



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

Distr.  
GENERAL

CAT/C/ECU/CO/3/Add.1  
12 February 2007

ENGLISH  
Original: SPANISH

---

COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Comments by the Government of Ecuador concerning the conclusions and  
recommendations of the Committee against Torture (CAT/C/ECU/CO/3)\***

---

\* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

**REPORT OF THE GOVERNMENT OF ECUADOR ON ITS IMPLEMENTATION  
OF THE RECOMMENDATIONS OF THE COMMITTEE AGAINST TORTURE  
IN CONNECTION WITH THE CONSIDERATION OF THE THIRD PERIODIC  
REPORT OF ECUADOR**

1. The Government of Ecuador wishes to report on the specific measures that it has taken to implement the recommendations contained in paragraphs 17, 22, 24 and 25 of the conclusions and recommendations of the Committee against Torture (CAT/C/ECU/CO/3) in connection with the consideration of the third periodic report of Ecuador (CAT/C/39/Add.6).
2. On 16 December 2005, the Ministry of Foreign Affairs sent a copy of the conclusions and recommendations of the Committee against Torture to State institutions for consideration and implementation in accordance with their respective spheres of competence and responsibility. These institutions have reported on the progress achieved over the period of nearly one year. Their replies, together with the comments of civil society organizations, have been compiled and are presented below.

**Paragraph 17**

3. With regard to Ecuador's obligation to ensure that allegations of torture and ill-treatment of members of vulnerable groups are thoroughly investigated, it should be pointed out that, in order to ensure effective compliance with Ecuadorian legislation, which has already incorporated the provisions contained in articles 2 and 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in February 2006 the Public Prosecutor's Office, which is responsible for the pretrial and procedural investigation of publicly prosecutable offences, distributed the Committee's conclusions and recommendations to its staff. Accordingly, district public prosecutors have taken steps to place emphasis on the investigation of cases of torture or cruel, inhuman or degrading treatment of members of vulnerable groups. Some positive results have already been achieved: for example, Catalina Castro Llerena, prosecuting officer of Manabí, initiated a preliminary investigation in response to repeated complaints filed individually by inmates and to reports published in the Manabí local press that torture was being practised in various departments of the El Rodeo social rehabilitation centre. It is not possible to inform the Committee of the findings of this investigation since it has not yet been completed.<sup>1</sup>
4. The Public Prosecutor's Office relies, for investigative purposes, on the Judicial Police, which this year has taken steps to provide specialized training for its staff in investigative and legal matters. Individuals performing this function are police officers who have been accredited by the Public Prosecutor's Office; the procedures they adopt are thus carried out in strict conformity with the law and are based on respect for human rights.

---

<sup>1</sup> Information provided by Cecilia Armas, State Public Prosecutor, in official letter No. 8418, dated 30 October 2006.

5. With respect to the issue of gender, the Public Prosecutor's Office has assigned priority to the investigation of allegations of torture of women. According to the Office's statistics, in 2001, 15 cases involving sexual offences and domestic violence were brought before the ordinary criminal courts. Between January and December 2002, this figure rose to 232 cases, while between January and December 2003, there were 422 cases, which were investigated promptly and effectively.
6. Since the investigation and prosecution of sexual offences calls for staff with technical skills, the Public Prosecutor's Office has taken steps to create specialized units for domestic violence and sexual offences in the three largest districts of the country: Guayas-Galápagos, Pichincha and Manabí, and has held several training courses.
7. The Public Prosecutor's Office has implemented policies aimed at preventing and dealing with violence against women and domestic violence. On a number of occasions, civil society organizations, the central Government and local governments have made concerted efforts to contribute to the elimination of gender violence.
8. As is clear from the foregoing, the work of the Commissioners for Women and the Family, mentioned in Ecuador's third periodic report,<sup>2</sup> is fully supported by action on the part of the Public Prosecutor's Office, which has introduced gender mainstreaming as an institutional policy to be followed in all its operations.
9. In addition, the State has at its disposal the Department for the Protection of the Rights of Women, Children and Adolescents, which is part of the Office of the Ombudsman. In keeping with the Committee's recommendations, the Office of the Ombudsman has taken steps to strengthen its operations; however, it has not received complaints and does not have information on proceedings or reports regarding torture and ill-treatment of women. Notwithstanding, the Department for the Protection of the Rights of Women, Children and Adolescents affirms that it has taken the necessary corrective measures and has the capacity to intervene adequately if cases are submitted for its consideration.<sup>3</sup>
10. With respect to the issue of sexual minorities, it should be noted that article 516, paragraph 1, of the Criminal Code, which criminalized homosexuality, was declared unconstitutional by Constitutional Court decision No. 106-1-97 of January 1997, published in

