



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention**

Seventh periodic reports of States parties due in 2014

Ecuador***


[Date received: 6 August 2015]

* The combined fourth to sixth periodic report of Ecuador is contained in document CAT/C/ECU/4-6; it was considered by the Committee at its 965th and 966th meetings, held on 8 and 9 December 2010. In connection with its consideration, see the Committee's concluding observations (CAT/C/ECU/CO/4-6).
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* The annexes may be consulted in the Secretariat archives.

Acronyms and abbreviations

| | |
|------------|---|
| CNNA | National Council for Children and Adolescents |
| COMACO | Armed Forces Joint Command |
| DINAPEN | National Police Directorate for Children and Adolescents |
| ENIPLA-PEA | National Intersectoral Strategy for Family Planning and Prevention of Teenage Pregnancy |
| ICRC | International Committee of the Red Cross |
| ILO | International Labour Organization |
| MERCOSUR | Southern Common Market |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| SIPROFE | In-service Training System |
| UNHCR | Office of the United Nations High Commissioner for Refugees |

I. Introduction

1. Ecuador hereby submits this report to the United Nations Committee against Torture pursuant to the obligation arising from article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹
2. In fulfilment of that obligation and in accordance with Executive Decree No. 1317,² the Ministry of Justice, Human Rights and Worship and the Ministry of Foreign Affairs and Human Mobility worked together on the preparation and approval of this report. In so doing, they took into account the guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.6), as well as the protocol for periodic reporting to the international human rights treaty bodies.³
3. Accordingly, workshops⁴ and inter-institutional meetings were held both with staff of the relevant public institutions and with representatives of civil society organizations and national and international academics, the aim being to open up the reporting process and request participants' cooperation in providing information on the issue.

II. Legislative framework

4. The international legislative framework governing torture and other cruel, inhuman or degrading treatment or punishment comprises, in addition to the Convention, the following instruments: the Inter-American Convention to Prevent and Punish Torture;⁵ the International Covenant on Civil and Political Rights;⁶ the Rome Statute of the International Criminal Court;⁷ and the American Convention on Human Rights.⁸
5. With regard to Ecuador's national legislative framework, the principal domestic laws in this area are: the Constitution of the Republic of Ecuador;⁹ the Code of the Judiciary;¹⁰ and the recently adopted Comprehensive Criminal Code.¹¹

¹ *Registro Oficial* No. 175 of 20 April 2010.

² *Registro Oficial* No. 428 of 18 November 2008.

³ The protocol was introduced formally in Ecuador on 30 May 2013. It establishes a design of 10 phases of work to facilitate the preparation of reports and helps create opportunities for a constructive dialogue with civil society.

⁴ The workshop with public institutions took place on 25 February 2014 at the Ministry of Foreign Affairs and Human Mobility. The workshop with civil society organizations took place on 29 May 2014 and was mediated by the Human Rights Adviser in Ecuador of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

⁵ Supplement to *Registro Oficial* No. 153 of 25 November 2005.

⁶ *Registro Oficial* No. 101 of 24 January 1969.

⁷ Supplement to *Registro Oficial* No. 53 of 25 November 2005.

⁸ *Registro Oficial* No. 801 of 6 August 1984.

⁹ *Registro Oficial* No. 449 of 20 October 2008.

¹⁰ Supplement to *Registro Oficial* No. 544 of 9 March 2009

¹¹ Supplement to *Registro Oficial* No. 180 of 10 February 2014.

III. Specific information on the implementation of the Convention

Articles 1 and 4

Reply to paragraph 1 of the list of issues

6. See article 66 (3) (c) of the Constitution.
7. With reference to the measures undertaken by Ecuador to ensure that torture is a punishable offence under its criminal law, the Comprehensive Criminal Code was published in the Supplement to *Registro Oficial* No. 180 of 10 February 2014 and will enter into force 180 days after its publication. Article 119 of Book I of the Code, on crimes against persons and rights protected by international humanitarian law, makes torture and ill-treatment an offence punishable by 13 to 16 years' imprisonment.
8. Article 151 of Book I of the Code, on crimes against integrity of the person, defines the crime of torture.
9. With regard to the elements of the crime of torture established in the Comprehensive Criminal Code in the light of articles 1 and 4 of the Convention, it should be noted that article 151 of the Code establishes that anyone whose alleged conduct fits the definition of torture may be deemed to have perpetrated this crime, whereas article 1 of the Convention requires that the torture be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. By broadening the definition of the perpetrator of the crime of torture, the Code allows that crime to be punished on the basis of the act that has been committed and the legally protected right that has been harmed, without the limitation of having to establish whether or not the person responsible for the torture is a public official or is acting in an official capacity.
10. Concerning the obligation in article 4 of the Convention, namely, that: "Each State party shall make these offences punishable by appropriate penalties which take into account their grave nature", article 119 of Book I of the Code, on crimes against persons and rights protected by international humanitarian law, imposes 13 to 16 years' imprisonment on anyone who, on the occasion and in the course of armed conflict in the national territory or on board a ship or aircraft registered in Ecuador, tortures or inflicts cruel, inhuman or degrading treatment or punishment on a protected person.¹² Article 151 of the Code, on crimes against integrity of the person, punishes by 7 to 10 years' imprisonment anyone who, for whatever reason, inflicts or orders the infliction of severe pain or suffering, whether physical or mental, on another person or subjects that person to conditions or methods that destroy his or her personality or diminish his or her physical or mental capacity, even if they do not cause pain or physical or mental suffering.¹³ Article 151 also imposes a harsher penalty (10 to 13 years' imprisonment) if the torture or ill-treatment was inflicted in any of the four circumstances envisaged therein.
11. With regard to attempts to commit torture, article 39 of Book I of the Code imposes a sentence of one third to two thirds of the penalty applicable when the crime is actually committed. Lastly, article 43 makes complicity punishable by a sentence equivalent to one third to a half of the penalty imposed on the perpetrator.

¹² See art. 119 of Book I of the Comprehensive Criminal Code.

¹³ See art. 151 of Book I of the Code.

Article 2

Reply to paragraph 2 of the list of issues

12. One of the measures adopted to ensure that any person who has been deprived of his/her liberty undergoes an independent medical examination is provided for in article 683 of Book III of the Comprehensive Criminal Code.

13. The process of transferring responsibility for public health care in prisons to the Ministry of Public Health began in 2013, pursuant to Interministerial Agreement No. 0000001 of 18 June 2013 under which a commitment was made to transfer staff of the Ministry of Justice, Human Rights and Worship to the Ministry of Public Health. Accordingly, the Ministry of Public Health assumed responsibility for ensuring that any person who has been deprived of his/her liberty undergoes a medical examination, without prejudice to the right of that person to demand or request an independent or private medical assessment.¹⁴

14. The Ministry of Justice and the Ministry of Public Health also signed Interministerial Agreement No. 00004906 of 26 June 2014 defining responsibilities for the management and delivery of prison health services and allocating a duly furnished and equipped area for the provision of medical care in Ecuador's prisons.¹⁵

15. In order to ensure that any person who has been deprived of his/her liberty undergoes a medical examination, the Ministry of the Interior issued Ministerial Agreements Nos. 1661¹⁶ and 1070,¹⁷ the provisions of which include the obligation to present a medical certificate attesting to the physical and mental condition of any person caught in flagrante delicto or detained on the order of an authority or judge. They also stipulate that a detained person may not be handed over to the administrator of a social rehabilitation centre without a medical certificate.

16. Chapter V (5), on detention procedures, of the Manual of Prosecution Service and Judicial Police Investigative Procedures stipulates that any person arrested by order of the competent authority or in flagrante delicto shall, once he/she has been taken to the corresponding police station or unit and has been registered, be transferred to a forensic medicine unit or a health centre, where the corresponding medical certificate shall be obtained and attached to the police report. A similar procedure is established for prisoner transfers.

17. With regard to legal assistance and contact with family members, article 76 (7) (g) of the Constitution establishes that in any proceeding in which any kind of rights and obligations are to be determined, the right to due process shall be ensured, including the right of a detainee to be assisted in judicial proceedings by counsel of his/her own choosing or by a public defender. A detainee's access to free and private communication with his/her defence counsel may not be restricted. Likewise, article 77 (4) guarantees that in any criminal proceeding in which a person has been deprived of his/her liberty, the police officer must inform the detainee, at the time of his/her arrest, that he or she has the right to remain silent, to request the assistance of a lawyer, or a public defender if he or she is unable to appoint his/her own lawyer, and to contact a family member or any person of his/her choice.

¹⁴ Interministerial Agreement No. 0000001 of 18 June 2013 between the Ministry of Justice, Human Rights and Worship and the Ministry of Public Health.

¹⁵ Interministerial Agreement No. 00004906 of 26 June 2014 between the Ministry of Justice and the Ministry of Public Health.

¹⁶ *Registro Oficial* No. 325 of 29 November 1985.

¹⁷ *Registro Oficial* No. 35 of 28 September 1998.

18. Article 51 (2) of the Constitution establishes the right of any person who has been deprived of his/her liberty to contact and receive visits from family members and legal professionals. Article 12 (14) of Book I of the Comprehensive Criminal Code likewise establishes the right of persons deprived of their liberty to contact and receive visits from friends and family members.

19. In practice, the National Council of the Judiciary verifies and confirms that persons arrested in flagrante delicto are informed of the reasons for their detention, receive legal assistance without delay and are able to contact family members or any person of their choice. Administratively, verification occurs when the coordinator of the remand unit monitors the detainee's case continuously from when he or she is admitted to the unit until the remand hearing is held and a decision is taken either to release the detainee or to transfer him or her to a pretrial detention centre. Judicially, verification occurs when judges check that the detainee has legal assistance at the hearing and that defence counsel has had sufficient time to interview the detainee.

20. Paragraph 3 of Chapter V, on detention procedures, of the Manual of Prosecution Service and Judicial Police Investigative Procedures stipulates that immediately after their arrest, detainees shall be informed of: their constitutional rights and the reasons for their detention; the identity of the police officer or officers who are detaining them; their right to remain silent; their right to request the presence of a lawyer; and their right to contact a family member or any person of their choice.

