138 agreements in 2009 (89 of them domestic and 49 of them international) and has been instrumental in ensuring continuous quality improvement and responsible partnering.

340. The Independent Agricultural Research Unit meets the objectives set out in its policy through technology transfer, which is the transfer of knowledge deriving from basic and applied scientific research through teaching, outreach and information activities. These activities are undertaken as part of the programmes implemented by the Directorate of Innovation Transfer, a national establishment that liaises with seven experimental stations located in the highlands, the coastal region and eastern Ecuador. The number of skilled agricultural workers has grown steadily since 2005, as illustrated in the table below, which shows figures up to and including the first quarter of 2009.

Table 16
Skilled agricultural workers

Year	Number of skilled agricultural workers			Total
	Coastal region	Highlands	Amazon region	
2005	2 200	2 200	300	4 700
2006	3 317	800	600	4 717
2007	2 813	1 678	1 000	5 491
2008	3 500	3 000	1 100	7 600
2009	1 100	900	700	2 700

Source: Independent Agricultural Research Institute, 2009.

341. The Independent Agricultural Research Institute has mainstreamed the gender perspective into its training programmes in recognition of the fact that the women of indigenous and Afro-Ecuadorian communities have acquired valuable knowledge concerning the development and preservation of traditional crops and seeds.

342. The departments of the Independent Agricultural Research Institute responsible for soil and water, plant protection, biotechnology and plant genetics have developed natural-resource management strategies aimed at supporting clean agriculture. The use of red-label agricultural chemicals is strictly prohibited, while the use of biological disease control technologies and of individual germplasm banks as a basis for the genetic improvement of crops are encouraged.

343. The country's national development bank, the Banco Nacional de Fomento, has introduced a special microcredit facility for small producers. In 2007, the Banco Nacional de Fomento extended credit amounting to US\$ 9 million (51 per cent of the total credit granted to male borrowers) to 5,955 men (49 per cent of the total number of male borrowers) via this facility US\$ 8.4 million (49 per cent of the total) to 6,118 women (51 per cent). In 2009, 7,011 rural producers received loans amounting to US\$ 10 million (61 per cent) while 4,638 urban clients received a total of US\$ 6.5 million (39 per cent).

344. When disaggregated by region, 4,760 clients in the coastal region received US\$ 7 million, which accounted for 41 per cent of the total, while, in the highlands, 5,818 clients received US\$ 8 million (49 per cent). In eastern Ecuador, 900 clients received US\$ 1 million (8 per cent). In the Galapagos Islands, there were 171 beneficiaries, accounting for 1 per cent of the total, who received US\$ 0.3 million (2 per cent).

345. The Banco Nacional de Fomento granted US\$ 3 million (15 per cent) in loans to 2,074 clients in the agricultural sector (8 per cent); US\$ 4 million (22 per cent) in loans to

2,186 clients in traditional cottage industries (19 per cent); and US\$ 10.5 million to 7,389 clients in other sectors (63 per cent). These and other actions aimed at guaranteeing the people's access to their economic rights are provided for, first and foremost, in chapter four of the Ecuadorian Constitution.³²

346. Ecuador has not yet adopted the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agricultural Organization of the United Nations during its 127th session, which took place in November 2004.

3. The right to water

347. The Ecuadorian Constitution attaches the greatest possible importance to guaranteeing adequate access to water. Article 3 of the Constitution establishes that access to water is a fundamental human right, while articles 12, 313 and 318 state that the country's water resources are part of the national heritage, that their public use is an inalienable and imprescriptible right and these resources are immune from seizure. Articles 397 and 411 guarantee the right of individuals and communities to live in an environment that is healthy and ecologically balanced and establish an obligation to ensure environmental conservation and management and the restoration of river basins and water resources. Articles 313 and 318 identify water as a strategic resource, while articles 85, 95 and 395 prohibit the monopolization of the water supply and encourage citizen participation in matters concerning this vital resource.

348. According to the results of the fourth round of the Standard of Living Survey, which was conducted in 1998, 54 per cent of households had a water connection in the home; 73 per cent of urban dwellings had such a connection, as opposed to only 46 per cent of households in rural settlements and 18 per cent of isolated rural dwellings. Furthermore, upon assessing the standard of living in each area, it became clear that the prevalence of access to drinking water is correlated with income level and that, for any given income level, the proportion of households with access to drinking water is greater in urban areas than in rural settlements and greater in the latter than it is for isolated rural dwellings. In general, the percentage of households that do not have to treat their water decreases as the economic standard enjoyed by those households increases.

349. The relevant indicator used in the fifth round of the Standard of Living Survey, conducted in 2005, identified households whose members had a high risk of contracting an infectious disease for the following reasons: no access to drinking water via a public network; no access to a lavatory or waste disposal system; and failure to treat water prior to consumption. The following data were compiled:

Table 17

Households whose members are at risk of contracting diseases

<i>Area</i>	<i>Households</i>
National	462 930
Urban	55 780
Rural	407 150

³² See the annex for the text of the Constitution of 2008.

<i>Region</i>	<i>Households</i>
Coastal	186 313
Highlands	234 989
Amazon	41 628

Source: Standard of Living Survey, fifth round, National Statistics and Census Institute (INEC), 2005.

350. According to the National Secretariat for Water Resources, the water supply in almost half of all urban centres is subject to interruptions, leading to water losses of up to 65 per cent. Thirty per cent of the country's urban centres do not treat the surface water that they collect for consumption properly, with the result that, at the national level, 92 per cent of the water goes untreated. This situation is exacerbated by the practice of dumping waste into rivers and gullies.

351. In all, 70 per cent of the country's watercourses are polluted by untreated wastewater from towns and cities and by fertilizers, which cause eutrophication in lakes and reservoirs. Cuenca is the only city that treats its sewage. In addition, little attention has been paid to the pollution of surface water or groundwater by the mining and oil drilling industries.

352. The National Water Resources Plan, which is being implemented by the National Secretariat for Water Resources, provides for a participatory, community-based approach to the comprehensive management of water resources. The plan focuses on the conservation and protection of water resources and vulnerable areas such as the high plains, forests and mountainsides; reforestation with appropriate native species; the protection of river basins and sub-basins; and the regulation and monitoring of activities affecting water sources.

353. The National Plan provides for actions aimed at monitoring and controlling water quality. As part of this effort, a series of physical, chemical and biological water-quality indices will be developed for the primary and secondary rivers of a pilot hydrographic basin as a basis for the zoning of sectors vital to water quality. It is hoped that the pilot project will succeed in developing water-quality indices for at least 30 per cent of the primary and secondary rivers in the basin; these indices will then serve as a baseline for further work.

354. The National Water Resources Plan is designed to promote a new approach to water resources through training, education and awareness-raising. Both ancestral methods adapted to the contemporary situation and eco-friendly practices that are applied in other countries will be used. The Plan provides for the use of social participation mechanisms for water resource management and for the formulation of guidelines and the development of capacity-building initiatives to encourage citizens to participate in seven river basin councils (40 per cent of the total number of river basin councils in the country).

4. The right to adequate housing

*Findings of the National Standard of Living Survey*³³

355. The housing section of the fifth round of the Standard of Living Survey compiled information on the physical characteristics of dwellings; the ways in which the various

³³ *Las Condiciones de vida de los ecuatorianos* (see footnote 31), data on housing.

rooms were used; the availability and cost of basic services; property ownership; the improvement, structural additions and improvements; and the energy sources used.

356. The indicators used to measure aspects of the standard of living relating to dwellings were the following:

- (a) Main access routes;
- (b) Amount of living space;
- (c) Deficiencies in housing quality;
- (d) Use of domestic gas;
- (e) Electrical appliances;
- (f) High risk of contracting infectious diseases;³⁴
- (g) Households headed by women who own the dwelling.

357. The following tables offer a summary of the findings for each indicator.

Main access routes

358. Three types of access routes were taken into consideration:

- (a) **Type A:** paved access routes;
- (b) **Type B:** access routes that are cobbled or composed of gravel or earth;
- (c) **Type C:** access routes that are paths, waterways, trails accessible only in summer, steps or ramps and bridges.

Table 18
Types of dwellings, by area

Area	Access routes		
	Dwellings		
	Type A	Type B	Type C
National	1 495 081	1 435 225	334 650
Urban	1 316 101	804 759	31 430
Rural	178 980	630 466	303 130

Table 19
Types of dwellings, by region

Region	Access routes		
	Dwellings		
	Type A	Type B	Type C
Coastal	696 835	777 311	134 397
Highlands	760 896	589 019	169 682

³⁴ Information on this indicator was given earlier in the section on the right to water (see paragraph 349).

<i>Access routes</i>			
<i>Dwellings</i>			
<i>Region</i>	<i>Type A</i>	<i>Type B</i>	<i>Type C</i>
Amazon	37 351	68 895	30 480

Amount of living space

359. A dwelling is considered to have sufficient living space when it has more than two rooms for up to five family members without counting the kitchen.