---

<sup>2</sup> Pursuant to the Domestic Violence and Violence against Women Act, the Commissioners for Women and the Family receive and effectively investigate complaints of domestic violence; they order and process protection measures; they order preliminary procedures relating to forensic, gynaecological and/or proctological examinations; they order measures to prevent offences involving domestic violence; they punish minor offences; and they refer cases to the ordinary courts for prosecution and, if offences have been committed, punishment.

<sup>3</sup> Information provided by Rosario Utreras, National Director of the Department for the Protection of the Rights of Women, Children and Adolescents, Office of the Ombudsman, in memorandum No. DNDDMNA 189-2006-AA, dated 16 October 2006.

*Official Gazette* under No. 203-S on 27 November 1997. Consequently, the allegations submitted to the Committee represent isolated, not widespread, instances. Specific cases must be investigated and punished; this requires filing a complaint through the usual channels. The number of complaints expected has not materialized, possibly owing to the reticence of victims, many of whom have not openly expressed their sexual orientation. This attitude on the part of victims is linked to Ecuador's traditionalistic and conservative culture, which requires a process of gradual change.

11. Ecuador nevertheless recognizes the need to increase awareness of the right to freedom of sexual orientation, which is laid down in its Constitution. This process has already been initiated as part of the Operational Plan on Sexual Diversity, which was included in Ecuador's National Human Rights Plan, adopted in 2003.

12. With respect to the indigenous population, the Ecuadorian Constitution safeguards the individual and collective rights of indigenous and Afro-Ecuadorian peoples throughout its territory in accordance with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, to which Ecuador is a party, and other related instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples, which was adopted by the Human Rights Council in June 2006.

13. Based on statistics provided by the National Judiciary Council, to date no complaints of torture or ill-treatment have been filed by indigenous communities. Certain excesses may occasionally be committed by the police in their efforts to disperse public demonstrations, particularly when acts of vandalism or group violence are involved. In order to address this situation, in 2003 the National Police developed a specific programme for handling public demonstrations and human rights, which is taught at all levels of the police force, pursuant to an agreement with the International Committee of the Red Cross (ICRC) and several State bodies.

14. The Department for the Protection of the Rights of Indigenous Peoples, which is attached to the Office of the Ombudsman, states that, despite efforts to raise awareness of the services it offers, since January 2001 it has not received any complaints of torture. Nor has it received any reports of torture from the 40 members comprising the Network of Indigenous Human Rights Defenders, who maintain relations with the Department or coordinate efforts to protect the rights of the indigenous peoples.

15. The Department for the Protection of the Rights of Indigenous Peoples has received complaints of verbal abuse, particularly in educational and health establishments and in some government offices. While the rights in question in the specific cases reported have been restored, it has still not been possible to eliminate the ill-treatment to which indigenous persons are generally subjected as a result of racism.<sup>4</sup>

---

<sup>4</sup> Information provided by Luis Anrango, Director of the Department for the Protection of the Rights of Indigenous Peoples, Office of the Ombudsman, in memorandum No. 065-DINAPIN-AA-DD-2006, dated 16 October 2006.