21. The Public Defender Service had a budget of US\$ 4,844,079.24¹⁸ in 2011, US\$ 8,608,761.40¹⁹ in 2012, US\$ 29,529,456.00²⁰ in 2013 and US\$ 30,980,651.22²¹ in 2014. According to the Service's 2013 report, it has offices in every provincial capital, with the largest offices serving the most densely populated cities. The Service also provides outreach to other cantons by renting offices and establishing strategic partnerships with the National Council of the Judiciary and autonomous and decentralized governments, which make offices available for public defenders to provide their services to the public.²² The report states that, in 2013, there was a significant increase in the Service's staff, especially in the number of public defenders and legal assistants, who total 780 legal professionals or 79 per cent of the Service's workforce.

Reply to paragraph 3 of the list of issues

22. To guarantee the allocation of a sufficient budget and resources to permit the Office of the Ombudsman to operate effectively as the national mechanism for the prevention of torture, the Office created, under the Act organizing the Ombudsman's Office,²³ the National Directorate of the Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It also has the necessary human resources to operate effectively. A protocol has been drawn up for visits by the national preventive mechanism, as well as guidelines for coordination between the central and provincial Ombudsman's offices. Training has been provided for staff working in detention centres and investigations have been carried out into certain situations encountered in such centres.

23. On 10 December 2013, the Office presented to the National Assembly the draft Act organizing the Ombudsman's Office, which includes a specific section on the national

¹⁸ General State Budget 2011, *Registro Oficial* No. 108 of 19 January 2011.

¹⁹ General State Budget 2012, *Registro Oficial* No. 237 of 30 January 2012.

²⁰ General State Budget 2013, *Registro Oficial* No. 39 of 12 August 2013.

²¹ General State Budget 2014, Supplement to *Registro Oficial* No. 76 of 9 December 2013.

²² Public Defender Service of Ecuador, *Rendición de Cuentas -2013*, Quito 2013, pp. 10 and 11.

²³ Supplement to *Registro Oficial* No. 396 of 26 November 2012.

preventive mechanism that was reviewed by the members of the Subcommittee on Prevention of Torture.

24. With regard to visits by the national preventive mechanism to social rehabilitation centres, the following actions have been taken nationally:

- (a) Sucumbíos social rehabilitation centre for men:
 - (i) The Directorate of Human Resources of the Ministry of Justice, Human Rights and Worship has launched the corresponding investigations into alleged cases of ill-treatment by prison officers;
 - (ii) The Ministry of Public Health is working with the centre's prison authorities to provide medical and dental care every 20 days by means of health brigades. A nurse has also been hired to administer medications to detainees with HIV/AIDS and tuberculosis.
- (b) Cuenca social rehabilitation centre for women:
 - (i) Doctors and dentists have been hired;
 - (ii) The pest-control process has begun;
 - (iii) An intellectually disabled detainee has been transferred to a specialist centre;
 - (iv) Chairs have been upholstered and the ceiling repaired in the detainees' workroom.
- (c) Loja social rehabilitation centre for men and women:
 - (i) The Ministry of Justice is working with the Ministry of Economic and Social Inclusion to transfer detainees with mental illnesses to specialist nursing homes;
 - (ii) Loja provincial council is in the process of building new water tanks.
- (d) Machala social rehabilitation centre for men:
 - (i) The kitchen infrastructure has been upgraded;
 - (ii) Psychology and social management interns have been given access to the centre.
- (e) Esmeraldas social rehabilitation centre for men:
 - (i) The Ministry of Justice Directorate of Human Resources has launched the corresponding investigations into alleged cases of ill-treatment by prison officers;
 - (ii) Work has begun on refurbishing the kitchen.
- (f) Santo Domingo de los Tsáchilas social rehabilitation centre:
 - (i) Prison officers have been hired for the minimum, medium and maximum security wings;
 - (ii) Carpentry workshops have been installed in the medium security wing and there has been a marked improvement in food preparation and in kitchen facilities.
- (g) Loja and Machala local authority 7:
 - (i) Arrangements are being made for detainees with mental illnesses to be transferred to specialist centres;

- (ii) Centres have new rubbish disposal units and staff have been trained in waste management;
- (iii) Staff have received first aid training.
- (h) Manabí and Bahía de Caráquez local authority 4:
 - (i) Work activities are being increased at the Bahía and El Rodeo centres;
 - (ii) A detained Colombian national is being returned to his country of origin.

25. Practical solutions are being found to the problems uncovered by the Ombudsman's Office in the course of visits by the national preventive mechanism to Ecuador's social rehabilitation centres.

26. With regard to measures to disseminate the Ombudsman's reports, the Office published its first annual report in 2013. The report can be found on its website and was also distributed to the Ministry of Foreign Affairs and Human Mobility, the Ministry of Justice and the United Nations Subcommittee on Prevention of Torture.

Reply to paragraph 4 of the list of issues

27. The bill on cooperation and coordination between the indigenous and ordinary justice systems was presented to the National Assembly on 2 February 2010, at the initiative of Assembly member Lourdes Tibán of the Movimiento Político Pachakutik. The aim was to comply with the mandate set out in article 171 of the Constitution, the final part of the second subparagraph of which states that the law shall establish mechanisms for coordination and cooperation between the indigenous and ordinary justice systems. The bill was entered formally and sent to the standing committee on justice and structure of the State. Its official consideration began on 4 January 2011. The standing committee disseminated it publicly and designated a period of time for each group or interested person to submit comments, views and suggestions. Comments on the bill were submitted by leaders of national, regional and provincial indigenous organizations, experts in indigenous law, university academics, members of the National Assembly, institutions that have worked with indigenous peoples and experts in indigenous justice from other countries.

28. In December 2011, the committee chairman presented a favourable report to the President of the National Assembly for submission to the Assembly in first reading. The bill passed the first reading on 17 May 2012 and the Assembly must now decide on the pre-legislative consultation with indigenous peoples and nationalities. The report to be presented in second reading is currently pending.

Reply to paragraph 5 of the list of issues

29. In 2011 and 2013, the National Council of the Judiciary held three competitive examinations to fill vacancies in the country's judiciary. A total of 13,381 candidates took these examinations. The 300 highest ranking successful candidates were appointed judges directly, while a further 1,169 successful candidates were placed on the roster for a maximum of six years.

30. With regard to the rules governing security of tenure for judges, article 136 of the Code of the Judiciary²⁴ establishes that judges and other judicial employees appointed on the basis of merit following a competitive examination shall, provided that they belong to the judicial career structure, enjoy security of tenure, with the exception of judges of the National Court of Justice and other judicial employees expressly appointed for a fixed

²⁴ Supplement to *Registro Oficial* No. 544 of 9 March 2009.

period of time. According to the same article, the following judicial employees shall have fixed-term appointments: members of the National Council of the Judiciary, judges of the National Court of Justice, alternate judges, temporary judges, notaries, temporary judicial employees and staff under contract to provide occasional services.

31. The rules governing dismissal of judges can be found in the Code of the Judiciary and the Regulation governing the exercise of the disciplinary powers of the Council of the Judiciary.²⁵

32. Under article 109 of the Code of the Judiciary, a judicial employee shall be punished by dismissal if he or she commits the disciplinary offences listed in that article.

33. Under the Regulation governing the exercise of the disciplinary powers of the Council of the Judiciary, official disciplinary action shall be taken, upon receipt of a complaint, if the Council receives reliable information on the basis of which it can be alleged that a disciplinary offence has been committed (article 22). If it has insufficient information to launch a disciplinary inquiry, the competent authority shall open an investigation (article 28). Before the disciplinary inquiry is conducted, the coordinator of the competent provincial office for disciplinary oversight shall consider the admissibility of the complaint in order to verify that it was lodged within the requisite deadlines and meets the requirements established by the Code of the Judiciary and the Regulation governing the exercise of the Council's disciplinary powers (article 30). Once the requirements of substance and form have been verified, the disciplinary inquiry shall be launched and the corresponding summonses and notices served (article 34). The judicial official has five days from the date on which notice was served to respond to the allegations. Whether or not the official responds to the allegations, five days shall then be set aside to hear the evidence in the case (article 37). Once these five days are over, the competent authority shall issue a substantiated decision or report corresponding to its sphere of competence within a period of 15 days (article 39). Lastly, the judicial official may appeal the decisions of provincial directors and the Director-General of the National Council of the Judiciary before the plenary Council within three days of receiving notice thereof (article 46).

Article 3

Reply to paragraph 6 of the list of issues

34. Executive Decree No. 1182 issued the Regulation governing the application in Ecuador of the right to request and receive asylum or refugee status,²⁶ which incorporated new elements related to the procedure for determining refugee status in Ecuador. These include the procedure for admissibility (article 19), the plurality of the commission for determining refugee status in Ecuador (article 15) and the appeal procedures available to those seeking asylum or refugee status (articles 47 and 50).

35. Concerning the recommendation in paragraph 13 of the Committee's previous concluding observations, the abovementioned Regulation states that it is not an absolute requirement that persons applying for asylum or refugee status must submit a police clearance certificate. Ecuador has determined that asylum seekers cannot be required to submit such a certificate.

²⁵ Supplement to *Registro Oficial* No. 152 of 27 December 2013.

²⁶ *Registro Oficial* No. 727 of 19 June 2012.

Reply to paragraph 7 of the list of issues

36. According to data recorded from January 2010 to March 2014, Ecuador has granted refugee status to 12,604 persons. Most refugees (98.5 per cent) come from Colombia, while the remaining 1.5 per cent come from a variety of countries, including Russia, Nigeria, Venezuela, Pakistan, Brazil, Haiti, Eritrea, Uganda, Guinea, Lebanon, Western Sahara, the United States, Syria, Jamaica, Cuba, Sri Lanka and Congo. There are also 1,511 internationally protected children aged 5 to 11 years (see annex I, table 1).

37. With regard to the deportation or refoulement of refugees to their countries of origin, article 34 of the Regulation guarantees that holders of a temporary asylum seeker's certificate cannot be returned, expelled, deported or extradited while a decision is pending on their application, unless for duly substantiated reasons they are considered to be a threat to the country's security or public order or unless, having been convicted of a particularly serious crime, they pose a threat to Ecuadorian society. Since no refugee or asylum seeker fitted this description, no refoulement, expulsion, deportation or extradition proceedings were instituted during the reporting period.

38. Decisions to deny refugee status or asylum in Ecuador may be appealed by means of an application (article 47), a special application for review (article 50) or an application for reversal (article 174). From 2010 to 2014, a total of 10,857 appeals were filed, of which 1,156 (10.6 per cent) were upheld, 9,285 (85.5 per cent) were rejected and 416 (3.8 per cent) were withdrawn.