Table 20
Dwellings with sufficient living space, by area

<i>Dwellings with sufficient living space</i>	
<i>Area</i>	<i>Dwellings</i>
National	1 593 162
Urban	1 140 487
Rural	452 675

Table 21
Dwellings with sufficient living space, by region

<i>Dwellings with sufficient living space</i>	
<i>Region</i>	<i>Dwellings</i>
Coastal	702 683
Highlands	834 257
Amazon	56 222

Deficiencies in housing quality

360. As a rule, deficiencies in housing quality are not indicative of a need to construct more dwellings but rather to improve their quality. Deficiencies of this sort are defined in terms of three aspects: materials, living space and amenities. If any one of these aspects is found to be lacking, the dwelling is considered to be deficient.

Table 22
Deficient housing quality, by area

<i>Deficient housing quality</i>				
<i>Area</i>	<i>Overcrowding</i>	<i>Basic amenities</i>	<i>Materials</i>	<i>Deficient</i>
	<i>Dwellings</i>			
National	972 827	1 316 561	2 338 651	2 463 916
Urban	572 372	433 181	1 316 196	1 403 199
Rural	400 455	883 380	1 022 455	1 060 717

Table 23
Deficient housing quality, by region

<i>Region</i>	<i>Deficient housing quality</i>			
	<i>Overcrowding</i>	<i>Basic amenities</i>	<i>Materials</i>	<i>Deficient</i>
	<i>Dwellings</i>			
Coastal	552 189	749 539	1 287 435	1 335 421
Highlands	372 127	480 643	938 425	1 008 322
Amazon	48 511	86 379	112 791	120 173

Use of domestic gas

361. Only households that had purchased and used domestic gas during the previous month (the time frame used in the survey) were taken into consideration when evaluating the ways in which this energy source was used.

Table 24
Use of domestic gas, by area

<i>Area</i>	<i>Use of domestic gas</i>	
	<i>For cooking</i>	<i>For cooking and/or other purposes</i>
	<i>Households</i>	
National	2 599 708	178 962
Urban	1 765 334	147 571
Rural	834 374	31 391

Table 25
Use of domestic gas, by region

<i>Region</i>	<i>Use of domestic gas</i>	
	<i>For cooking</i>	<i>For cooking and/or other purposes</i>
	<i>Households</i>	
Coastal	1 332 793	35 810
Highlands	1 182 887	140 308
Amazon	94 028	2 844

Electrical appliances

362. Information was collected on households that have televisions; DVD, VHS and VCD players; a computer; an Internet connection; a fixed-line telephone; a tape recorder or a hi-fi system.

Table 26
Households with a computer

<i>Provinces with the highest percentages of households with a computer</i>		
<i>Provinces</i>	<i>Households</i>	<i>Percentage</i>
Pichincha	221 000	31.4
Azuay	42 265	26.3
Imbabura	18 449	19.4

Households headed by women who own the dwelling

363. Information was compiled on dwellings that have been paid for in full and for which a property deed or certificate of ownership is held by a female head of household.

Table 27
Owned dwellings, by region

<i>Property deed held by a female head of household</i>	
<i>Region</i>	<i>Female head of family</i>
Coastal	113 575
Highlands	116 619
Amazon	5 998

Table 28
Owned dwellings, by area

<i>Property deed held by a female head of household</i>	
<i>Area</i>	<i>Female head of household</i>
National	236 193
Urban	174 233
Rural	61 960

Measures to guarantee access to adequate and affordable housing

364. In Ecuador, the Ministry of Urban Development and Housing has developed an incentive system whereby families living in or in the outskirts of urban areas or in rural areas receive a one-off, non-refundable voucher enabling them to construct a dwelling on land legally owned by them or, should they not own land, to purchase a dwelling.

365. Between 2003 and 2006, a loan from the Inter-American Development Bank was used to issue vouchers worth US\$ 1,800 and US\$ 750 for new urban dwellings and improvements, respectively. As of January 2007, the value of the vouchers was raised to US\$ 3,600 and US\$ 1,500, respectively. If a family does not own any land, housing or real estate development plans must be submitted to the Ministry of Urban Development and Housing by the potential seller. After the plans have received municipal approval, the family may reserve a dwelling by entering into a purchase agreement and may then apply to the Ministry, through the seller, for the voucher.

366. Under Act No. 3, which deals with cross-subsidies from urban property tax proceeds for rural dwellings, vouchers worth US\$ 500 for the construction of new dwellings and vouchers worth US\$ 250 for housing improvements were issued between 2003 and 2006. In

2005, this law was repealed by the Municipalities Act, which provided that rural dwellings would be financed out of the national budget. As of January 2007, the value of the vouchers was raised to US\$ 3,600 for the construction of new dwellings and to US\$ 1,500 for housing improvements. Currently, the value of the voucher for the construction of new dwellings is differentiated by income level: US\$ 5,000 for families in the first and second SELBEN income quintiles, and US\$ 3,960 for families in the third quintile.

367. Until 2006, the vouchers issued by the Ministry of Urban Development and Housing were used to purchase materials, and the Ministry provided technical assistance to the communities, which were responsible for the construction and improvement of dwellings. When the value of the voucher was raised in January 2007, the Ministry began to outsource the construction and improvement of dwellings to professionals in the private sector, who have to pre-qualify as contractors, under the terms of the Public Procurement Act.

368. Between 2003 and 2009, 32,289 vouchers were issued for the construction of new dwellings in the urban sector while 29,812 vouchers were issued for housing improvements, amounting to a total investment of US\$ 129,293,100. During the same period, 131,524 vouchers were issued for the construction of new dwellings in rural and peripheral urban areas, while 16,571 vouchers were issued for improvements, amounting to a total investment of US\$ 436,407,540.

369. In 2007, the Ministry of Urban Development and Housing approved regulations on incentives for the acquisition or construction on legally owned land of dwellings and for housing improvements in rural or peripheral urban areas. These regulations intended are to ensure that dwellings are not constructed in polluted areas or in areas that are in close proximity to sources of pollution that could pose a risk to the health of their inhabitants. Article 9 provides that:

“Article 9: Those responsible for developing housing projects must give consideration to the following aspects when selecting development sites: [...]

(d) The land shall not be located in areas designated as an ecological reserve or in areas where there is a high level of pollution; the construction or improvement of dwellings should not be harmful to the environment, nor should dwellings be located on land subject to expropriation (for roadworks, electricity grids, etc.). Buildings should not be located in high-risk zones where there is a danger of landslides, flooding or volcanic eruptions; building sites shall not have an incline of more than 40 per cent. All technical regulations of the corresponding municipality shall be observed.”

370. In 2009, the aforementioned regulations were amended. Article 36 reads as follows:

“Article 36: Land or buildings where there is no prospect of installing basic infrastructure or utility hook-ups or that are located in areas that the municipality has not approved for residential construction, shanty towns, illegal settlements, ecological reserves and high-risk zones shall not be eligible for the housing incentives system. These include:

- Land prone to flooding;
- Land prone to landslides;
- Land in gullies or with an incline of more than 40 per cent;
- Land where the water table is less than 50 cm from the land surface;
- Land located on or next to toxic waste or landfill sites;
- Land that is subject to expropriation.”

371. In its 2007 study entitled *Diagnóstico de la situación del derecho de las mujeres a la vivienda adecuada desde una perspectiva de género en Ecuador* (Analysis of the situation concerning the right of women to adequate housing in Ecuador from a gender perspective), the Latin American and Caribbean Committee for the Defence of Women's Rights (CLADEM) states that the country does not possess official records on persons living in illegal settlements or for those who have been evicted. The Ecumenical Human Rights Commission has stated that it received 446 complaints regarding evictions (370 in rural areas and 76 in urban zones) between 1980 and 2006. It also reports that, between 1992 and 2006, 96 of these complaints regarded evictions from land while 61 regarded evictions from dwellings; these evictions involved a total of 3,731 families. The organization does not possess data disaggregated by gender, as its records were compiled solely on the basis of the number of individuals or families affected.³⁵

372. Under Ecuadorian law, evictions may be ordered as a means of carrying out a legal decision taken by the competent authority when the State elects to appropriate private property. The State may acquire private property by issuing a statement declaring that the property is to be put to public use and by instituting expropriation proceedings, as is the standard procedure prior to ordering an eviction. It should be noted that:

(a) The Constitution confers upon all State institutions, without distinguishing between municipalities and other bodies, the power to declare that private property is to be put to public use;

(b) The parties concerned are given a period of 90 days to reach an agreement;

(c) The law allows the agency carrying out the expropriation to pay up to 10 per cent more than the appraised value of the property;

(d) Provisions empowering such agencies to issue a statement declaring that a property is to be put to public use as a matter of urgency and is subject to immediate expropriation have been removed from the relevant Act and regulations.

373. In accordance with the Committee's general comment No. 7, the time frame established by the relevant Act and regulations for the conclusion of an agreement between the affected party and the expropriating institution is a positive step towards minimizing the risk of an eviction.

374. In addition to the aforementioned legal framework, the following laws also make provision for the issuance of a declaration that private property is to be put to public use and the attendant eviction of its occupants:

(a) Cultural Heritage Act, article 35;

(b) Hydrocarbons Act, article 91;

(c) Ecuadorian Atomic Energy Commission Act, article 18;

(d) Reserves and National Parks Preservation Act, article 1;

(e) Puerto de Guayaquil Creation Act, article 13;

(f) Transport, Transit and Road Security Act, article 20;

(g) Special Telecommunications Act;

³⁵ CLADEM Ecuador. *Diagnóstico de la situación del derecho de las mujeres a la vivienda adecuada desde una perspectiva de género en Ecuador*, Quito, July 2007. Title 1.6.6, paragraph 2, of "Mujeres víctimas de desahucio y/o desalojos forzosos".