16. With regard to the Committee's recommendation that Ecuador ensure that those responsible are brought to trial, we understand that the Committee's concern refers to the fact that many of the amicable settlements coordinated by Ecuador in torture cases conclude with compensation of the victims and that very little is done to investigate and prosecute the perpetrators of such acts. In this connection, Ecuador wishes to inform the Committee that, although the constitutional provision establishing the right of the State to recover compensation payments from the civil servants whose actions gave rise to such payments is a progressive measure that other States would do well to imitate, it is also true that Ecuador has had great difficulty in implementing that provision and has not been able to do much to improve the situation. There have been a number of practical difficulties to which no solutions have yet been found. In some cases, once victims have received monetary compensation and the violated right has been restored, they often do not cooperate in the prosecution of their cases; for example, they fail to attend trial proceedings, thereby delaying them.<sup>5</sup> Moreover, the length of time required to prosecute cases before the Inter-American Court of Human Rights makes it very difficult for the Prosecutor's Office to contact witnesses and update evidence. Frequently, delays in the administration of justice are caused by the failure to bring defendants before criminal courts or by the non-appearance of witnesses, as well as other similar problems, including a lack of coordination among the various bodies involved.

17. It should be noted that the obligation to investigate the actions of persons involved in acts of torture is an obligation to take measures, not to obtain results. The State is therefore making every effort to pursue the investigations, but it cannot ensure the results. In the Tibi case, for example, the State submitted three formal requests to the Public Prosecutor's Office, which is currently investigating the complaint. The case is in the pretrial stage of preliminary investigation, which is confidential.

18. With regard to the Committee's request that Ecuador build up and strengthen the system of public defenders to protect vulnerable groups, it should be noted that Executive Decree No. 3546 of 17 January 2003 established the Commission for the Implementation of Criminal Procedural Reform. This Commission is composed of the President of the Supreme Court, the Public Prosecutor General, the Director of the Judicial Police, the Legal Under-Secretary of the Office of the President, the Minister of the Interior, and acting as ad hoc technical secretariat, the Esquel Group Foundation. The Commission sponsored a bill on public defenders and submitted it to the Office of the President on 28 June 2004. The Office of the President referred the bill to Congress, where it is currently in its second reading.

19. The Esquel Group Foundation has organized various radio and television campaigns to promote the adoption of the bill on public defenders and has provided technical advisory services to members of Congress in order to inform them of the advantages of adopting the bill.<sup>6</sup>

---

<sup>5</sup> Information provided by Salim Zaidam, Office of the Procurator-General, Department of Legal Assistance and Representation, on 25 October 2006.

<sup>6</sup> Information supplied by e-mail by Patricia Esquetini of the Esquel Group Foundation on 25 October 2006.

20. This bill aims to correct not only the shortcomings noted by the Committee against Torture, but also those detected following the second evaluation of the criminal procedural system carried out in 2006 by the Justice and Society Fund of the Esquel Group Foundation. This has demonstrated the imperative need to establish an autonomous institution with its own budget and a new set of public defenders, that is, lawyers recruited by the State and lawyers from civil society organizations who are completely independent of any other body or State function. The aim is to provide effective counsel to anyone who cannot afford the services of a lawyer, with particular emphasis on vulnerable groups in order to ensure that no one is left defenceless.