Reply to paragraph 8 of the list of issues

39. Expulsion is regulated by article 60 (12) of Book I of the Comprehensive Criminal Code, which provides for non-custodial sentences that include the expulsion of non-nationals from Ecuadorian territory and the prohibition of their return, in keeping with article 61 of Book I of the Code.

40. However, article 9 of the Regulation governing the application of the right of asylum expressly prohibits expulsion (principle of non-refoulement).

41. In the latter case, it should be noted that a person cannot be returned to his or her country of origin for the above reasons arbitrarily, but only on the grounds indicated and according to the exclusion procedure and, where appropriate, the deportation procedure established in the Immigration Act.

Reply to paragraph 9 of the list of issues

42. With regard to the measures undertaken to ensure the physical safety of asylum seekers and refugees, the Council for Public Participation and Oversight, through the National Coordinating Office for Public Oversight, is helping set up the first regional observatory of human mobility in the provinces of Carchi, Esmeralda, Sucumbíos and Imbabura. Involving the participation of 15 human mobility, gender and human rights networks, the observatory's aim will be to ensure compliance with public policy in this area. It will monitor the effective exercise of human rights by the non-settled population, in keeping with the laws, programmes and projects duly approved by the Ecuadorian State, so that the goods and services provided by the different public and private institutions are channelled appropriately.

43. The Public Defender Service also signed an agreement with the Office of the United Nations High Commissioner for Refugees (UNHCR) on 17 April 2014 on providing technical assistance to refugees and asylum seekers.

44. Concerning in-service training courses, the Ministry of the Interior has been implementing a comprehensive in-service training programme since 2010, through the

human rights department of the National Police Education Directorate. The course is taught annually to operational staff, namely, junior police officers from the rank of captain to second lieutenant, and to non-commissioned officers and police at all levels. It is attendance-based and is available throughout the country to all members of the police on active service in the country's 24 subareas, with a total of 36 teaching centres nationwide. Seventy-three officers, non-commissioned officers and police are currently working as instructors in human rights and policing. The group of instructors accredited by the Ministry of the Interior, the national police and the International Committee of the Red Cross (ICRC) includes 26 police employees and police officers who have some kind of physical disability, making the course a benchmark for Latin American police forces in terms of the inclusion of persons with disabilities.²⁷

45. The Directorate of Human Rights, Gender and International Humanitarian Law of the Armed Forces Joint Command, in coordination with the army, navy and air force human rights departments, provides in-service human rights training in the form of lectures, seminars and online courses. Generals and senior and junior officers have received training on topics such as the progressive use of force, gender equality, asylum, refuge and forcible displacement.

Articles 5, 6, 7, 8 and 9

Reply to paragraph 10 of the list of issues

46. With respect to article 5 (1) (a) of the Convention, article 119 of Book I of the Comprehensive Criminal Code establishes that Ecuador has jurisdiction to prosecute crimes of torture and cruel, inhuman or degrading treatment or punishment committed by a person who, on the occasion and in the course of armed conflict, whether in the national territory or on board a ship or aircraft registered in Ecuador, tortures or inflicts cruel, inhuman or degrading treatment or punishment on a protected person, the penalty for these crimes being 13 to 16 years' imprisonment.

47. With respect to article 5 (1) (b) and (c) and (2) of the Convention, article 151 of Book I of the Comprehensive Criminal Code, defining torture, makes no distinction between nationals and non-nationals in identifying the perpetrator or the victim of this crime. The crime of torture defined in the article must be prosecuted in accordance with article 14 of Book I of the Code, which determines the scope of Ecuadorian criminal law.

48. During the reporting period, the Ecuadorian State did not prosecute any cases of torture pursuant to article 5 (1) (a) of the Convention. With regard to article 5 (1) (b) and (c), the National Council of the Judiciary reports that two cases are being prosecuted in

²⁷ With regard to the topics addressed in consecutive courses, reference can be made to the units created each year for the course. The classes taught in 2010 were: Human rights, the foundation of police operations; Progressive use of force, policing as part of the comprehensive system of rights, code of conduct and ethics, safeguarding of rights; Developing emotional intelligence; Deprivation of liberty; First aid and use of firearms. In 2011, greater emphasis was placed on practical training, and topics such as child and adolescent rights and equality and non-discrimination for indigenous peoples and nationalities and for men and women were studied in depth. In 2012, police employees and police officers were taught about awareness-raising and respect for human rights pursuant to the Constitution and the commitments made by the State to the inter-American and universal human rights system. In 2013, 23 disabled junior officers, non-commissioned officers and police were trained as instructors in human rights and policing; as members of the course's group of instructors, they are currently teaching nationwide.

which the alleged perpetrators and victims of this crime are Ecuadorian nationals and the crime was allegedly committed in Ecuadorian territory.²⁸

49. In addition to these cases, it is important to mention that, for the very first time, a case of crimes against humanity was brought to trial on 21 March 2014, when judge Lucy Blacio of the criminal division of the National Court of Justice ordered that nine persons be prosecuted for allegedly committing crimes against humanity involving torture, sexual violence and enforced disappearance. The alleged crimes, committed in the 1980s against Luis Vaca Jácome, Susana Cajas Lara and Javier Jarrín Sánchez, are the subject of cases C22 and C23 in the final report of the Truth Commission.²⁹

Reply to paragraph 11 of the list of issues

50. Mention should be made of: (a) the Inter-American Convention on Extradition;³⁰ (b) the extradition agreement with Andean countries;³¹ and (c) the extradition agreement among MERCOSUR member States, Bolivia and Chile.³²

51. Ecuador has signed bilateral extradition treaties with Brazil, the United States, Bolivia, Peru, Chile, Mexico, France, Spain and Australia.³³

Reply to paragraph 12 of the list of issues

52. In the area of international judicial cooperation, the three main international treaties ratified by Ecuador on criminal matters applicable to torture are the Inter-American Convention on Mutual Assistance in Criminal Matters, the Inter-American Convention on the Taking of Evidence Abroad and the Inter-American Convention on Execution of Preventive Measures.³⁴

53. Article 488 of Book II of the Comprehensive Criminal Code stipulates that prosecutors must directly request foreign police and judicial authorities to transmit the evidence needed to prove the commission of a crime and the alleged criminal liability of persons being investigated in the country.

54. With regard to mutual judicial assistance, article 497 of the Code stipulates that prosecutors may request direct assistance from their foreign counterparts or foreign police bodies in conducting judicial proceedings, expert analyses and investigations of crimes provided for in the Code. The judicial proceedings in question must be incorporated in the trial and presented and weighed at the time of sentencing.

55. With respect to evidence and proof obtained by means of a statement, article 502 (3) of Book II of the Code states that if the person is living abroad, action must be taken in accordance with international or national laws on judicial assistance and cooperation. If possible, electronic communication shall be established. Moreover, article 565 of the Code permits online hearings or other similar measures, subject to the following rules: (1) the audio or video device used must allow the judge to observe and establish simultaneous oral communication with the defendant, the victim, the private or public defence counsel, the prosecutor, experts or witnesses; and the defendant must be allowed to talk privately with

²⁸ Two cases are being prosecuted by the Lago Agrio third court and one case was settled by the Riobamba first court in 2010.

²⁹ Truth Commission, Informe de la Comisión de la Verdad Ecuador 2010, Ediecuatorial, 2010, executive summary, p. 389.

³⁰ Supplement to *Registro Oficial* No. 153 of 25 November 2005.

³¹ *Ibid.*

³² *Registro Oficial* No. 545 of 10 April 2009.

³³ Supplement to *Registro Oficial* No. 153 of 25 November 2005.

³⁴ *Ibid.*

his or her defence counsel; (2) there must be real, direct and reliable communication, in terms of both image and sound, between those appearing through such media and judges and parties to the proceedings present at the hearing; (3) the judge must take the necessary measures to guarantee the right to defence counsel and the principle that both parties must be heard. Members of the public may attend online hearings, except in cases where restrictions have been imposed on publicity.

56. Concerning the use of technology in the civil service, article 116 (1) of Executive Decree No. 2428 issuing the Statute of Legal and Administrative Rules of the Executive Branch³⁵ establishes that the civil service shall promote the use and application of electronic, data-processing and online media and technology for conducting its activities and exercising its powers, subject to the limitations placed on the use of such media by the Constitution and the law.

57. By Executive Decree No. 233 of 10 February 2014, published in *Registro Oficial* No. 189 of 21 February 2014, the President of Ecuador, Rafael Correa Delgado, ratified the Ibero-American Convention on the Use of Videoconferencing in International Cooperation between Justice Systems, as well its Additional Protocol related to cost, language rules and submission of applications, signed at Mar del Plata, Argentina, on 3 December 2010. The purpose of the Convention is to introduce and increase the use of videoconferencing as a means of strengthening and expediting mutual cooperation among the competent civil, commercial, criminal and other judicial authorities agreed to by the States parties.

58. One example of the transfer of evidence in connection with trials for the offences of torture or ill-treatment is Case No. 162-2012-CERM, in which the Truth Commission transmitted to the competent authorities of Colombia in May 2012 a request for international assistance in criminal matters in order to obtain further evidence for the investigations being carried out into the illegal detention, torture and enforced disappearance of two Colombian nationals, C.S.R.A. and P.E.R.A. In June 2012, the Prosecutor General's Office received the report with the expert witness findings.

Article 10

Reply to paragraph 13 of the list of issues

59. The human rights department of the National Police Education Directorate contributed to the following seminars and workshops in 2013:

(a) "Human mobility, treatment of detainees, law enforcement and human rights and policing", held in coordination with ICRC, for 60 police officers, non-commissioned officers and police from the different forces: immigration police, urban and rural police, judicial police, National Police Directorate for Children and Adolescents (DINAPEN), anti-narcotics police and the border community policing unit based in San Lorenzo – Esmeraldas;

(b) "Leadership seminar on human rights and policing for senior officers studying on the thirty-eighth course taught by the National Police Staff College", for 67 senior officers enrolled on the thirty-eighth course taught by the College;

(c) "Third international leadership seminar on human rights and policing for senior police commanders of the Americas", held in conjunction with ICRC, for directors-general, national directors, district commanders, area and subarea commanders and commanders of special units;

³⁵ *Registro Oficial* No. 536 of 18 March 2012.