- (h) Power Sector Act, article 13;
- (i) Mining Act, article 64;
- (j) Agricultural Development Act, article 90;
- (k) Municipalities Act, article 236;
- (l) Road Concession Regulations, article 18;
- (m) Regulations of the Superintendency of Telecommunications on Concessions Contracts.

375. In addition to evictions initiated by declarations that private property is to be put to public use, evictions may be conducted in order to reclaim public spaces or to safeguard ownership rights over rural land. In cities, the municipal police may order an eviction in order to reclaim public spaces, as provided for in the Municipalities Act and local statutes, as in the municipality of Quito.

376. Furthermore, the Agrarian Development Act endows the National Institute for Agrarian Development with the power to order evictions to safeguard tenure rights to any land that it has allocated in the event of its encroachment by shanty towns.

377. The laws regulating such evictions do not specify the exact nature of the procedure to be followed prior to, during or following the eviction.

378. The law distinguishes between rental contracts within and beyond city limits. Rentals within city limits are regulated by the Tenants Act, which was published in *Registro Oficial* No. 196 of 1 November 2000. Rentals outside city limits are regulated by the Civil Code (codified in 1970).

379. The Tenants Act does not set out rights of possession or guarantees to protect against eviction. However, it does prescribe certain other measures, such as setting the minimum length of a contract at two years. The landlord cannot make use of the property for the duration of the contract.

380. The contract may be brought to an end prematurely if the tenant commits any of the following acts: failure to make rental payments for two consecutive months; risk of destruction of the property; excessive noise or physical confrontation; damage to the property; unauthorized subletting; the performance of unauthorized alterations or work on the property. Alternatively, the landlord may decide to demolish or reoccupy the property. Evidence of these acts must be provided in court, in which case the judge may declare the contract to be terminated.

381. Should the rented property be sold, the new owner has up to 30 days to give the tenant notice; failing that, the contract will be understood to still be binding. The landlord must also give the tenant notice 30 days before the contract is due to expire; otherwise the contract will be understood to be extended for another year.

382. Title XXV of book IV of the Civil Code regulates rentals. The guarantees in place for tenants include the duty of the landlord to remove all obstacles to the tenant's full enjoyment of the rented property. Should such obstacles arise, the tenant has the right to claim damages. The rental contract ends upon its expiration, except in the case of prior eviction.

383. The legislation regulating rentals is derived from the principles of civil law but does not incorporate the human right to decent housing. An amendment is therefore needed to harmonize secondary legislation with article 375 of the current Constitution, which stipulates that: "the State, at all levels of government, shall guarantee the right to decent housing".

K. Article 12: right to health

384. Article 358³⁶ of the Constitution stipulates that: “The national health system shall be designed to ensure the development, protection and restoration of people’s abilities and potential to live a healthy and complete life, both individually and collectively, and shall recognize social and cultural diversity. The system shall be governed by the general principles of the national system of social equity and inclusion and by the principles of bioethics, sufficiency and interculturalism and shall reflect sensitivity to gender and generational issues.”

385. The Constitution also establishes that the institutions making up the health-care system shall promote health, prevention and comprehensive care for families and communities, with an emphasis on primary health care. It further provides that the system shall coordinate the various levels of care and promote complementarity with ancestral and alternative medicines. All diagnostic procedures, treatments, medicines and rehabilitation support provided by public health services are to be provided to all free of charge.

386. The Constitution also provides that the comprehensive public health-care network shall be part of the overall national health system and shall be composed of all relevant State institutions, the social security system and other public health-care providers; legal and operational mechanisms will ensure their coordination and complementarity. The national health system shall be governed by the principles of equity, quality, efficiency, participation, plurality, solidarity, universality, decentralization and autonomy.

387. Objective 3 of the National Development Plan is to increase life expectancy and the quality of life by means of policies for promoting sectoral development and the organization and operation of the national health system.

Measures adopted to guarantee the right to access to health care

388. The Government will finance State health institutions. It may also provide financial support to independent private health-care facilities, provided that they are non-profit, do not charge for their services, comply with public policies and ensure quality, safety and respect for the rights of individuals. These institutions shall be subject to Government monitoring and regulation. In accordance with the established procedures for implementing the regulations on private health-care services, the directors of health services at the provincial level are responsible for conducting inspections of all health-care facilities, which are required to have an operating licence, and of private health-care services, in particular.

389. The Health Act requires health-care facilities to post the rates that they charge for their services in an area visible to the public. These rates must be approved by the national health authority. The country’s health commissioners are responsible for implementing this provision and applying the corresponding penalties, as appropriate.

390. There are regulations on safety signage in health-care establishments in Ecuador that specify how services and areas are to be identified and what types of safety symbols, signs and colours are to be used in order to prevent accidents and warn people about hazardous materials or sites. Signs providing information about each health-care establishment’s emergency plan are also required.

³⁶ See Constitution of Ecuador, title VII: System of good living, chapter 1: Inclusion and equity, section 2: Health.

391. In addition, the Government, in fulfilment of its obligations under the international human rights system, will develop a special training module on human rights and patients' rights for all staff working in the public health-care system. The Government will also be working on curricular development in coordination with the National Institute of Higher Education with a view to incorporating the issue of human rights into the training provided for all persons working in the public sector.

392. In an effort to improve maternal and child health-care services and sexual and reproductive health services, in 2005 the Ministry of Health implemented a national policy on health and sexual and reproductive rights with the aim of offering a variety of services to help lower the maternal mortality rate.

393. Implementation of a plan aimed at rapidly reducing maternal and neonatal mortality began in 2008 as part of the Government's policy in this respect. The plan's objective is to reduce maternal mortality by at least 30 per cent and neonatal mortality by at least 35 per cent by the year 2010.

394. In 2007, a collaborative project was launched to improve the way in which obstetric complications are handled in five provincial hospitals in Esmeraldas, Cotopaxi, Tungurahua, Chimborazo and El Oro. Special teams were set up to lead this effort. Work to further improve the quality of services has thus far been carried out in 10 provinces in the country under the plan for the reduction of maternal and neonatal mortality.

395. Intercultural models are also being developed which include strategies and proposals for implementation of the Intercultural Health Model. These efforts will serve as a foundation for intercultural health policies and are being overseen by the Coordinating Body on Intercultural Medicine of the Ministry of Health.

396. The Ministry of Health provides comprehensive, community-based health-care services at each stage of the life cycle. The institution's network of 1,864 health-care facilities provide developmental services, health promotion, disease prevention and recovery support services and are distributed as follows:

- (a) First-level health care: 1,737 (health centres, urban clinics, rural clinics, mobile health units, a floating (river-borne) clinic and health posts);
- (b) Second-level health care: 112 (general hospitals and basic hospitals);
- (c) Third-level health care: 15 (specialized hospitals). Each of the operational units has an established response capacity.

397. The objectives of the Safe Water Programme are to prevent, treat and monitor water-borne diseases and to ensure proper sanitation. As part of this programme, water-resource boards, schools and communities in rural areas of the country are monitoring water quality and disinfecting water for domestic use. Machines for the production of hypochlorite for use in disinfecting water have also been acquired and distributed to health districts, water-resource boards and schools in rural areas. There are currently 20 sets of the equipment needed to analyse and monitor water quality in different health districts around the country, 60 sodium hypochlorite production centres and 20 mobile laboratories.

398. In recent years, vaccination programmes have been carried out throughout the country, as outlined in the following table.

Table 29
Vaccination programmes

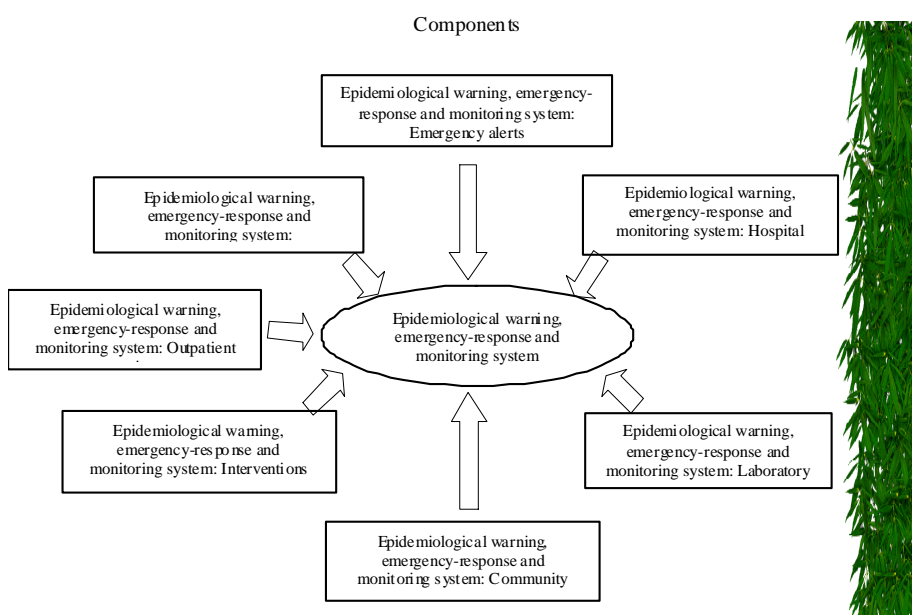
Year	Vaccinations
2006	Seasonal influenza vaccinations for the elderly and children from 6 to 23 months old
2007	Rotavirus vaccinations for children from 2 to 6 months old Pneumococcal 23-valent vaccine for the elderly and adults with chronic illnesses Hepatitis B vaccinations for schoolchildren from 12 to 14 years old
2008	Pneumococcal 23-valent vaccine for children over 2 years old Pneumococcal 7-valent vaccine for children less than 1 year old or with a chronic illness or a weakened immune system Injectable polio vaccinations for children with a chronic illness, cancer or a weakened immune system

Source: Ministry of Health, 2009.