21. Ecuador hopes that the bill will be adopted and enter into force no later than the first quarter of 2007.

22. Another positive development is the fact that, in 2007, the International Rehabilitation Council for Torture Victims, which is based in Denmark, the Human Rights Foundation of Turkey, REDRESS, the World Medical Association, Human Rights Watch and the Foundation for Integral Rehabilitation of Victims of Violence, together with governmental and non-governmental human rights organizations will implement the Istanbul Protocol. This includes plans to train 50 independent experts in forensic medicine and psychiatry and to train psychologists and lawyers to document cases of torture in order to bring them before national and international courts. The Istanbul Protocol will serve as a valuable tool for ensuring the exercise of the human rights that protect individuals from all forms of torture.<sup>7</sup>

## **Paragraph 22**

23. With regard to the Committee's recommendation that Ecuador should improve training programmes for judicial personnel, the Public Prosecutor's Office and police and prison staff, in the principles and rules for protection of human rights in the treatment of prisoners, it should be noted that such training was begun in November 2005, prior to the issuance of the Committee's conclusions and recommendations. Nevertheless, in keeping with the Committee's recommendations, the above-mentioned institutions have strengthened and enhanced training programmes, which have been designed by experts in human rights and the treatment of prisoners, with the advice and technical and/or economic support of a number of civil society organizations.

24. Training programmes organized by the Department of Social Rehabilitation have been held for prison guards and staff, including doctors, psychiatrists and psychologists. These programmes have been designed pursuant to agreements concluded with civil society and have had the support, in particular, of the Foundation for Integral Rehabilitation of Victims of Violence. The workshops have dealt with the following themes:

- (a) Prisons and the comprehensive rehabilitation of victims of violence and their families;

---

<sup>7</sup> Information provided by e-mail by Yadira Narváez, Foundation for Integral Rehabilitation of Victims of Violence, on 31 October 2006.

- (b) Constitutional rights, due process in prisons;
- (c) Re-examination of the role of prison guards and the human rights of prisoners;
- (d) Tools for guaranteeing respect for and the exercise of the human rights of detainees in social rehabilitation centres;
- (e) Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- (f) Harmonization of medical diagnostic criteria based on the International Classification of Diseases, tenth revision;
- (g) Classification and codification of violence and torture, intended for physicians;
- (h) Training in forensic traumatology;
- (i) Implementation of the health information system;
- (j) Harmonization of criteria based on the Diagnostic and Statistical Manual of Mental Disorders, fourth revision, and the International Classification of Diseases, tenth revision, with emphasis on the category of post-traumatic stress and the psychological disorders related to violence and torture;
- (k) Training in the identification of torture victims.

25. With regard to both face-to-face seminars and distance learning, the aim is for physicians, psychologists, social workers and teachers to learn to use national and international instruments that guarantee the rights of persons deprived of their liberty and to acquire greater expertise in identifying the signs and symptoms of torture.<sup>8</sup>

26. Training has also been strengthened within the judicial branch. The National Judiciary Council has joined in these efforts and this year has taken steps to strengthen, reorganize and promote training programmes for judges and justice officials.

27. In addition, between 1999 and 2003, in cooperation with the Foundation for Integral Rehabilitation of Victims of Violence and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders in Ecuador, a training programme was held for supreme court judges, criminal court magistrates, judges, prosecutors and public defenders. Judges, prosecutors, and attorneys of the courts of law of the navy, air force, army and police also participated. The training had as its theme "Constitutional safeguards of due process". The programme resulted in the preparation of the Manual of Ecuadorian Criminal Procedure, which

---

<sup>8</sup> Information provided by Marco Morales, Technical Director of Security of the Department of Social Rehabilitation, in official letter No. 1730-DTS-DNRS, dated 10 October 2006.

collates the Code of Criminal Procedure with international human rights standards, including the Convention against Torture. It also includes rulings of the Inter-American Court of Human Rights and jurisprudence and decisions of the Supreme Court and the Constitutional Court. The manual was distributed in 2003 to all criminal justice personnel in the country.

28. Since January 2005, the National Police has carried out various activities aimed at training professional staff in the principles of human rights applied to the police force.