(d) “Fourth course for instructors in human rights and policing and public safety”, held in coordination with the National Police Disabilities Unit, for 26 disabled officers, non-commissioned officers and police;

(e) “Third international specialized course for human rights and policing instructors on the use of force, firearms (shooting to preserve life) and non-lethal techniques and technologies”, for 37 officers, non-commissioned officers and police trained as human rights and policing instructors, of whom 13 were officers and non-commissioned officers from the national police forces of Mexico, Chile, Argentina, Peru, Brazil, Paraguay and the Dominican Republic and 24 were officers, non-commissioned officers and police from Ecuador. Instructors from Brazil, Venezuela and Ecuador taught on the course, which took place at the Sargento Primero José Emilio Castillo Solís police training academy in Tambillo;

(f) Human rights workshop for police captains as part of the course for promotion to the next grade, held in coordination with the Ministry of Justice, Human Rights and Worship;

(g) Workshop on child and adolescent human rights and policing for 10 police employees and police officers from the comprehensive in-service training programme, 24 members of DINAPEN and 20 members of the Domestic Violence Department;

(h) Candidates for admission to the different police training academies also receive continuous human rights training.

60. Lastly, under bilateral cooperation between Ecuador and France, 60 prison security officers took part in the second module on prison security technologies and human rights, taught with the assistance of French experts. Officers are attending the prison security course, which began on 25 May and will end on 4 July 2014. The training process was divided into four phases. The first phase was taught by United Nations experts, who focused on the prevention of drug use in social rehabilitation centres. The Human Rights Secretariat of the Ministry of Justice also took part on 17 and 18 June 2014, training 60 prison security officers enrolled on the course at the academy. In the second phase, which took place over two consecutive weeks, French experts Bernard Patrick, Brigitte Bertrand, François Carvalho and Deulé Lauren from France’s Ecole Nationale d’Administration Pénitentiaire (ENAP) shared their experiences in Ecuador. ICRC taught the third phase and the Ministry of the Interior and the Intelligence Secretariat taught the fourth and last phase.

Reply to paragraph 14 of the list of issues

61. The Ombudsman’s Office launched inquiry No. 55374-hjca/alg-2012 into the Manabí case and visited the Dr. Gustavo Noboa Bejarano police academy in Manabí on 30 January 2012. On its visit, it concluded that conditions at the academy, in terms of both infrastructure and the treatment of trainee police officers, were not what they should be. In this context, provincial Ombudsman’s offices visited police training academies throughout the country to see how trainees were being taught. The Ombudsman’s Office and the Ministry of the Interior have also taken action to ensure that the necessary measures are taken in these academies to prevent a repetition of such acts.

62. The National Police Inspectorate launched the corresponding administrative investigations, the findings of which are recorded in investigative report No. 2012-038-DAI-IGPN of 6 February 2012 on the events that allegedly occurred at the Manabí police academy. Because of the alleged existence of a criminal offence, the report was transmitted to the Manabí provincial prosecution service by means of official communication No. 2012-00572-IGPN of 15 February 2012, signed by the Inspector of Police, Lieutenant Colonel Carlos Cabrera Ron. At the same time, as part of internal police administrative procedures, the report was transmitted to the Council of Generals and Senior Officers of the

National Police for a finding of professional misconduct on the part of those who took part in the alleged offence. This administrative process is still ongoing.

Reply to paragraph 15 of the list of issues

63. As part of its planned activities for 2014, the Judicial Training School held in-service training courses on the Comprehensive Criminal Code for judges, prosecutors, public defenders, judicial employees and staff of the country's social rehabilitation system. The main purpose of these courses was to prepare trainees for the Code's entry into force in August 2014 and improve their knowledge of the new Code. The course's second module on the Code included the study and analysis of torture and other offences that the Constitution defines as crimes against humanity.

64. The National Council of the Judiciary has also signed cooperation agreements with the Ministry of the Interior and the Ministry of Justice with a view to teaching human rights training courses to members of the judicial police and prison staff.

Article 11

Reply to paragraph 16 of the list of issues

65. According to the Directorate for Indicators of Justice, Human Rights and Statistics of the Ministry of Justice, the number of persons in pretrial detention as of 23 June 2014 was 2,155 men and 30 women. The number of persons detained in social rehabilitation centres was 22,108 men and 2,086 women (see annex II, table 1).

66. With regard to the nationality of persons detained in social rehabilitation centres, pretrial detention centres and remand centres, 88.56 per cent of detainees (23,536 persons) are Ecuadorian. The second largest group, accounting for 7.2 per cent of detainees (1,902 persons), are Colombians. The remaining 4.24 per cent of detainees (1,137 persons) are of different nationalities (see annex II, table 2).

67. Concerning the occupancy rates in social rehabilitation, pretrial detention and remand centres, details of the number of persons either detained as a preventive measure or serving a sentence in each social rehabilitation, pretrial detention and remand centre are given in annex II, tables 3 and 4.

68. With regard to the measures taken to alleviate overcrowding in Ecuador's prisons, article 4, second paragraph, of Book I of the Comprehensive Criminal Code stipulates that persons deprived of their liberty shall retain their human rights, subject to the limitations inherent in deprivation of liberty, and shall be treated with respect for their dignity as human beings. Overcrowding shall be prohibited. Article 12 (13) of Book I stipulates that persons deprived of their liberty shall be entitled to maintain their family and social ties. They must be placed in a prison near their family, unless they request otherwise or unless, for duly substantiated safety reasons or to avoid overcrowding, they have to be relocated to a prison that is in a different place from their family, their habitual residence and the competent court.

69. The Government, realizing the extent of prison overcrowding and the problems facing the prison system, declared a state of emergency³⁶ in the prison system in order to expedite the construction of new prisons and carry out work to adapt, repair, extend and equip existing prisons. Accordingly, US\$ 191,834,362 were allocated for building, extending and refurbishing the country's prisons, as indicated in annex III.

³⁶ Declaration of a state of emergency No. DE-002-2010-DT of 31 August 2010.

70. As a result of these actions, prison overcrowding declined considerably, from 74.42 per cent in January 2013 to 21.03 per cent in June 2014, as can be seen from annex IV.

71. The Ministry of Justice has also promoted, as one of its public policies, the creation and implementation of a prison management model that ensures an orderly lifestyle for persons detained in social rehabilitation centres. This model makes provision for a multidisciplinary space that will contribute to the social rehabilitation and reintegration of prisoners through education, art, physical exercise, work activities, personal growth, creation of a life plan, prison safety and application of the progressive system in a framework of respect for human rights and fulfilment of their obligations.³⁷

72. Article 51 (4) of the Constitution states that persons deprived of their liberty shall enjoy the following rights “[...] 4. Have access to the necessary human and material resources to ensure their all-round health in prison centres”.

73. One of the first actions of the Ministry of Public Health after assuming responsibility for prisoners’ health care was to gather information on the situation of prison health services, initially through scheduled visits. The Ministry is also working on a comprehensive prison health-care model, which is in the process of being reviewed and approved. Clinical histories, including the results of medical, dental and mental health examinations, are being organized, in keeping with the laws in force.

Reply to paragraph 17 of the list of issues

74. During the reporting period, the number of prison homicides was as follows:

- (a) 2010: 12 homicides;
- (b) 2011: 9 homicides;
- (c) 2012: 12 homicides;
- (d) 2013: 7 homicides (see annex V, table 1).

It was found that 92 per cent of cases of homicide in social rehabilitation centres were attributable to male prisoners (see annex V, table 2). The largest number of homicides occurred in the 18 to 32 age group (see annex V, table 3).

75. With regard to the nationality of victims of prison homicides, 7 per cent were Colombians and 93 per cent were Ecuadorians (see annex V, table 4). As for their ethnicity, 85 per cent were mestizos and 10 per cent were Afro-Ecuadorians (see annex V, table 5). By area, the provinces of Guayas and Pichincha had the largest number of prison homicides (see annex V, table 6).

76. Investigations revealed that, of the 40 homicides in social rehabilitation centres, 15 were caused by firearms, 14 by knives and 11 by other means (see annex V, table 7). As regards motivation, 20 homicides resulted from a settling of accounts, 12 from fights and 8 from other causes (see annex V, table 8).

77. The measures taken by the Government to prevent the recurrence of similar cases are reflected in the prison management model, in which one crosscutting action for improving social rehabilitation centres is the establishment of rules for non-violent coexistence, incorporating the following aspects: conduct, discipline, interest in personal rehabilitation and relations with others. These four aspects will be evaluated individually and collectively.

³⁷ Prison management module mission, Ministry of Justice, Human Rights and Worship, May 2014.

Reply to paragraph 18 of the list of issues

78. Among the laws regulating acts of inter-prisoner violence, Book III of the Comprehensive Criminal Code establishes disciplinary rules for prisoners, which classify disciplinary offences as minor, serious and very serious. Article 722 to 724 of the Code enumerate these offences as follows:

“Minor offences. Any of the following acts committed by prisoners shall constitute minor offences:

1. Deliberately endangering their own or other people’s personal safety or the centre’s security;
2. Disobeying orders and instructions of the centre’s authorities that are in keeping with the Constitution, the law and the corresponding rules;
3. Failing to observe order and discipline in social, cultural, religious and sports activities during visits and mealtimes;
4. Failing to abide by established timetables;
5. Interfering with or obstructing prisoner head counts;
6. Remaining in and walking through, without authorization, areas considered to be security and administrative areas of the centre;
7. Neglecting to clean one’s cell, refusing to help clean and maintain prison wings, toilets, bathrooms, plumbing, workshops, classrooms, courtyards and the centre in general;
8. Dumping rubbish in places other than those designated for its collection;
9. Deliberately taking action detrimental to the health and safety of the centre;
10. Keeping animals in the centre.

Serious offences. Any of the following acts committed by prisoners shall constitute serious offences:

1. Disobeying the centre’s safety rules;
2. Preventing or trying to prevent, by whatever means, prisoners from engaging in work, educational, health, social, cultural or religious activities;
3. Taking part in fights or brawls;
4. Obstructing or preventing inspections in the centre;
5. Throwing dangerous objects;
6. Blocking up locks;
7. Making unauthorized electrical, sanitary and drinking water connections;
8. Buying or selling illegally obtained goods;
9. Provoking or instigating collective disturbances, riots or other events that threaten the centre’s security;
10. Failing to comply with the centre’s internal rules and regulations;
11. Possessing and using work instruments, tools or implements to carry on activities that contravene the rules.