399. In addition to the vaccination programme, epidemiological monitoring of vaccine-preventable diseases is also conducted.

400. The country's warning, emergency-response and monitoring system is its most important tool for handling public health emergencies. Mitigating the effects of disasters and stemming the transmission of disease are core objectives. This system is designed to identify emergency situations, mount a rapid response and conduct epidemiological research to identify modes of transmission and sources of infection. The ways in which it operates is illustrated in the following graph.

Figure 5
Components of the warning, emergency-response and monitoring system



Source: Ministry of Health, 2009.

401. Outbreaks and epidemics can be tracked by monitoring symptoms and signs (suspected cases) or through aetiological diagnosis of probable or confirmed cases. The sources of information used for this purpose are daily reports on outpatient care, the registry of discharges from hospital and the registry of deaths maintained by the teams located in the 169 health districts located throughout the 22 provinces of the country.

402. In the case of outbreaks, epidemics, disasters or other emergencies, notification is sent out via the quickest available means of communication (telephone, fax, e-mail, etc.).

403. The work of the persons responsible for inputting information into the system at its various levels is coordinated through the system.

Table 30

Responsibilities during outbreaks and epidemics

<i>Level</i>	<i>Persons responsible</i>
Formal and informal community level	Community leaders Health promoters or volunteers
Local operational level	Health team of the local operational unit: doctor, nurse or nursing assistant
Hospitals	Health team of the hospital
District office level	District coordinator and/or district epidemiologist
Provincial level	Provincial epidemiologist
Central level	Department of Epidemiological Monitoring

Source: Ministry of Health.

404. In an effort to prevent alcohol and tobacco abuse and the use of illegal drugs and other harmful substances, particularly among children and adolescents, and to ensure adequate treatment and rehabilitation for drug addicts and support for their families,³⁷ in 2006 Ecuador ratified the World Health Organization Framework Convention on Tobacco Control, and in 2008 it established a national anti-smoking campaign. The Government also runs a prevention programme under which smoke-free areas are being established in secondary schools, universities and other institutions in the country.

405. A project was launched in 2009 to remedy the shortcomings of support centres for drug addicts. Services are contracted under this project to assist these patients in accredited private or municipal centres. Patients are chosen to participate in this project on the understanding that their families must agree to cooperate in their treatment.

406. HIV/AIDS prevention work has been carried out in various areas in Ecuador in recent years. In 2006, a campaign launched to prevent vertical transmission enjoyed widespread intersectoral and inter-agency participation. The objective of the campaign was to inform, educate and raise awareness among pregnant women and their partners to encourage them to undergo HIV screening. This makes it possible to begin HIV management procedures early on, reduce stigmatization and discrimination, and implement

³⁷ *Ibid.*, para. 16.

a vertical transmission prevention strategy, which consists of the administration of antiretroviral drugs, the scheduling of a Caesarean section and the discontinuation of breastfeeding. These measures can reduce the probability of transmission to between 0 and 2 per cent. Audio-visual materials, promotional posters, educational posters, leaflets and other materials were created and distributed to all health districts in the country as part of this campaign, which proved to be a success, raising the number of screenings per month among the target group by 63 per cent in relation to the first half of 2006.

407. The same campaign was relaunched in 2007 and was once again as successful as hoped. Records show that approximately 95 per cent of AIDS cases in Ecuador are due to sexual transmission (World Health Organization, 2006). In the case of sexually transmitted diseases, the earlier that the chain of transmission is broken, the less harm is done to the health of the population.

408. Primary prevention activities target persons who have a higher risk of contracting HIV/AIDS. In an effort to break the epidemiological chain for sexually transmitted diseases, which have been shown to serve as a gateway for HIV, training in management of the virus, counselling and the prevention of vertical transmission has been provided to 5,221 professionals from all over the country, including doctors, midwives, nurses, medical technicians, social workers and psychologists. This training is also intended to reduce stigmatization and discrimination among health-care providers. In 2008, a total of 241,791 patients benefited from the syndromic management of sexually transmitted diseases, which represents 96 per cent of the target figure, while 218,183 counselling sessions were held for pregnant women; in addition, the information system has been expanded by 60 per cent since 2005.

409. Secondary prevention activities are focused on early diagnosis and care to avoid complications and, in the case of pregnant women, to ensure that the child is born healthy. In 2005, a total of 295 of the pregnant women who were screened were HIV-positive and, of those, 76 per cent (223) received antiretroviral drugs. In 2006, 259 women tested HIV-positive, and 88 per cent of them (229) received antiretroviral drugs. The current prevalence rate is 0.22 per cent among pregnant women. In 2008, HIV-positive mothers gave birth to 374 children, 100 per cent of whom were administered antiretroviral drugs. Also, paediatric versions of these drugs were acquired, which has been a dream for many years. Information on the prevalence of HIV among these children has not yet been compiled.

410. Tertiary prevention activities are focused on preventing HIV/AIDS complications in the long term. In 2006, the importation of generic antiretroviral drugs made it possible to lower the annual treatment cost for persons living with HIV/AIDS from US\$ 1,053 in 2005 to US\$ 343 in 2006, which represented a 32 per cent savings for the country, and to protect 3,811 persons living with HIV/AIDS. Owing to this measure, there are currently no patients on the waiting list for treatment.

411. To date, 28 AIDS clinics have been set up throughout the country, while in 2005 there were only 9. These clinics offer comprehensive support to 3,811 persons living with HIV/AIDS are staffed by trained professionals and have sufficient supplies of antiretroviral drugs and artificial milk at their disposal. Tests to monitor CD4 and viral load are also available in the laboratories of the National Health Institute in Quito, Guayaquil and Cuenca.

412. In order to ensure adequate treatment and care in psychiatric centres for persons with mental illnesses, the Ministry of Health has 2 psychiatric hospitals and 23 general and specialized hospitals with mental health wards, as well as various community mental health services, to meet the demand for care for these patients.

413. In 2008, care was provided to a total of 110,000 patients throughout the country. A system for the periodic review and effective monitoring by the courts of hospitalizations of

patients in psychiatric facilities has not yet been established. The new policies on mental health provide for the deinstitutionalization of chronically ill patients and their reintegration into their families. Such patients are to be monitored and treated by general and community hospitals.

L. Article 13: right to education

414. Title II, chapter two, section 5, of the Constitution, on the rights of “good living”, includes several articles related to the right to education. Articles 26 and 27 establish this right at the national level in the following terms:

“Article 26. Education is a lifelong human right and an absolute and unconditional obligation of the State. As a guarantee of equality and social inclusions and an indispensable prerequisite for good living, it shall therefore constitute a priority area for public policymaking and State investment. Individuals, families and society have the right and responsibility to participate in the educational process.

Article 27. Education shall be human-centred and shall guarantee holistic human development in the framework of respect for human rights, a sustainable environment and democracy. It shall be participatory, compulsory, intercultural, democratic, inclusive and diverse, of high quality and convivial; it shall promote gender equity, justice, solidarity and peace; it shall encourage critical thinking, art and sports, individual and community initiatives, and the development of creative and occupational skills and abilities.

Education is essential for acquiring knowledge, exercising rights and building a sovereign country and is a key component of national development strategy.”

415. Implementing regulations for the Education for Democracy Act were adopted through Executive Decree No. 711 of 5 November 2007, while Ministerial Decision No. 140 of the Ministry of Education officially established the National Education for Democracy Programme and set out guidelines for its implementation throughout the country’s education system. The main objective of this programme is to encourage citizens to be aware, thoughtful and committed to the positive transformation of Ecuadorian society and to internalize and engage in democratic practices on a regular basis. Students are to serve as the principal agents of change and to spearhead this effort in their educational communities and society in general.

416. The mission of the National Education for Democracy Programme is to ensure that the education system, in general, and school curricula, textbooks and teaching practices, in particular, address the following topics: rights and responsibilities in a democracy; principles and values; citizen participation; a culture of peace (codes of conduct; domestic, school and social violence; peaceful resolution of conflicts; crisis management); social inclusion (with regard to ethnicity, age, gender, disability, displaced persons, refugees and migration); interculturalism; gender equity; youth cultures; social responsibility; alcohol and drug use; education about sexuality and love; environmental education; road safety education (mobility and transit); fiscal citizenship (tax culture); and transparency in governance and access to information.