29. In the first quarter of 2005, in coordination with the Latin American Development Corporation and under the auspices of the British Embassy, training was provided to police human rights instructors under an agreement with ICRC on the specific topic of “Guidelines for police conduct in the case of flagrante delicto, detention for investigation, arrest and detention orders”. In the first half of 2005, in coordination with the Department of Logistics and the Department of Education, 34,000 pamphlets were distributed nationally, together with a summary on the same topic and a card containing, on the front, the text to be read to citizens informing them of their rights upon their arrest and, on the back, the text to be read when taking citizens into custody. In the second half of 2005, 34,000 copies of the same instructions were issued using a format (cartoons) that was easier for readers to understand, to which was attached a self-evaluation form as part of a nationwide survey. The instructors who have been trained are currently discussing this subject in a course entitled “Principles of human rights applied to the police force”, which has been given for two consecutive years in police training academies and regimental courses at the national level; as a result, some 8,000 new career policemen have been trained. In 2008, with the support of NGOs, the Inter-American Institute of Human Rights and the Office of the Ombudsman, training will be provided to all police personnel at the national level.

30. In 2005, an institutional education project entitled “Mainstreaming human rights principles in the curricula of all education, training and specialization facilities in the police education system and police training academies” was carried out; the project later served as the basis for similar training for the Peruvian National Police. The project involved the mainstreaming of the core principles of the Convention against Torture in the procedures used during and after the arrest and detention of citizens who committed an offence.

31. The course content of the “Principles of human rights applied to the police force” calls for repeated instruction in these principles in chapters 4 to 16 of the “Serve and protect” manual and in practical classes on the progressive use of force and firearms, arrest, detention, maintenance of law and order, vulnerable groups, and so forth.

32. Since 2001, the School of Higher Police Studies has included in its curriculum a module on police procedures and human rights as part of a pyramidal sequence of human rights education imparted to cadets during their first two years of training. They also receive theoretical and practical instruction in the topics described in the foregoing paragraph, which confirms that the treatment of arrested or detained citizens is a recurrent theme.

33. Since 2002, with the cooperation of international police instructors, training has been provided to students of the National Police Headquarters School through a week-long 45-hour seminar dealing extensively with the issue in question.



34. Since 2005, continual updates and changes have been made to human rights modules taught at all police training facilities, such as the Specialization and Advanced Training School, the National Police Technological Institute of Higher Studies and police training schools, under agreements signed by the police administration with various organizations that have offered to cooperate in providing human rights training, such as ICRC, the Latin American Development Corporation, the Multidisciplinary Studies Centre, the Office of the Ombudsman and, in the near future, the Inter-American Institute of Human Rights. After conducting a workshop to ascertain what human rights courses were being taught, the Inter-American Institute observed that the work we had carried out to date could serve as a model for introducing similar programmes in other police forces in North, Central and South America.<sup>9</sup>

Police staff trained in human rights	
10 courses for training police instructors in human rights (ICRC agreement) (trainers)	350 chiefs, senior officers, non-commissioned officers and police officers at the national level
Number of police staff who have been instructed in human rights as part of their curriculum, adjusted to the annual programming of each educational facility	
Four graduating classes of the National Police Headquarters School	Approximately 140 chiefs
Four graduating classes of the specialization and advanced training school	Approximately 600 officers
Five graduating classes of officers of the School of Higher Police Studies	Approximately 1,000 officers
Two graduating classes of police training schools	Approximately 8,000 police officers
Two graduating classes of the National Police Technological Institute of Higher Studies	Approximately 280 chiefs, senior officers, non-commissioned officers and police officers
Total	10,370 chiefs, senior officers, non-commissioned officers and police officers at the national level

35. The Department of the Judicial Police has reported that, in keeping with the Committee's recommendations, it decided, in a telegram sent to all headquarters, subheadquarters and units throughout Ecuador, that, beginning in 2006, for three consecutive days each month, the provision contained in the following paragraph should be read aloud to all staff members.