Very serious offences. Any of the following acts committed by prisoners shall constitute very serious offences:

1. Carrying or making master keys or skeleton keys;
 2. Attacking the centre's means of transport and basic services;
 3. Digging pits, holes or tunnels;
 4. Renting out or selling prison cells, physical spaces, machinery, tools or other objects belonging to the centre;
 5. Refusing to attend judicial proceedings without justification".
79. Article 725 of Book III of the Code stipulates that:

"Depending on the seriousness of the offence and whether the perpetrator has committed such offences previously, the following penalties shall be imposed, according to the principle of proportionality and the nature of the offence:

1. Restrictions on family visiting hours;
2. Restrictions on communication with persons outside the prison;
3. Restrictions on telephone calls;
4. Placement under maximum security.

In cases where these disciplinary offences can be deemed to be crimes, the centre's competent authority shall inform the Public Prosecution Service and the procedures stipulated by this Code shall be followed".

80. Chapter IV of the prison management model, on the social rehabilitation centre system, suggests that prisoners who have committed disciplinary offences that threaten their own or other people's personal safety or the centre's security should be placed in a quiet area in order to pursue therapy that allows them to reflect on their actions and receive professional support from the technical team in overcoming their problems with having to coexist with other prisoners. Prisoners shall remain in this area, subject to review by the treatment and education board, for a maximum of 48 hours.

Articles 12 and 13

Reply to paragraph 19 of the list of issues

81. In the period from 2010 to March 2014, the Prosecutor-General's Office received 86 complaints of acts of torture. The province with the highest number of cases, totalling 39 complaints, was Guayas (see annex VI, table 1).

82. With regard to Ministerial Agreement No. 1435 issued by the Ministry of the Interior on 9 June 2101, the Fybeca and Terranova cases have been reopened.

83. The Government's most important initiative for combating past impunity was the creation of the Truth Commission, which on 7 June 2010 published its almost 3,000-page report on human rights abuses committed between 1984 and 2008, based on information from witnesses and its own investigations. The report presents evidence on 116 illegal incidents, including 68 extrajudicial executions, and names 458 alleged perpetrators. From 2013 to the present, the Prosecutor-General's Office has invested in the construction of forensic science research centres in the cities of Ambato, Manta and Santo Domingo, with further centres planned for Esmeraldas, Cuenca, Machala, Loja and Nueva Loja (scheduled to become operational at the end of this year). These centres provide the following services: histopathology, corpse radiology, biology, chemistry, toxicology and autopsies.

84. In early 2014, the Ministry of the Interior inaugurated the María Eugenia Carrera Forensic Science Laboratory in Quito. The laboratory has modern facilities and high-tech equipment that assist prosecutorial investigations and thereby contribute to reducing levels of impunity.

85. It should also be mentioned that, as part of the plan for strengthening the administration of justice in Ecuador by mainstreaming the human rights approach, the Human Rights Directorate of the National Council of the Judiciary is drawing up two legislative protocols for the exchange of information that will allow timely monitoring of cases of grave human rights violations in the administration of justice. The first protocol is being drafted in coordination with the Council's National Directorate of Disciplinary Oversight, while the second is being drafted in coordination with the Truth Commission and the Human Rights Directorate of the Prosecutor-General's Office. The two protocols will enable the National Human Rights Directorate to have permanent access to timely information on cases deemed to constitute grave human rights violations and thus to fulfil its national and international commitments in this area.

Reply to paragraph 20 of the list of issues

86. Article 215 (4) of the Constitution lists the powers of the Ombudsman's Office as follows: exercising and promoting oversight of due process and immediately preventing torture and cruel, inhuman or degrading treatment in all its forms. Chapter II, paragraph I, of the Act organizing the Ombudsman's Office also states that one of its duties and powers is to make periodic visits to social rehabilitation centres, investigation units, police stations and military compounds to verify respect for human rights.

87. In this context and as mentioned in previous paragraphs, the Ombudsman's Office assumed responsibility for creating the National Directorate of the Mechanism for the Prevention of Torture, the basic function of which, as its name indicates, is to prevent torture and other cruel, inhuman and degrading treatment. One of the main processes that the national preventive mechanism has undertaken is to visit detention centres in order to verify the conditions in such centres, including how prisoners are treated. Following such visits, reports are prepared and transmitted to Ministry of Justice authorities for review and, after a reasonable period of time, publication. Petitions handed over by prisoners to the mechanism's team during visits to detention centres are sent to the mechanism's provincial offices and to the National Directorate for appropriate action.

Reply to paragraph 21 of the list of issues

88. Currently, the Prosecutor-General's Office is conducting pretrial investigations into 138 cases, including those detailed in the Truth Commission's final report of 7 June 2010. Although the *Vicente Grijalva* case is being investigated, the Attorney General's Office is pursuing mediation in the case with a view to reaching an agreement on financial compensation.

89. As mentioned in previous paragraphs, the *Susana Cajas, Luis Vaca and Javier Jarrín* case, in which nine retired soldiers and police are accused of crimes against humanity, is being brought to trial. Two of the nine accused are fugitives and subject to a pretrial detention order and the others are under house arrest and banned from leaving the country.

90. In the *Damián Peña* case, the accused was cleared and the sentence is registered with the Azuay third criminal guarantee court. In the *Las Dolores* (previously known as *Fybeca*) case, the pretrial hearing against 32 accused began on 9 June 2014.

Reply to paragraph 22 of the list of issues

91. The Directorate of the National Victim and Witness Protection Programme in the Prosecutor-General's Office issued procedural rules³⁸ that have allowed substantial improvements to be made in care, protection, assistance and restoration of rights for crime victims. The programme's geographical coverage has been expanded through decentralized processes, reflected in provincial coordinating offices with multidisciplinary teams, computer equipment and vehicles. Between 2008 and 2014, funding for the programme increased by 1,722 per cent and its operational effectiveness improved accordingly.

92. Rules governing the Programme of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings and incorporating the Special Rapporteur's recommendations were issued on 4 April 2014.³⁹ Article 27 of the Rules created the post of "civilian police officer", with a specialized professional profile.

93. The Ibero-American Association of Public Prosecutors adopted the Santiago Guidelines on Victim and Witness Protection,⁴⁰ the preamble to which includes a recommendation that Ibero-American prosecutors-general should promote, within their institutions, conditions ensuring that victims and witnesses are duly afforded the protection they deserve.

Reply to paragraph 23 of the list of issues

94. Article 3 (m) of the Act on Intercultural Bilingual Education⁴¹ states that the aims of education shall include: protecting and supporting students in cases of violence, ill-treatment, sexual exploitation and any kind of abuse; nurturing their capacities and promoting their rights and the relevant complaint and enforcement mechanisms; and combating any negligence that permits or provokes such situations.

95. According to article 6 (h) of the Act, one of the State's obligations is to eradicate all forms of violence in the education system and ensure the physical, psychological and sexual integrity of members of educational institutions, with particular emphasis on students.

96. Article 11 (l) of the Act establishes that one of the obligations of teachers is to promote in educational settings a culture of respect for diversity and the eradication of ideas and practices of the various manifestations of discrimination, as well as violence against any member of the educational community, while also protecting pupils' interests without putting their own interests first.

97. Article 132 (aa) of the Act states that legal representatives, directors, teachers and parents of pupils of educational institutions are prohibited, inter alia, from committing offences of harassment, abuse, sexual violence or other sexual offences, while article 133 establishes the corresponding penalties for those who circumvent these prohibitions, ranging from fines to suspension or even dismissal.

98. Moreover, pursuant to the Constitution⁴² and the international instruments ratified by Ecuador,⁴³ the Government has drawn up a national plan for the eradication of gender

³⁸ Supplement to *Registro Oficial* No. 268 of 23 March 2012.

³⁹ Supplement to *Registro Oficial* No. 219 of 4 April 2014.

⁴⁰ Document adopted at the sixteenth General Assembly of the Ibero-American Association of Public Prosecutors (AIAMP).

⁴¹ Supplement to *Registro Oficial* No. 417 of 31 March 2011.

⁴² Article 66(3) (a) and (b) of the Constitution stipulates that the State shall recognize and guarantee persons the right to physical, psychological, mental and sexual integrity and shall take the necessary measures to prevent, eliminate and punish all forms of violence, especially violence against women, children and adolescents. Article 347(6) establishes that the State has a duty to eradicate all forms of

violence against children, adolescents and women.⁴⁴ The plan aims to provide specialized care and protection to victims in order to avoid impunity and restore infringed rights. To that end, it requires each of the services that make up the comprehensive protection programme for victims of gender violence to familiarize themselves with and implement effective and efficient standardized intra- and inter-institutional models of comprehensive care in order to eradicate sexual crimes in the educational sphere.

99. As the lead agency for educational policy, the Ministry of Education has implemented different strategies designed to prevent and eradicate sexual violence in the Ecuadorian education system. These include:

(a) Implementation of a comprehensive national plan for the eradication of sexual offences in the education system,⁴⁵ the four strategic areas of which are:

(i) Human security, social inclusion and prevention, aimed at promoting peaceful coexistence within a culture of peace in the education system and the educational community and at preventing sexual violence and sexual crimes;⁴⁶

(ii) Comprehensive priority care, aimed at establishing coordinated, efficient inter-institutional responses for providing care to victims of violence in the education system and preventing revictimization;⁴⁷

(iii) Special protection, justice and restoration of rights, aimed at designing and improving administrative procedures for ensuring the rights of children and adolescents and giving victims of violence in the education system access to measures for the restoration of their rights;⁴⁸

(iv) Participation, aimed at creating a system for children and adolescents to participate in efforts to address sexual violence;⁴⁹

violence in the educational system and to ensure the physical, psychological and sexual integrity of students.

⁴³ The State has acceded to a number of international human rights instruments, including the 1989 United Nations Convention on the Rights of the Child.

⁴⁴ *Registro Oficial* No. 174 of 20 September 2007.

⁴⁵ Supplement to *Registro Oficial* No. 581 of 22 November 2011.