417. The Programme also seeks to impact the country’s education system by promoting projects and initiatives, both inside and outside the Ministry of Education, relating to the aforementioned fields of action.

418. The programme’s target group includes all Ecuadorian children and young people, as well as the teaching and administrative staff of schools in Ecuador and the educational community as a whole. Its different areas of action are as follows:

- (a) Evaluating student welfare and guidance departments with a view to amending their regulations and procedures, providing them with the equipment they need and strengthening their human resources;
- (b) Providing compulsory training for these departments' staff nationwide on subjects that incorporate a new way of thinking about democratic practices, tools, outputs and communication channels;
- (c) Phasing in the subjects addressed by the programme in school curricula, textbooks and teaching practices within the formal education system;
- (d) Promoting student organizations by providing support for student councils, journalism clubs and other activities and initiatives involving a high level of student participation and leadership;
- (e) Promoting educational communication through publications, graphics and audio-visual materials;
- (f) Encouraging transparency in governance by organizing citizen oversight groups, virtual channels for the receipt of information, mechanisms for direct contact and appropriate follow-up on complaints.

419. The present Constitution also establishes the following:

“Article 28. Education shall promote the general welfare of the public and shall not serve individual or corporate interests. Universal access, continued attendance, mobility and the right to complete one's education shall be guaranteed to all persons, without discrimination. Attendance at the preschool, primary and secondary or equivalent levels of education is compulsory.

It is the right of every person and community to interact with different cultures and to participate in a learning society. The State shall promote intercultural dialogue in its many dimensions.

Education shall take place in both school and non-school settings.

Public education shall be universal and secular at all levels and shall be free of charge up to and including the third level of higher education.”

420. In order to give effect to the right to free education, the Ministry of Education has waived the US\$ 25 voluntary contribution that families used to pay to public schools. The objective of this step is to lower access barriers to education and move towards free public education.

421. In 2006, about US\$ 9 million was transferred to the different school systems and provincial directorates to cover the cost of utilities such as water and electricity, minor repairs in public schools, and teachers' salaries that had previously been paid by parents.

422. During this period, for the first time in the history of the education system, textbooks were distributed free of charge to children enrolled in public Spanish-language and bilingual schools in the coastal, highland and Amazonian regions. Since then, the Government has invested US\$ 23 million so that it can continue to waive the US\$ 25 voluntary contribution. It has also expanded the distribution of free textbooks to include the first to tenth levels of basic general education through the *Vitrina Pedagógica* (“educational showcase”) Programme, with an investment of US\$ 15 million by the Ministry of Education and one of US\$ 3,909,175 by the provincial prefectures. Enrolment in the first year of basic general education has also been expanded, with an additional 40,000 children enrolled.

Table 31
Children enrolled in school nationwide

<i>Provinces</i>	<i>Nursery schools</i>	<i>Children</i>
Coastal region	1 612	35 676
Highland and Amazonian region	1 292	21 785
Total	2 904	57 461

Source: Ministry of Education.

423. The Government is committed to carrying out the following actions: ensuring funding of US\$ 1 million for the preparation of textbooks in indigenous languages; hiring 3,000 new teachers in order to provide universal access to the first level of basic general education; establishing regulatory standards for teaching materials, furnishings and equipment in schools; ensuring that an intercultural dimension is part of the reform of basic general education; coordinating the curriculum for basic general education with those for initial and secondary education; promoting a new pedagogical model; and establishing guidelines for the distribution of school uniforms while ensuring that the identities of the various peoples of Ecuador are respected.

424. One of the policies included in the Education Plan for 2006–2015 calls for an increase in enrolment in secondary education to at least 75 per cent of the population in the corresponding age group. The objective of this policy is to train able young people with a focus on interculturalism, inclusiveness and equity, enabling them to go on to higher education and live productive lives, conscious of their national identity, with a pluricultural and multi-ethnic focus, and with respect for collective and human rights, nature and life.

425. The main activities provided for under the plan include:

(a) Designing, implementing and incorporating an intercultural dimension into the new education model for general and technical secondary education, in coordination with basic and higher education under the Spanish-speaking and bilingual systems;

(b) Designing education models for the development of entrepreneurial skills based on a combination of schooling and work experience.

1. Access to higher education

426. Article 1, subparagraph (b), of the Higher Education Act establishes that: “it is the mission of the institutions of the Ecuadorian national system of higher education to seek the truth and to promote universal and Ecuadorian ancestral culture and science and technology through teaching, research and links with the community”. Article 2 further establishes that: “the institutions of the Ecuadorian national system of higher education are fundamentally pluralistic and are open to all forms and trends of universal thought presented in a scientific manner. They focus their activities on providing a comprehensive education that will enable people to contribute to the development of the country, the attainment of social justice, the strengthening of national identity in the pluricultural context of the country, the consolidation of democracy, peace, human rights and Latin American integration, and the defence and protection of the environment.” This approach is reflected in the internal regulatory framework of each institution of higher education.

427. The incorporation of technical and technological institutes into the Ecuadorian system of higher learning has created more opportunities for access to higher education, especially in rural areas. Higher education institutions, including universities and

polytechnics (71), as well as technical and technological institutes (292), can be found in more than 88 urban and rural locations throughout the country.

428. The use of information and communications technologies and new modes of study (such as blended and distance-learning models) over the past six years has been one of the most influential factors behind improved access to education.

429. The available statistics show that the age of students in institutions of higher education ranges from 17 to 83 years. There are four universities for every 100,000 persons between the ages of 18 and 24. The sex distribution of the student population that has enrolled in the past five years has changed significantly, with an increase in the percentage of women compared to men. On average, 54.4 per cent of all currently enrolled students are women, while 45.6 per cent are men.

430. An upward trend can also be seen in the number of graduates from universities and polytechnics and in the percentage of women graduates. In the period from 2003 to 2009, women represented 59.3 per cent of graduates, on average, while men represented 40.7 per cent.

431. The Government employs 9 per cent of the economically active population and 31 per cent of professionals who hold a higher education diploma.

432. The student population in public and partially State-funded universities and polytechnics in 2007 had increased by a total of 51.88 per cent in comparison with 2001.

433. Ecuadorians have made up 99.3 per cent of the entire student population in the past five years, while 0.7 per cent of students were of other nationalities.

2. Measures to combat illiteracy

434. Another policy included in the Education Plan for 2006–2015 calls for the eradication of illiteracy and the strengthening of continuing education for adults. The objective of this policy is to ensure access to the national basic education system for adults who have not finished school and to enable them to continue and successfully complete their education. This is carried out through national basic education programmes geared to adults, with literacy skills being the starting point for the provision of an inclusive education.

435. The National Basic Education Programme for Young People and Adults has been designed to eradicate illiteracy in Ecuador. It comprises the Manuela Sáenz Project (Spanish language); the Dolores Cacuango Project (indigenous languages); the *Cordón Fronterizo* Project (Colombia/Ecuador/Peru border area); the *Voluntad* Project (for prisoners); and the *Discapacidades Diversas* Project (for people with disabilities). The programme and its five projects are implemented by the National Directorate for Continuing Education of the Ministry of Education with the support of the National Directorate for Bilingual Intercultural Education.

436. By August 2009, Ecuador is to be declared free of illiteracy. With this in view, the Government has launched a literacy campaign that is broadcast over radio and television. In addition, the National Basic Education Programme for Young People and Adults has been established in order to help adults complete their basic education. Under this programme, 60,000 second-year high-school students provide literacy tutoring to young people and adults from marginal urban areas, create teaching materials to reinforce the process, and carry out social development work.

437. There are currently 27,000 community educators in the country who provide literacy training, primarily in rural areas. Literacy and post-literacy modules have been developed, as well as supplementary reading materials, school supply kits, assessment forms for

student placement and evaluation forms for use in determining when students can go on to the next grade and for the award of credit for coursework. Workshops have also been held, and 43 vehicles and 43 computers have been distributed to the Spanish-language and bilingual intercultural education systems for follow-up and evaluation activities in the 24 provinces and among the 19 indigenous nationalities.

438. In order to guarantee the right to freedom of education and to ensure the active participation of the community and the family in this right, article 29 of the Constitution establishes that: “The State shall guarantee the right to freedom of education, academic freedom in higher education, and the right of persons to learn in their own language and cultural environment. Mothers and fathers or their representatives shall have the freedom to choose an education for their daughters and sons that is in keeping with their principles, beliefs and approaches to learning.”

439. The Government’s Education Plan for 2006–2015 focuses on promoting interculturalism, inclusiveness and diversity and includes policies for improving both the coverage and the quality of initial, basic and secondary education. These comprehensive policies are being implemented nationwide in Spanish-language and bilingual intercultural education programmes.

440. In order to encourage the participation of indigenous peoples and communities in education, the bilingual intercultural education system is working actively to implement policies for the promotion of the rights of indigenous peoples and nationalities, as set forth in article 57, paragraph 14, and article 347, paragraph 9, of the new Constitution.

441. The Government is fulfilling its obligations before the international community in this respect, including those established under article 27, paragraph 3, of the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) and under article 14 of the United Nations Declaration on the Rights of Indigenous Peoples.