36. "The undersigned hereby reminds you of your obligation to respect the human rights of all detainees, regardless of their origin or status, by applying legal procedures and avoiding excesses in all your actions, bearing in mind the progressive use of force, and that force is to be used only

---

<sup>9</sup> Information provided by e-mail by Mayor Augusto Sandoval, Department of Human Rights, National Police, on 31 October 2006.

in order to protect your physical integrity. Consequently, all forms of torture and other cruel, inhuman or degrading treatment that detract from the image of the National Police of Ecuador are prohibited, as has already been observed by the Committee against Torture during its consideration of Ecuador's third periodic report in November 2005. This means that the level of confidence and professionalism attained by our institution depends on your actions. Any failure to respect this provision shall be punished. All chiefs and deputy chiefs shall be liable for any negligence on the part of their subordinates in implementing this provision."

37. The Ministry of Defence has set up a human rights section for the purpose of centralizing and coordinating all issues relating to this subject. In addition, one of the objectives of the Ministerial Strategic Plan 2001-2010 includes the revision and updating of the laws and regulations of the armed forces in order to bring them into line with national and international human rights standards.

38. In 2005 and 2006, with the support of other institutions and civil society organizations, the military establishment conducted various training workshops on human rights and international humanitarian law, including those described below.

39. In March 2005, the Army General Inspectorate and ICRC, together with national and international instructors, held a seminar entitled "Human rights and international humanitarian law", which was attended by 38 officers and 10 civilian employees and legal advisers attached to various military divisions of the army.

40. The Office of the Procurator-General organized the first international seminar on human rights and the State, which was attended by officers from various divisions of the army.

41. Through its regional delegation for Peru, the International Committee of the Red Cross for Bolivia, Ecuador and Peru hosted the second international humanitarian law course for instructors in Lima on 22 and 23 September 2005, which was attended by two Ecuadorian army officers.

42. The first human rights and international humanitarian law course was given by high-level foreign instructors at the Army Training School in Ambato. It was attended by 37 trainees, including army officers and volunteers.

43. The military personnel of the various units trained in human rights and international humanitarian law are responsible for transmitting what they have learned to their respective units.<sup>10</sup>

44. In addition, the Ministry of Defence has prepared instructions for the operation of the human rights section and instructions on international humanitarian law, and has incorporated the subject of human rights and international humanitarian law in the curricula of training and advanced training institutes for officers and volunteers.

---

<sup>10</sup> Information provided by General Fabián Varela, Under-Secretary of National Defence, in official letter No. MS-7-1-2006-36, dated 23 January 2006.

45. The Ministry of Defence has evaluated the training programmes conducted and has noted one positive result, namely that there has been a reduction in the number of cases of physical and psychological ill-treatment of conscripts, soldiers and civilian personnel.

46. With respect to the Committee's recommendation that Ecuador approve and rapidly put into effect the national human rights plan for the armed forces, Ecuador wishes to inform the Committee that the Ministry of Defence, in conjunction with the Joint Command of the Armed Forces and the army, navy and air force, has scheduled a meeting, to be held sometime after 23 October 2007, to discuss the draft national human rights plan for the armed forces with a view to approving and implementing it no later than 1 December 2007.

47. Regarding the Committee's recommendation that Ecuador set up an inter-agency committee to draw up and implement training programmes in human rights and the treatment of prisoners - a provision that was also mentioned in the judgement handed down in the Tibi case - the Office of the Procurator-General, reaffirming its intention to fulfil Ecuador's international obligations, is currently holding discussions with the human rights clinic of the Pontificia Catholic University of Ecuador concerning an existing plan to set up an inter-agency committee to prepare and implement training programmes in human rights and the treatment of prisoners.

48. The purposes of the inter-agency committee will be to draw up, implement and evaluate education and training programmes in human rights and the treatment of prisoners. The committee will be chaired by the Procurator-General or his or her permanent representative and will hold monthly meetings for the purposes mentioned at the beginning of this paragraph.

49. The recipients of the training programmes will be the judicial personnel of the Public Prosecutor's Office, police and prison staff, including medical, psychiatric and psychological personnel. The content of such programmes will include, inter alia, principles and norms for the protection of human rights, relating to the detention of individuals, their rights and judicial safeguards, the treatment of detainees, detention conditions, visits and so forth.