⁴⁶ The main advances in this area are: preparation of the module on prevention of and initial response to sexual crimes in the educational sphere, which is used in the In-service Training System (SIPROFE), with 7,130 teachers trained in the first phase in 2011; preparation of two SIPROFE modules, one on gender and education and one on sex education, which are awaiting approval; educational materials on prevention of violence for classroom use (stories, story books with photographs and *buen vivir* (harmonious coexistence) circles).

⁴⁷ Advances: intersectoral coordination (National Council for Children and Adolescents (CNNA), Ministry of Health, Ministry of Economic and Social Inclusion-National Institute for Children and the Family) for dealing with cases of violence, especially sexual violence, and guaranteeing comprehensive care and reparation for victims and their families; building of educational institutions' response capacity through the implementation of the new student counselling services model; design of the new care model for victims of gender violence and sexual violence, for use by student counselling services.

⁴⁸ The main advances are: intersectoral coordination (Public Prosecution Service, provisional Council of the Judiciary, CNNA) for dealing with cases of violence, especially sexual violence, and preventing revictimization; tripartite agreement among the Council of the Judiciary, the Ministry of Education and the Prosecutor-General's Office; elaboration of action, care and investigation methodologies and protocols (teachers and authorities at various levels) for dealing with cases of violence and sexual violence against children and adolescents committed or detected in the national education system.

⁴⁹ Advances: implementation of the participatory approach for peer prevention and counselling activities in cases of gender and sexual violence detected or perpetrated in the education system, phase I (720 facilitators to reach 62,091 upper secondary students in the Costa region), the target up to April 2014

(b) Creation of a National Directorate for Democracy and *Buen Vivir* (harmonious coexistence) within the Ministry of Education, with obligations and powers that include designing programmes of preventive and corrective action in cases where the rights of children and adolescents have been violated in the educational sphere, in coordination with other bodies responsible for the administration of justice and restoration of rights

(c) Definition and drafting of protocols and methodologies for combating acts of violence and/or sexual violence detected or committed in educational establishments;

(d) Dissemination and implementation of the above protocols and methodologies through the project for training facilitators (six for each area) to provide guidance to student counselling services and dispute settlement boards in 64 priority districts (2013) and 80 districts (2014);

(e) Obligation to register on a national database (under territories and management of local and centralized information) and to locate the complaint form (under educational institutions and citizen services) on the Ministry of Education portal;

(f) Specialized technical assistance in taking a comprehensive approach to specific situations of violence and sexual and gender violence, through the national team of the student counselling services of the National Directorate for Democracy and *Buen Vivir*;

(g) Creation, promotion and implementation of the “No one ever again; education without sexual violence” national campaign aimed at drawing attention to the crime of sexual violence in all its forms and the political determination to eradicate it through joint action both between teachers and authorities within institutions and between educational authorities and justice authorities at the intersectoral level;

(h) Issuance, by means of Ministerial Agreement No. 0332-13, of a guide for the participatory drafting of a code of institutional coexistence, aimed at ensuring harmonious coexistence in institutions of the national education system;

(i) Student participation programme (Ministerial Agreement No. 0444-12), which establishes guidelines to ensure that students in the first and second years of upper secondary education complete 200 hours of activities related to one of 12 courses, one of which — education in citizenship, human rights and *buen vivir* — covers topics related to the prevention of all forms of violence.

100. As part of interministerial efforts, the Ministry of Education has signed a tripartite agreement with the Prosecutor-General’s Office and the National Council of the Judiciary on:

(a) Prioritizing the investigation of sexual violence in the education system;

(b) Strengthening prosecutions arising in the administrative sphere and the opening of administrative inquiries into cases handled by the Prosecution Service;

(c) Collecting, cross checking and analysing information on sexual violence cases reported to the Prosecution Service and/or the education system;

(d) Working intersectorally with other State institutions to uphold and protect the rights of child and adolescent victims of violence.

being to train 5,000 student facilitators and the overall target being 240,000 direct and indirect project beneficiaries; showing of short films and presentation of dramatized debates on sexuality and prevention of sexual violence (2010-2011) in all provinces; production and distribution of documentary films and guides on sexuality (2013).

101. In its work with teachers, the Ministry of Education has given priority to preparing the module on prevention of and initial response to sexual crimes in the educational sphere, which is used in SIPROFE and will become part of in-service training at the National University of Education,⁵⁰ and preparing two modules on gender and education, and sex education,⁵¹ as well as to providing education and communication materials on prevention of violence for classroom use (stories, story books with photographs and *buen vivir* circles).

102. Similarly, as part of the National Intersectoral Strategy for Family Planning and Prevention of Teenage Pregnancy (ENIFLA-PEA), the Ministry of Education will begin implementing in all entities of the national education system the methodology of promoting a participatory approach to the prevention of gender and sexual violence and teenage pregnancy. The aim is to use a long-term, financially sustainable participatory methodology to strengthen information, education and communication activities carried out to prevent and address gender and sexual violence and prevent teenage pregnancy. The methodology is designed to institutionalize the participatory approach in the national education system through the programme of student participation in the comprehensive sex education course, a didactic and recreational tool to be implemented in phases in the education system. In addition, 720 student facilitators in the provinces of the Costa region have been trained by having them pass on what they have learnt to 62,091 upper secondary students, and short films and dramatized debates on sexuality and prevention of sexual violence have been shown in every province of the country (2010–2012). The Ministry of Education is also working with parents on the preparation of education and communication materials for mass distribution during school enrolment periods,⁵² and the ENIPLA parents' guide and interactive DVD have been distributed.

103. Lastly, the Public Defender Service, pursuant to transitional provision 20 of the Comprehensive Criminal Code and by means of Resolution DP-DPG-2014-043 of 1 April 2014, has issued rules governing its service for victims of crimes against sexual freedom. The service is intended for persons who, because of their socioeconomic or cultural status or situation of vulnerability or helplessness, are unable to obtain private defence counsel to represent them in court.

Reply to paragraph 24 of the list of issues

104. Because mob justice is not criminalized under Ecuadorian criminal law, there are no statistics on this phenomenon.

Reply to paragraph 25 of the list of issues

105. Regarding complaints of involuntary placement and ill-treatment of women in private drug addiction treatment centres, the Ministry of Public Health intervened and instituted proceedings for the imposition of health sanctions on the following centres which practised "sexual reorientation" therapies on women in 2013 and 2014:

- (a) Centro Manantial, Quito;
- (b) Life and Family, Quito;
- (c) Volver a vivir, Manta;
- (d) La Esperanza, Tena;

⁵⁰ There are university instructors in 18 provinces; 7,130 teachers received training (SIPROFE) in the first phase.

⁵¹ Both modules are in the process of being transferred to the National Autonomous University of Ecuador, meaning that direct training of teachers has been discontinued.

⁵² Distributed to all students from the eighth year of basic education to the third year of upper secondary education and to all parents at all levels.

- (e) Volver a nacer, Chone;
- (f) 12 Pasos, Cuenca;
- (g) Hogar Renacer, Cuenca.

The Ministry of Health has also filed the corresponding complaints with the Prosecutor-General's Office against the persons in charge of the centres where human rights violations were verified, so that the relevant investigations can be opened.

Article 14

Reply to paragraph 26 of the list of issues

106. To ensure full redress for victims of acts of torture that occurred in the period from 1983 to 2008 and were documented by the Truth Commission, Ecuador has the Victims Reparation Act, in which the Ecuadorian State recognizes its objective responsibility for the human rights violations documented by the Truth Commission.⁵³

107. Article 4 of the Act creates a reparation programme, under the administrative responsibility of the Ombudsman's Office and funded from the General State Budget, the purpose of which is to implement reparation measures. By its resolution 042-DPE-DNATH-2014 of 4 April 2014, the Ombudsman's Office set up the National Directorate for the Reparation of Victims and the Fight against Impunity, charged with implementing the reparation programme.

108. Article 6 of the Act provides for individual reparation measures, both for the direct victims of human rights violations documented by the Truth Commission and, in their absence, for their spouses or common-law partners and family members up to the second degree of consanguinity. Such measures are to be carried out under the reparation programme administered by the Ombudsman's Office.

109. With regard to compensation for material and non-material injury, article 7 of the Act states that the Ministry of Justice and Human Rights, in coordination with the reparation programme provided for in the Act, shall regulate the procedure for reparation agreements, the amounts to be paid in compensation and enforcement measures. Compensation amounts shall be determined on the basis of the latest parameters and criteria developed for that purpose by the inter-American human rights system.

110. In the Comprehensive Criminal Code, full redress of injury includes restitution, rehabilitation, compensation, measures of satisfaction and guarantees of non-repetition, as provided for in articles 77, 78 and 628.

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111. Victims of torture documented by the Truth Commission are entitled to benefit from the reparation programme⁵⁴ by virtue of the Act for the Reparation of Victims and the Prosecution of Grave Human Rights Violations and Crimes against Humanity That Occurred in Ecuador between 4 October 1983 and 31 December 2008. It is hoped that the programme will make it possible to reach agreements permitting full redress for victims through the implementation of measures of restitution, satisfaction, rehabilitation, guarantees of non-repetition, financial compensation and psychological care. The reparation programme and compensation payments will be funded from the General State Budget.

⁵³ Act for the Reparation of Victims and the Prosecution of Grave Human Rights Violations and Crimes against Humanity That Occurred in Ecuador between 4 October 1983 and 31 December 2008, art. 2.

⁵⁴ *Ibid.*, art. 4.

Article 15

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112. With regard to the principle of the inadmissibility of evidence obtained through torture, it should be noted that article 76 (4) of the Constitution establishes that evidence obtained or acted upon in violation of the Constitution or the law shall have no validity and shall lack probative value. Following the same line of reasoning, article 83 of the Code of Criminal Procedure establishes that evidence shall have value only if it was requested, ordered, submitted and included in the trial in keeping with the provisions of the Code.

113. Article 454 (6) of Book II of the Comprehensive Criminal Code, on evidentiary principles, establishes that any evidence or element of proof obtained through the violation of rights established in the Constitution, in international human rights instruments or in the law shall lack probative value and shall therefore be excluded from the proceedings.