442. The bilingual intercultural education system, through the National Directorate for Bilingual Intercultural Education, designs the educational programme for indigenous nationalities and peoples. This system therefore plays a primary role in bringing about social change, as it places human beings at the centre of efforts to renew the learning process while galvanizing people’s involvement in analysing and reaching decisions about problems arising from their sociocultural and economic situation. The approach taken is one that fosters personal valuation and self-esteem and seeks to strengthen people’s cultural identity. This system allows students, within the context of their families and communities, to share in humankind’s knowledge of the cosmos, to adopt forms of social and personal behaviour that are expressed in linguistic codes and to value and foster material, symbolic and spiritual forms of expression and communication.

443. As part of the effort to incorporate a gender perspective in education, during this reporting period the National Council for Women signed an inter-agency cooperation agreement with the Directorate for Professional Development of the Ministry of Education on gender mainstreaming in teacher training policies. Technical skills relating to gender issues are being strengthened through teacher training modules offered nationwide by the Directorate for Professional Development entitled “Towards Gender Equity in Education”. These modules are included in the advanced training package designed by the National Council for Women for teachers seeking promotion. In coordination with the Directorate for Professional Development, a handbook for teachers has been drafted on gender issues and the eradication of sexual offences in the educational environment.

444. In addition to this programme, the National Council for Women, together with the National Directorate for Parent Involvement of the Ministry of Education, is working to mainstream a gender perspective and an awareness of the human rights of women. As part

of this effort, it has drafted a concept paper on gender and the eradication of sexual offences in the educational environment for use in outreach work with parents.

445. The National Council for Women has also actively supported literacy programmes as part of a gender-awareness approach to teacher training. Additionally, through the offices of the regional under-secretaries of the Ministry of Education, strategic alliances have been formed with local and provincial governments to promote literacy and post-literacy education for women, contributing to the literacy of more than 680 women in the year 2005. As a result of that effort, the town of Cotacachi in the province of Imbabura was declared illiteracy-free. There are 580 women currently participating in post-literacy educational activities, and 380 women in Quito have participated in literacy training.

3. Support for the education of children and the importance of educating girls

446. As stated above, article 27 of the Constitution states that education shall be human-centred and shall promote gender equity, justice, solidarity and peace. Some 90 per cent of all children in Ecuador attend school, with girls tending to outnumber boys.

Table 32

Children in school in Ecuador, 2004

		<i>Children in school (percentages)</i>	<i>Total population</i>
Country		86.1	3 770 533
Sex	Boys	85.3	1 934 861
	Girls	87.0	1 835 671

Source: Integrated System of Social Indicators of Ecuador, 2004.

447. The figures for 2004 show that the percentage of girls between 5 and 17 years of age who attend school is 2 points higher than the enrolment rate for boys and is thus 1 percentage point higher than the national average for all school-age children. These data illustrate the results of Government action to promote gender mainstreaming in its main education policies, as described in preceding paragraphs.

Table 33

School dropout rates and remedial measures

<i>Country</i>	<i>Area</i>	<i>First-grade school dropout rate</i>			<i>Total population</i>
		<i>Sex</i>	<i>Percentage</i>	<i>Number</i>	
	Urban		8.8	19 875	225 523
		Female	8.9	9 856	108 061
		Male	8.7	9 929	114 334
	Rural		20.2	37 781	187 360
		Female	20.0	17 999	85 825
		Male	20.1	19 577	97 208
Total			14.0	57 666	412 883

448. The Government has decided to increase allocations for the education system by an amount equal to 0.5 per cent of GDP annually up to 2012 or until they reach at least 6 per cent of GDP. This measure will permit the implementation of inclusive Government

policies designed to eliminate access barriers to education, as described in previous paragraphs.

449. The recent reform of regulations governing the education system that relate to migrants, which was approved by the Ministry of Education in Ministerial Decision No. 337 of 26 September 2008, is in accordance with the new Constitution and with article 26 of the Universal Declaration of Human Rights.³⁸

450. This new decision strengthens respect for human rights and an inclusive education without discrimination, which will undoubtedly “promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace”.

451. Ministerial Decision No. 337 stipulates that a valid visa or residence permit shall not be required for enrolment in school; all foreigners who do not have school records are to be given placement exams in all levels and subjects, regardless of their migration status. This decision is in accordance with the role played by Ecuador as both a country of origin and host country for migrants and exemplifies a policy based on mutual respect.

452. As set forth in Ministry of Education Decision No. 482 of 10 December 2008, the State guarantees the right to education for children, adolescents, men and women who are victims of trafficking in persons. Such persons have the right to have access to an education, to remain in attendance in school and to move up through the different grades. They are to be provided with special services within the education system.

M. Article 14: no-fee education

453. As stated above, primary education in Ecuador is free and compulsory.

N. Article 15: right to take part in cultural life

454. The Ministry of Culture was created under the terms set out in Executive Decree No. 5 of 15 January 2007. It took over the duties that had previously been performed by the Office of the Under-Secretary for Culture and is charged with promoting cultural affairs, creative activity, artistic development and scientific research.

455. The Ministry of Culture of Ecuador is creating a national cultural system that will encompass the cultural institutions specified in article 378 of the Constitution.

456. The Ministry has set up a participatory mechanism for drafting legislation on the structure of that system. This bill is to be submitted to the National Assembly as soon as possible after 10 August 2009 and will contain specific provisions designed to protect each cultural right in accordance with the Constitution.

457. Institutional cultural policies will be implemented by means of the projects included in the annual and multi-annual investment plans. These projects will cover the following areas:

- Cultural legislation: 100 days for culture

³⁸ Article 26 of the Declaration: “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.”

- A conference on the arts
- Cultural policy workshops
- Consolidating the network for the promotion and dissemination of information on cultural rights
- A national cultural system: cultural mapping
- National festivals
- National awards
- Audience development
- Orchestras and bands
- Competitive fund for cultural research, 2008
- Promotion of Ecuadorian film and audio-visuals
- Sensitization and artistic expression in social rehabilitation centres
- Strengthening borders
- Preserving and appreciating living cultures and languages
- Design and establishment of a heritage protection system
- A planning system for the protection of the nation's heritage
- Conference on Andean cuisine
- Conference on the nation's history
- Intercultural community centres
- Dialogue on ancestral knowledge and sciences
- Networks of local councils for intercultural affairs
- National celebrations

458. A national cultural system has been created whose main components are as follows: (a) legacy and heritage; (b) promotion of independent creative works; (c) interculturalism; and (d) dissemination of cultural works, goods and services. Emphasis is placed on citizen participation and on the creation, implementation and consolidation of public services and networks.

459. Article 21 of the Constitution states that: "People have the right to build and maintain their own cultural identity, to decide whether they belong to one or more cultural communities and to express those choices; the right to aesthetic freedom; the right to gain access to the historical memory of their cultures and to their cultural heritage; and the right to disseminate their own forms of cultural expression and to have access to a range of forms of cultural expression. Cultural considerations may not be invoked as a justification for undermining rights recognized in the Constitution."

460. Article 22 of the Constitution states that: "People have the right to develop their creativity, to engage in cultural and artistic activities on an ongoing basis and with dignity, and to the protection of their intellectual property rights over their scientific, literary and artistic creations."

461. Articles 57, 58, 59 and 60 of chapter four of the Constitution, which deals with the rights of communities, peoples and nations, establish that:

“Article 57. The following collective rights of indigenous communes, communities, peoples and nations are recognized and guaranteed in accordance with this Constitution and with the covenants, agreements, declarations and other international human rights instruments in force:

1. To freely maintain, develop and strengthen their identity, sense of belonging, ancestral traditions and forms of social organization.

2. To not be subject to racism or any form of discrimination based on their origin or ethnic or cultural identity.

[...]

5. To maintain their ownership of ancestral lands and territories and to be awarded such lands and territories free of charge.

6. To participate in the use, usufruct, management and conservation of the renewable natural resources located in or on their lands.

[...]

8. To preserve and promote their methods for managing their natural environment and its biodiversity. The State shall establish and execute programmes, with the participation of the community, to ensure the conservation and sustainable use of the biodiversity of that environment.

9. To preserve and develop their own forms of social coexistence and organization and methods for establishing and exercising authority in their legally recognized territories and ancestral community lands.

10. To establish, develop, apply and practise their own or customary legal system, which shall not violate any constitutional rights, particularly in the case of women, children and adolescents.

[...]

12. To maintain, safeguard and develop collective knowledge; their ancestral sciences, technologies and wisdoms; the genetic resources contained in the biological and agricultural biodiversity of their environment; their traditional medicines and medical practices, which include the right to recover, promote and protect their sacred ritual sites, as well as the flora, fauna, mineral resources and ecosystems within their territories; and their knowledge about their resources and the properties of those fauna and flora.

Any form of appropriation of their knowledge, innovations or practices is prohibited.

13. To maintain, recover, protect, develop and preserve their cultural and historical heritage as an indivisible part of the heritage of Ecuador.

The State shall provide the resources needed for that purpose.

[...]

15. To create and maintain organizations that represent them within a framework of respect for pluralism and for cultural, political and organizational pluralism. The State shall recognize and promote all their forms of expression and organization.

[...]

19. To encourage the use of the clothing, symbols and emblems that identify them.

[...]