Article 16

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114. In the investigation into the murder of forensic doctor Germán Antonio Ramírez Herrera, the Prosecutor-General's Office has taken various actions, including the following:

(a) Preliminary investigation No. 224-2010 into the alleged murder of Mr. Ramírez Herrera records the receipt of testimonies and expertise and the conduct of various inquiries with a view to investigating the facts and, if such a crime is found to have been committed, bringing the corresponding charges;

(b) On 20 April 2012, the national head of the Programme of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings reported on the action taken to ensure the physical safety of the family of Mr. Ramírez Herrera. He indicated that on 23 July 2010, members of the Los Ríos victim and witness protection unit had handed over the files of the victim's family members to the persons responsible for providing such protection in another province. This had been done as a safety measure, in view of the family's change of domicile. Members of the community policing unit in the province where the victim's family are now living were also ordered to provide immediate assistance to the family, if required, and were told that they are responsible for monitoring the security of the family's home;

(c) From 28 October to 24 November 2011, semi-permanent protection was provided to members of Mr. Ramírez Herrera's family. After an analysis of the threats and personal risk to the victim's family members determined the risk to be low, such protection was suspended. However, security checks continued to be made in the workplace and at the home of family members.

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115. The State has made legislative and institutional progress in providing protection to human rights defenders. The special agreement on the enforcement of temporary precautionary measures and urgent actions⁵⁵ reflects an effort by the State to enforce protective measures recommended by organs of the inter-American human rights system. The agreement also focuses on the implementation of urgent actions recommended by the

⁵⁵ The Minister of Justice and Human Rights, the Minister of the Interior, Police and Worship and the Police Commander attended the signing on 10 November 2008 of the special agreement on the enforcement of temporary precautionary measures and urgent actions.

universal human rights system to protect the life and integrity of persons. It provides for special identity cards to be issued to beneficiaries of protective measures, enabling them to receive immediate and effective protection at any time when they consider themselves to be at risk. The agreement also recognizes the need to involve victims in risk assessments in order to determine what protective measures are to be taken in each case.

116. With regard to unfounded accusations, arbitrary detention and the imposition of excessively heavy fines on indigenous and peasant leaders following their participation in protests in 2009 and 2010 against changes in policy and legislation regarding the exploitation of natural resources, it should be noted that public protest is fully guaranteed under the new concept of a constitutional State characterized by rights and justice. In this connection, article 98 of the Constitution establishes that individuals and communities may exercise the right to resist actions or omissions by the public authorities or by non-State natural or legal persons that infringe or may infringe their constitutional rights and to demand the recognition of new rights. Public protest is also based on the rights of freedom of expression, association and assembly, which are recognized in article 66 (6) and (13) the Constitution. Accordingly, for public protest to be recognized as a lawful exercise of this constitutional right, it must be peaceful and unarmed and must not affect fundamental rights of non-protesters. Public protest that is violent or affects fundamental rights cannot therefore be considered a right: it is unlawful and illegal and, consequently, punishable.

117. On 24 June 2010, the summit conference of the Bolivarian Alliance of the Peoples of Our America (ALBA), attended by Presidents Rafael Correa, Evo Morales and Hugo Chávez and other delegations, was held in the city of Otavalo. Outside the Coliseo Francisco Páez, the conference venue, participants in a march organized by the Confederation of Indigenous Nationalities of Ecuador, armed with spears, stones and sticks, destroyed public and private property. All these events are described in the 25 June 2010 police report drawn up by Police Colonel Rómulo Montalvo de la Torre. It is important to emphasize that, in the present case, the police and Prosecution Service investigation centred on the destruction of public property, a crime punishable under the Ecuadorian Criminal Code with a view to guaranteeing the integrity of property. Because there were insufficient grounds for prosecuting the suspects, Marlon Santi and Delfín Tenesaca, the case was closed.

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118. In order to protect physical integrity and prohibit punishment, article 117 of Book I of the Comprehensive Criminal Code criminalizes injury of a protected person, provided that no other, more serious, offence is involved. Article 120 of the Code criminalizes collective punishment against a protected person.

119. With regard to the corporal punishment of children and adolescents in the home, it is important to mention the advances made in the new Comprehensive Criminal Code, article 156 of Book I of which criminalizes for the first time in Ecuadorian criminal law physical violence against a wife or members of the family unit, stating that anyone who wounds, injures or hits a wife or members of the family unit, causing them injuries or incapacitating them for no more than three days, shall be punishable by 7 to 30 days' imprisonment. Article 7 (i) of the Intercultural Bilingual Education Act also establishes rules designed to prevent and address abuse and sexual violence in educational centres.

120. Article 58 (d) of the Code stipulates that private educational institutions have a duty and an obligation to respect the rights of persons and to exclude all forms of abuse, mistreatment, discrimination and undervaluation, as well as all forms of cruel, inhuman or degrading treatment.

121. Articles 166 to 174 of Book I of the Code criminalize a series of violations of sexual integrity that may be committed against children and adolescents, including in an educational setting.

122. In the armed forces, the new regulations on military discipline⁵⁶ are designed to preserve military discipline as a principle of order and obedience governing the conduct of individual members of the armed forces; the regulations are binding on all soldiers. If a soldier infringes military laws or regulations without committing a crime, the disciplinary measures provided by law shall apply and corporal punishment shall be prohibited. The Ecuadorian army has also drawn up Regulation No. 001-2013 on the promotion of and respect for human rights by members of the army and on compliance with the absolute and categorical prohibition of torture in dealing with military and civilian personnel.

Other issues

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123. The Armed Forces Joint Command (COMACO) offers the following courses through the Ecuador Peacekeeping Missions School: (a) course for United Nations Military Experts on Mission; (b) course for peacekeeping personnel; and (c) pre-deployment course for members of the Ecuador contingent of the United Nations Stabilization Mission in Haiti.⁵⁷ Members of the armed forces making up the fourth contingent of the Haiti-Ecuador reconstruction support mission began pre-deployment training on 4 February at the Ecuador Peacekeeping Missions School, before travelling to Haiti in March to continue construction and reconstruction work, mainly on the road network and irrigation system in the municipality of Petite Rivière de l'Artibonite, one of the areas hardest hit by the 2010 earthquake.

124. The National Comprehensive Security Plan/Defence Policy Agenda/Justice and Human Rights Agenda, published in 2011, includes gender, intercultural, human mobility and generational approaches and the hiring of a consultant to design a model for human rights and the restructuring of the Ministry of Defence and the armed forces. Joint work has also begun with other national and international bodies to provide in-service training on specific issues related to human rights, torture, cruel, inhuman or degrading treatment or punishment and international humanitarian law.

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125. Article 366 of Book II of the Comprehensive Criminal Code defines the crime of terrorism, making it punishable by 10 to 13 years' imprisonment.

126. Article 367 of the Code criminalizes terrorist financing, making it punishable by 7 to 10 years' imprisonment.

127. Article 369 of Book I of the Code defines organized crime.

128. Article 126 of Book I of the Code criminalizes terrorist attacks on protected persons, stating that anyone who, on the occasion and in the course of armed conflict, carries out any

⁵⁶ Ministerial Agreement No. 1909, revised regulations of 15 December 2008.

⁵⁷ These courses comprise classes on: 1. Human rights, five hours of classes; 2. Code of conduct, three hours; and 3. Rules of engagement, four hours. Staff of the office of the UNHCR Representative in Ecuador give lectures on the course detailed above. The Cuba-Ecuador recovery and reconstruction support mission contingent receives classes on: (a) Human rights, 14 class hours; and (b) Code of conduct, three hours. Courses are designed to give national and foreign military, police and civilian personnel specialized training in peacekeeping operations and humanitarian assistance.

kind of attack on a protected person in order to terrorize the civilian population shall be punishable by 10 to 12 years' imprisonment.

129. Between 2011 and 2013, 84 cases involving the crime of terrorism were brought to trial, with sentence passed in 75 of them. In 2013, 58 cases involving this crime were awaiting sentencing.⁵⁸

General information on the human rights situation in the State party, including information on new measures and developments relating to the implementation of the Convention

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130. Between 2010 and 18 March 2014, the following human rights-related instruments were debated and adopted by the National Assembly and incorporated into Ecuadorian law:

- Truth Commission Protection and Immunity Act;⁵⁹
- Public Participation Act;⁶⁰
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;⁶¹
- Social Security Convention between Spain and Ecuador;⁶²
- Civil Service Act;⁶³
- Higher Education Act;⁶⁴
- Act amending the Social Security Act;⁶⁵
- Agreement supplementing the Basic Agreement on Technical Cooperation between Ecuador and Venezuela in the field of health and medicine;⁶⁶
- Bilateral agreement on the provision of reciprocal health care to nationals of the Republic of Ecuador and the Republic of Peru;⁶⁷
- Act on Organ, Tissue and Cell Donations and Transplants;⁶⁸
- Ecuador-Venezuela Migration Statute;⁶⁹
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;⁷⁰
- Intercultural Education Act;⁷¹

⁵⁸ Official communication No. DNASJ-SNDH-2014-17, Council of the Judiciary, 28 March 2014, information provided by the Council's National Directorate of Statistics.

⁵⁹ *Registro Oficial* No. 128 of 11 February 2010.

⁶⁰ *Registro Oficial* No. 175 of 20 April 2010.

⁶¹ *Registro Oficial* No. 222 of 25 June 2010.

⁶² *Registro Oficial* No. 247 of 30 June 2010.

⁶³ *Registro Oficial* No. 294 of 6 October 2010.

⁶⁴ *Registro Oficial* No. 298 of 12 October 2010.

⁶⁵ *Registro Oficial* No. 323 of 18 November 2010.

⁶⁶ *Registro Oficial* No. 333 of 2 December 2010.

⁶⁷ *Registro Oficial* No. 396 of 2 March 2011.

⁶⁸ *Registro Oficial* No. 398 of 4 March 2011.

⁶⁹ *Registro Oficial* No. 408 of 19 March 2011.

⁷⁰ *Registro Oficial* No. 417 of 31 March 2011.

- Tobacco Regulation and Control Act;⁷²
- Act amending the Health Act and including rare or orphan and catastrophic diseases;⁷³
- Workers with Family Responsibilities Convention, 1981 (No. 156) of the International Labour Organization (ILO);⁷⁴
- Act regulating Housing and Vehicle Loans;⁷⁵
- Disability Act;⁷⁶
- Act for the Protection of Labour Rights;⁷⁷
- Ecuador-Peru Permanent Migration Statute;⁷⁸
- Convention on the Reduction of Statelessness;⁷⁹
- Convention on Social Security between Ecuador and Peru;⁸⁰
- Convention on Social Security between Ecuador and Venezuela;⁸¹
- ILO Domestic Workers Convention, 2011 (No. 189);⁸²
- Communication Act;⁸³
- Act for the Reparation of Victims and the Prosecution of Grave Human Rights Violations and Crimes against Humanity That Occurred in Ecuador between 4 October 1983 and 31 December 2008;⁸⁴
- Act setting up the Yachay Experimental Research University;⁸⁵
- Act setting up the Ikiam Amazonian Regional University;⁸⁶
- Act setting up the University of the Arts;⁸⁷
- Memorandum of Understanding between Ecuador and Guatemala on Control of Migrant Smuggling and Protection of Victims;⁸⁸
- Act setting up the National University of Education;⁸⁹
- Comprehensive Criminal Code;⁹⁰

⁷¹ Ibid.

⁷² *Registro Oficial* No. 497 of 22 July 2011.

⁷³ *Registro Oficial* No. 625 of 24 January 2012.

⁷⁴ *Registro Oficial* No. 641 of 15 February 2012.

⁷⁵ *Registro Oficial* No. 732 of 26 June 2012.

⁷⁶ *Registro Oficial* No. 796 of 25 September 2012.

⁷⁷ *Registro Oficial* No. 797 of 26 September 2012.

⁷⁸ *Registro Oficial* No. 315 of 8 November 2010.

⁷⁹ *Registro Oficial* No. 882 of 30 January 2013.

⁸⁰ *Registro Oficial* No. 886 of 5 February 2013.

⁸¹ *Registro Oficial* No. 916 of 20 March 2013.

⁸² *Registro Oficial* No. 294 of 2 April 2013.

⁸³ *Registro Oficial*, Supplement No. 22 of 25 June 2013.

⁸⁴ *Registro Oficial*, Supplement No. 143 of 13 December 2013.

⁸⁵ *Registro Oficial*, Supplement No. 144 of 16 December 2013.

⁸⁶ Ibidem.

⁸⁷ *Registro Oficial*, Supplement No. 145 of 17 December 2013.

⁸⁸ *Registro Oficial* No. 156 of 7 January 2014.

⁸⁹ *Registro Oficial*, Supplement No. 147 of 21 January 2014.

⁹⁰ Supplement to *Registro Oficial* No. 180 of 10 February 2014.

- Act declaring an end to the 1999 banking crisis;⁹¹
- Agreement on residence for nationals of MERCOSUR State parties, Bolivia and Chile;⁹²
- Convention between Ecuador and Argentina on recognition of primary, general basic and secondary education qualifications and certificates or their equivalents.⁹³

131. In 2012, the restructuring of the Ministry of Defence and the armed forces permitted the creation of the COMACO Directorate of Human Rights, Gender and International Humanitarian Law and the navy and air force Departments of Human Rights and International Humanitarian Law and the hiring of a consultant who, assisted by the Directorate of Human Rights and International Humanitarian Law, drew up the Ministry of Defence human rights, gender and international humanitarian law management model. The Ministry, in conjunction with the Directorate of Asylum of the Ministry of Foreign Affairs, Trade and Integration, ICRC and the Ecuadorian Red Cross, also taught the first course on human rights, asylum, legal proceedings and the mission and mandate of the International Red Cross and Red Crescent Movement for military personnel stationed on the country's northern border. The purpose of such training is to promote attitudes and conducts on the part of military personnel that respect the dignity and integrity of persons, guaranteeing that they observe appropriate procedures, in keeping with the law and military jurisdiction, in their professional activities. The first phase of the second course for military personnel stationed on the northern border included the first joint human rights module, incorporating gender and collective rights topics not included in the first training course.

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132. With respect to human rights, Ecuador signed the Inter-American Convention against All Forms of Discrimination and Intolerance on 7 June 2013. Ratification of the Convention is still pending, however.

133. By resolution No. 160 of 18 October 2013, the plenary National Council of the Judiciary established the National Human Rights Directorate, responsible for managing human rights issues, within the National Directorate of Access to Justice, as part of the management of access to justice services.⁹⁴ The Human Rights Directorate has formulated and is implementing a plan for strengthening the administration of justice by mainstreaming the human rights approach in Ecuador. The purpose of the plan is to create a system of indicators that will allow the functioning and achievements of the justice system to be measured from a human rights perspective. It also includes a training component designed to make judicial employees and judges aware of the importance and necessity of considering and implementing a human rights approach in judicial activities. It further proposes the creation of an official mechanism for monitoring individual cases of human rights violations identified in the State's judicial activities.

⁹¹ *Registro Oficial*, Supplement No. 188 of 20 February 2014.

⁹² *Registro Oficial* No. 209 of 21 March 2014.

⁹³ *Registro Oficial* No. 233 of 25 April 2014.

⁹⁴ The Directorate is already operational and has been functioning on a permanent basis since October 2013. Its mission is to design plans, programmes, projects and actions aimed at ensuring that organs of the justice system protect the exercise of human rights.

134. The Ministry of Defence, in coordination with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Ministry of National Heritage and the Ministry of Justice, Human Rights and Worship, designed the training modules for civil servants on the collective rights of the peoples and nationalities of Ecuador. There is also a module for the armed forces, designed to ensure that military personnel are trained in the concepts of interculturalism, equality and non-discrimination.

135. With a view to promoting human rights training programmes for civil servants that take account of the gender and intercultural approach, in keeping with policy 9.6 of the National *Buen Vivir* Plan 2009–2013, the Ministry of Defence has developed initiatives that adopt gender and intercultural approaches:

(a) Establishment, by General Ministerial Order No. 108 of June 2011, of the gender working group of the Ministry of Defence and the armed forces;

(b) Plan of activities for publicizing collective rights in the Ministry of Defence and the armed forces, in the context of the International Year for People of African Descent 2011, as a vehicle for examining the contribution made by peoples and nationalities to the history of those institutions;

(c) With regard to legislative progress on gender issues, there are the provisional rules guaranteeing the principle of the direct and immediate applicability of the rights of female armed forces military personnel.⁹⁵ Moreover, the 2011 rules on discipline and rewards for trainees in armed forces training academies mainstream the human rights and gender approach and prohibit the use of language containing sexual, discriminatory or racist allusions or sexual innuendo. With regard to maternity, the rules grant two years' special leave to female trainees who become pregnant during their training period, so that maternity does not impede or restrict access to a military career;

(d) The adoption in 2012 of the plan of activities for mainstreaming the intercultural and multicultural approach in the armed forces, designed to affirm and strengthen intercultural and multicultural identity. The plan's goals include making a quantitative and qualitative analysis of ethnic and cultural integration in the armed forces, mainstreaming the intercultural and multicultural approach in military training and disseminating materials in the armed forces;

(e) The 6 March 2011 publication of the gender policy of the Ecuadorian armed forces, which the Ministry of Defence decided to issue in exercise of its powers under the Constitution and the National Defence Act and which comprises four objectives, seven policies and 21 strategy lines. An inclusive defence policy was thus established, designed to make a significant contribution to women's integration in the armed forces, with the same rights and opportunities as men, and to promote respectful coexistence between male and female soldiers.

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136. Pursuant to Ecuador's commitments to the Committee against Torture, the Ministry of Defence is implementing an armed forces training programme on the prevention of torture and cruel, inhuman or degrading treatment or punishment. Designed as a preventive measure, the programme aims to educate military personnel about the prevention of torture or cruel, inhuman or degrading treatment or punishment and consists of lectures that will focus on case studies in order to prevent possible violations of human rights.

137. By official communication No. MDN-DDH-2012-0030-OF of 11 October 2011, the model for implementing the recommendations of the report of the Special Rapporteur on

⁹⁵ Agreement No. 1046 of 8 July 2009.

extrajudicial, summary or arbitrary executions, Philip Alston (HRC/17/28/Add.2), particularly with respect to recommendation D on northern border abuses, was transmitted to the Ministry of Foreign Affairs, Trade and Integration. An interdisciplinary team is being set up, consisting of staff from the Sub-Secretariat for Planning, the Sub-Secretariat for Defence and the Human Rights Directorate, to draw up human rights, gender and interculturalism policies for the defence sector.

138. It is important to mention the publication of the protocols for processing and monitoring human rights and gender cases in the armed forces,⁹⁶ designed to ensure that the various policies being implemented by the Ministry of Defence are coordinated with the Constitution and the law, so that when the various complaints of possible human rights violations are processed, the necessary corrective action can be identified and taken to help prevent such conduct.

139. In the area of training, the Ministry of Defence, by official communication No. MDN-MDN-2012-1222-OF of 19 July 2012, transmitted the human rights, gender and interculturalism syllabuses to COMACO, with the order that they must be taught as compulsory subjects.

IV. Challenges

140. Following the dialogue held with representatives of Ecuadorian civil society organizations on 29 May 2014, the following challenges were identified:

- Urge the Prosecutor-General's Office to continue its investigations of alleged cases of torture and to improve victim and witness protection;
- Design and implement public training programmes on prevention and on procedures for reporting cases of torture and other human rights violations;
- Step up and improve programmes of support and comprehensive care for victims of torture and other human rights violations;
- Strengthen training programmes in human rights, ethics and codes of conduct for members of the national police, the armed forces, the judiciary and all civil servants nationwide;
- Design methodologies for evaluating the impact and effectiveness of such training programmes;
- Improve the legal advisory services provided to asylum seekers, especially with regard to the submission of administrative appeals provided for by the Statute of Legal and Administrative Rules of the Executive Branch and the Regulation governing the application in Ecuador of the right of asylum as part of the process of determining refugee status in Ecuador;
- Urge both the Ministry of the Interior and the Ministry of Defence and the Prosecutor-General's Office permanently to monitor the conduct of their representatives in the border area and to investigate alleged violations committed against refugees and asylum seekers;
- Strengthen and improve nationwide campaigns aimed at teachers and family members of students and designed to prevent abuse, sexual violence and bullying in educational centres;

⁹⁶ Supplement to *Registro Oficial* No. 176 of 4 June 2012.

- Step up measures to monitor and follow up alleged cases of sexual abuse and harassment in educational centres and cases of torture alleged to have occurred in rehabilitation clinics;
 - Publicize the progress made by the State with regard to the prevention and eradication of torture, particularly progress benefiting prisoners and other priority groups.
-