21. To ensure that the dignity and diversity of their cultures, traditions, histories and aspirations are reflected in public education and in the media; to create their own media in their languages and to have discrimination-free access to all other media.

The right of peoples in voluntary isolation to their territories is irrevocable and sacrosanct. Any type of extractive activity whatsoever on those lands is prohibited. The State shall take action in order to guarantee their lives, enforce their right to self-determination and to choose to remain in isolation, and ensure that their rights are respected. The violation of those rights shall be deemed to constitute the offence of ethnocide, which shall be defined by law.

The State shall enforce these collective rights without any form of discrimination whatsoever under conditions of equality and equity between women and men.

Article 58. In order to strengthen their identity, culture, traditions and rights, the Afro-Ecuadorian peoples are recognized as possessing the collective rights set forth in the Constitution, other laws and covenants, conventions, declarations and other international instruments pertaining to human rights.

Article 59. The collective rights of the Montubio peoples are hereby recognized in order to ensure their integral, sustainable human development process, as are the policies and strategies designed to support their progress and associative forms of administration based on an understanding of their view of reality and on respect for their culture, identity and own world vision, in accordance with the law.

Article 60. The ancestral, indigenous, Afro-Ecuadorian and Montubio peoples may establish territorial districts in support of the preservation of their culture. The establishment of such districts shall be regulated by law.

Communes that own land collectively are hereby recognized as an ancestral form of territorial organization.”

462. As part of this same legal framework, article 23 recognizes people’s right to “... have access to and participate in public spheres of action and forums for deliberations, cultural exchange, the development of social cohesion and the promotion of equality in diversity. The right to disseminate one’s own cultural forms of expression in public shall be subject to no other limitations save those established by law in accordance with constitutional principles.”

463. The Ecuadorian Intellectual Property Institute, which is responsible for promoting creativity and innovation and for protecting intellectual property rights, has developed a number of projects and other activities in order to foster ancestral knowledge and wisdom:

(a) Bill for the protection of collective knowledge and ancestral wisdom of indigenous peoples and nations, the Montubio peoples, the Afro-Ecuadorian population, and the ancestral communities and communes of Ecuador;

(b) Access to genetic resources and the protection of related forms of traditional knowledge in Latin America. A Latin American conference was recently held in Quito with a view to preparing and publishing a book on the existing situation in this regard in the region;

(c) Common Andean Regime for the Protection of Collective Knowledge and Ancestral Wisdom, within the framework of the Andean Community of Nations. The aim of this system is to build the capacity of indigenous peoples and nations, along with other stakeholders, to ensure access to genetic resources and to protect related ancestral knowledge.

464. The Education and Culture Unit of the National Council for Culture and the Arts is working to improve the quality of general and specialized instruction within the formal education system through education in culture and the arts. To this end, programmes are offered that upgrade and expand the range of practical art education courses, especially in municipal schools.

465. General art education programmes include a pilot project that forms part of a full-length school day initiative, regional and national exhibitions of student artwork, the provision of curricular support materials for artistic modes of expression to preschool teachers, and the analysis of courses of study in the arts with a view to the establishment of quality standards for university studies and courses at other levels. Specialized art education programmes include the annual competition of the National Fund for Art Schools and technical advisory services concerning the development of specialized art education in the country and, more specifically, its curricular, legal and budgetary aspects.

1. Access to scientific advances and their applications

466. The National Secretariat of Science and Technology (SENACYT) of Ecuador has increased its project funding. In 2008, such funding totalled approximately US\$ 67 million.

Table 34
Scientific research projects, INAP, 2007

<i>Number of projects</i>	<i>Investment</i>
54	17 595 084

Source: National Secretariat of Science and Technology (SENACYT), 2009.

467. SENACYT financed 60 per cent of the user licences for international scientific databases needed by students, teachers and researchers in order to gain access to reliable data in various scientific fields.

Table 35
Virtual libraries programme

<i>Period</i>	<i>Investment</i>
July 2007/June 2008	89 000.00
July 2008/December 2009	601 541.47
Total	690 541.47

Source: National Secretariat of Science and Technology (SENACYT), 2009.

468. This programme is being implemented in 41 university and polytechnic schools in the country. Between 2007 and May 2009, about 350,000 students, teachers and researchers have benefited from this programme.

469. SENACYT is also implementing a programme under which postgraduate grants are given to Ecuadorian professionals attending masters', doctoral and post-doctoral studies at universities outside of Ecuador, as shown here.

Table 36
Scholarship programmes

<i>Scholarship programmes, 2003–2009</i>		
<i>Programme</i>	<i>Programme total</i>	<i>Scholarship recipients</i>
Inter-American Development Bank and Government of Ecuador, 2003–2004	76 753.00	8
2005	150 850.00	26
2006	1 477 300.00	80
2007	1 852 115.25	70
France, 2008 – 1	1 291 132.00	69
French Embassy	319 608.32	18
Fulbright, 2007–2009	465 531.00	14
Fulbright, 2008–2010	689 916.00	19
Fulbright, 2009–2011	577 714.00	14
2008 – 2	1 140 320.87	58
Total	8 041 240.44	376

Source: National Secretariat of Science and Technology (SENACYT), 2009.

470. SENACYT has also funded short-term activities such as courses, internships, and national and international seminars relating to science and technology, as shown in the following table.

Table 37
Short-term events

<i>Programme</i>	<i>Programme total</i>	<i>Number of beneficiaries</i>
Short-term events 2007	53 820.00	11
Short-term events 2008	29 244.00	4
Short-term events 2009	32 605.06	5
Total	115 669.06	20

Source: National Secretariat of Science and Technology (SENACYT), 2009.

2. Legal protection for freedom of scientific research

471. In the 2008 Constitution, title VII, on the plan for “good living”, chapter one, on inclusion and equity, section 8, on science, technology, innovation and ancestral knowledge, states:

“Article 385. Within a framework of respect for the environment, nature, life, cultures and sovereignty, the purpose of the national system for science, technology, innovation and ancestral knowledge shall be:

1. To generate, adapt and disseminate scientific and technological knowledge;
2. To recover, strengthen and reinforce ancestral knowledge;
3. To develop technologies and innovations that promote national production, increase efficiency and productivity, improve the quality of life and contribute to the achievement of ‘good living’.

Article 386. This system shall comprise programmes, policies, resources and actions and shall encompass State institutions, universities and polytechnic schools, public and private research institutes, public and private firms, non-governmental organizations and natural and legal persons that carry out activities involving research, the development of technology, innovation or those related to ancestral knowledge.

The corresponding State agency shall coordinate the system and set its objectives and policies in accordance with the National Development Plan and in coordination with the relevant stakeholders.

Article 387. The State shall:

- Facilitate and promote the country’s incorporation into the knowledge society as a means of achieving development objectives;
- Promote the creation and generation of knowledge, foster scientific and technological research and reinforce ancestral knowledge as a means of contributing to the achievement of *sumak kawsay* (‘good living’);
- Ensure the diffusion of scientific and technological knowledge, access to that knowledge and the ability to make use of scientific and technological discoveries and findings within the framework established by the Constitution and other laws of the land;
- Guarantee freedom of creation and research with an ethical framework of respect for nature, the environment and ancestral knowledge;
- Extend recognition to the research profession as provided for by law.

Article 388. The State shall allocate the necessary resources for scientific research, the development of technology, innovation, scientific training, the recovery and enhancement of ancestral wisdom and the dissemination of knowledge. A portion of these resources will be used to set up a competitive project fund. Organizations that receive public funds will be subject to State oversight and accountability requirements.”

472. In addition, title II, on rights, chapter two, on the rights of “good living”, section 4, on culture and science, article 22, states that:

“Article 22. People have the right to develop their creativity, to engage in cultural and artistic activities on an ongoing basis and with dignity, and to the protection of their intellectual property rights over their scientific, literary and artistic creations.”

473. Article 25 guarantees the right to the enjoyment of the benefits and applications of scientific progress and ancestral wisdom.

3. Cooperation in the fields of science and culture

474. The Foundation for Science and Culture (FUNDACYT) of Ecuador and SENACYT have provided support for various scientific events, research projects, courses and internships during the reporting period, as shown below.

Table 38
International support

<i>Activity</i>	<i>Beneficiaries</i>	<i>Amount</i>
Sponsorship of scientific events	7	11 104.00
Support for speakers in international forums	13	10 344.17
Short courses and internships	6	14 685.00
Science fairs	2	15 000.00
Total	28	51 133.17

Source: National Secretariat of Science and Technology (SENACYT), 2004.

475. In order to build up international funding management capacity, strengthen relations with institutions working in the field of science and technology, and seek out new opportunities for international scientific cooperation, SENACYT-FUNDACYT have reactivated existing arrangements and signed new cooperation agreements, as shown below.

Table 39
International scientific cooperation

<i>Partner countries/agencies</i>	<i>Cooperation</i>
Argentina, Brazil, Chile, Peru, Colombia, Venezuela, Cuba and Mexico	Bilateral agreements were reactivated and updated.
Pan American Health Organization, Ministry of Health	An inter-agency cooperation agreement was signed for the implementation of the Virtual Library Programme in el Ecuador.
People's Republic of China	A cooperation agreement covering the fields of science, technology and innovation provides for postgraduate training for researchers and scientists, internships and short-term events.
United Nations system	A framework inter-agency cooperation agreement provides for the preparation of a cooperation plan covering the fields of science, technology and innovation.
Network for the Popularization of Science and Technology in Latin America and the Caribbean/UNESCO	A project is under way to develop a manual on indicators for use in measuring the social impact of activities designed to promote the dissemination and popularization of science and technology in Ecuador, Venezuela and Peru.
Ibero-American Programme for Science, Technology and Development	Participation in various international meetings.
Andrés Bello Agreement	Ecuador was represented in the Forum for the Popularization of Science and Science Teaching and Learning and in the Permanent Forum for Prospective Scientific and Technological Inquiry of the member countries of the Andrés Bello Agreement.
French Embassy	Co-financing of postgraduate scholarships for researchers.

<i>Partner countries/agencies</i>	<i>Cooperation</i>
Portal of the Science and Development Network (www.scidev.net)	Participation in the meeting of the Latin America Committee of the portal of the Science and Development Network and in a seminar on scientific journalism held at the Universidad Javeriana de Colombia.

Source: National Secretariat of Science and Technology (SENACYT), 2004.

Table 40

International scientific cooperation agreements

<i>Partner countries/agencies</i>	<i>Cooperation</i>
Cuba, Centre for Genetic Engineering and Biotechnology	A bilateral cooperation agreement for the establishment of a plant for the manufacture of pentavalent vaccines.
Italy, Università della Calabria	Under an institutional agreement on scholarships for students in the field of science and technology, the university furnishes room and board.
Australia, James Cook University	A coordination agreement covers the assignment and management of financial, human and technical resources for Ecuadorian scientists.
Ibero-American Programme for Science, Technology and Development	A multilateral agreement provides for the participation of Ecuadorian scientists on six panels dealing with agrifood; health; industrial development and promotion; sustainable development, global change and ecosystems; energy, science and society, and information and telecommunications technologies.

Source: National Secretariat of Science and Technology (SENACYT), 2009.

Annexes

I. Participants in the meeting held by the Ministry of Foreign Affairs, Trade and Integration (Office of the Regional Under-Secretary, Cuenca, 29 July 2009)

<i>Institution</i>	<i>Title</i>	<i>Name</i>	<i>Position</i>
1. Banco Nacional de Fomento (national development bank)	Econ.	Edgardo Mármol	General Manager
2. Council of the Judiciary	Dr.	Gonzalo Urgiles León	Provincial Director of Azuay of the Council of the Judiciary
3. National Council for Persons with Disabilities	Dr.	Julio Hinojosa	Executive Director (Provincial Director)
4. National Council for Higher Education	Doctor	Gustavo Vega	President (Provincial Director)
5. National Council for Women (CONAMU) – Transitional Committee	Sra.	Ximena Abarca	Executive Director (Provincial Director)
6. National Council for Children and Adolescents (CNNA)	Dra.	Catalina Mendoza	Executive Secretary of the Council for Children and Adolescents of Cuenca Canton
7. National Court of Justice	Dr.	Pablo Efraín Vintimilla Gonzalez	Chief Justice of the Azuay Provincial Court
8. Office of the Ombudsman	Dr.	Vinicio Jiménez	Provincial Commissioner
9. Office of the Prosecutor-General	Dr.	Amelio Ordóñez	Azuay District Prosecutor
10. National Agricultural Research Institute	Doctor	Julio César Delgado	Director General
11. National Statistics and Census Institute (INEC)	Econ.	Rodrigo Segarra	
12. National Institute for Children and the Family	Doctor	Manuel Martínez	Executive Director (Provincial Director)
13. Ministry of Agriculture, Aquaculture and Fisheries	Econ.	Walter Poveda	Minister (Provincial Director)
14. Ministry of Culture	Doctor	Ramiro Noriega	Minister (Provincial Director)
15. Ministry of Urban Development and Housing	Arq.	María de los Angeles Duarte	Minister (Provincial Director)
16. Ministry of Education	Lcdo.	Raúl Vallejo	Minister (Provincial Director)
17. Ministry of the Interior, Police and Worship	Doctor	Gustavo Jalkh	Minister (Provincial Director)
18. Ministry of Economic and Social Inclusion	Ing.	Silvana Regalado Álvarez	Regional Under-Secretary of the Ministry of Economic and Social Inclusion

<i>Institution</i>	<i>Title</i>	<i>Name</i>	<i>Position</i>
19. Ministry of Foreign Affairs	Ing.	Graciela Espinoza	Regional Under-Secretary of the Ministry of Foreign Affairs
20.	Emb.	Augusto Súa C.	Director General for Human Rights and Social Affairs
21.	Dra.	Lorena Sánchez	Official of the Directorate-General for Human Rights and Social Affairs
22.	Dra.	Verónica Oquendo	Official of the Directorate-General for Human Rights and Social Affairs
23. Ministry of Justice and Human Rights	Dra.	Patricia Salazar	Under-Secretary for Human Rights
24.	Dra.	Alexandra Almeida	Director for Human Rights
25.	Antr.	Yaneth Yépez	Team Member, Office of the Under-Secretary for Human Rights
26.	Ab.	María Ojeda	Team Member, Office of the Under-Secretary for Human Rights
27. Ministry of Labour and Employment	Doctor	Antonio Gagliardo	Minister (Provincial Director)
28. Secretariat for Peoples, Social Movements and Citizen Participation	Sr.	Santiago Sánchez	
29. National Secretariat of Planning and Development (SENPLADES)	Econ.	René Ramírez	National Secretary (Provincial Director)
30. Office of the Vice-President of Ecuador	Lcdo.	Lenín Moreno	Vice-President (Provincial Director)

II. Cooperating institutions and institutions that provided information relating to the Covenant

<i>Title</i>	<i>Name</i>	<i>Position</i>	<i>Institution</i>	<i>City</i>
Dr.	Antonio Gagliardo	Minister of Labour and Employment	Ministry of Labour and Employment	Quito
Dr.	Ramiro Noriega	Minister of Culture	Ministry of Culture	Quito
Dra.	Caroline Chang	Minister of Public Health	Ministry of Public Health	Quito
Arq.	María de los Ángeles Duarte	Minister of Economic and Social Inclusion	Ministry of Economic and Social Inclusion	Quito
Soc.	Ana Lucía Herrera	Director of the Transitional Committee of the National Council for Women (CONAMU)	Transitional Committee of the National Council for Women (CONAMU)	Quito

<i>Title</i>	<i>Name</i>	<i>Position</i>	<i>Institution</i>	<i>City</i>
Dr.	Washington Pesantez	Prosecutor-General	Office of the Prosecutor-General	Quito
Soc.	Sara Oviedo	Executive Secretary	National Council for Children and Adolescents (CNNA)	Quito
Ab.	Fernando Gutiérrez	Ombudsman	Office of the Ombudsman	Quito
Soc.	Doris Solís	Secretary for Peoples, Social Movements and Citizen Participation	Secretariat for Peoples, Social Movements and Citizen Participation	Quito
	Mónica Dávila	Executive Director	Agency for International Cooperation	Quito
	Byron Antonio Villacís	Director General	National Statistics and Census Institute (INEC)	Quito
Lic.	Lenín Moreno	Vice-President of Ecuador	Office of the Vice-President of Ecuador	Quito
Ing.	Ramón Espinel	Minister of Agriculture, Aquaculture and Fisheries	Ministry of Agriculture, Aquaculture and Fisheries	Quito
Econ.	Edgardo Mármol	General Manager	Banco Nacional de Fomento (national development bank)	Quito
	Pedro Montalvo	Secretary-General	National Science and Technology Secretariat	Quito
Ing.	Jorge Jurado	National Secretary for Water Resources	National Secretariat for Water Resources	Quito
Dr.	José Vicente Troya	Chief Justice	National Court of Justice	Quito
Dr.	Alexis Rivas	Minister of Natural and Cultural Heritage	Ministry of Natural and Cultural Heritage	Quito
Dr.	Julio César Hinojosa	Executive Director	National Council for Persons with Disabilities (CONADIS)	Quito
Econ.	Ramiro González	Chairperson of the Governing Board of the Ecuadorian Social Security Institute	Ecuadorian Social Security Institute	Quito
Dr.	Julio César Delgado	Director General	National Agricultural Research Institute	Quito
Ing.	Walter Solís	Minister of Urban Development and Housing	Ministry of Urban Development and Housing	Quito
Dr.	Gustavo Vega	Chairperson	National Council for Higher Education	Quito
Ab.	Andrés Icaza	Chairperson of the Governing Board of the Ecuadorian Intellectual Property Institute	Ecuadorian Intellectual Property Institute	Quito
Dr.	Gustavo Jalkh	Minister of the Interior, Police and Worship	Ministry of the Interior, Police and Worship	Quito
Econ.	René Ramírez	National Secretary of Planning and Development	National Secretariat of Planning and Development (SENPLADES)	Quito

<i>Title</i>	<i>Name</i>	<i>Position</i>	<i>Institution</i>	<i>City</i>
	Lorena Escudero	National Secretary for Migration	National Secretariat for Migration	Quito
Soc.	Sara Oviedo	Executive Secretary	National Council for Children and Adolescents (CNNA)	Quito