50. Lastly, for the purposes of follow-up and evaluation, the inter-agency committee will submit a report to the highest authorities of the institutions comprising the committee. The Public Prosecutor's Office will subsequently transmit the report to the Inter-American Court of Human Rights.<sup>11</sup>

51. Taking these criteria into account, the committee will be required to adopt its own rules of procedure and ensure that it fully meets its obligations under article 30 of the National Human Rights Plan, which establishes that it should "design and implement a prison policy that treats detainees as the subjects of rights, providing the services they need to develop their potential in decent living conditions and making optimum use of available resources in order to ensure respect for their rights and the development of appropriate systems of social rehabilitation and reintegration".

---

<sup>11</sup> Information provided by Camilo Mena, National Director of Legal Assistance and Representation, Office of the Procurator-General, in official letter No. 28322, dated 4 October 2006.

**Paragraph 24**

52. With regard to the Committee's recommendation that Ecuador adopt effective measures, including approval of the budgetary funds needed to improve physical conditions in detention centres, reduce the current overcrowding and properly meet the fundamental needs of all those deprived of their liberty, Ecuador wishes to point out that, until 2004, the budget of the social rehabilitation centres was funded by bounced-check fines and legal fines. However, following the presentation of a bill on the enforcement of sentences, a budget item corresponding to the Department of Social Rehabilitation was included in the State's general budget. According to information provided by the Ministry of Finance, the budget of the Board and the Department of Social Rehabilitation for fiscal year 2006 amounts to US\$ 31,345,500. Although this amount remains insufficient, the creation of the budget item and the amount of its funding demonstrate that the Government of Ecuador attaches importance to the allocation of resources for improving the operation of the country's rehabilitation centres.<sup>12</sup>

53. Owing to the state of emergency declared in March 2006, the Department of Social Rehabilitation received additional resources that will be spent on reducing overcrowding and improving the material conditions of rehabilitation centres.

54. Ecuador does not have sufficient resources to provide for the significant budget increases that this institution requires and would appreciate any support that the international community might wish to provide through the intermediary of the Committee against Torture.

55. Despite the aforementioned budgetary constraints, in 2003 the Santo Domingo de los Colorados prison complex was opened. It consists of a medium security facility with a holding capacity of 320 inmates. The complex has workshops and other facilities designed to accommodate inmates and provides for full on-site rehabilitation, thereby partly reducing overcrowding. Moreover, consideration has been given to the construction of facilities for 40 inmates, the capacity of which would be increased depending on the physical space and availability of land in the country's social rehabilitation centres. Noteworthy among these newly constructed facilities are the social rehabilitation centres of Bahía de Caráquez, Quevedo, Guayaquil and Esmeraldas. These facilities consist of four communal cells, each of which holds 10 inmates and has its own sanitation facilities and security area. What is important is that these facilities are extremely versatile, and can be expanded both horizontally and vertically.

56. Work is being completed on the Archidona social rehabilitation centre in order to prevent inmates from coming into contact with the local municipal slaughterhouse, which creates a very inconvenient and unhealthy environment for detainees.

57. Some centres have undergone a veritable transformation. These include the social rehabilitation centres for women in Esmeraldas and Guayaquil and the social rehabilitation centre in Bahía de Caráquez, which has been entirely rebuilt.

---

<sup>12</sup> Information provided by Fabián Carrillo, Under-Secretary-General of Finance, in official letter No. MEF-SP-CACP-2006-0338, dated 13 February 2006.

58. As a result of the state of emergency in prison centres that was declared in March 2006, consideration is being given to the construction of new housing facilities and to the installation of new electrical and plumbing systems. There are plans for the construction of a maximum security facility in Santo Domingo de los Colorados. The municipality of Quito has earmarked resources for the construction of a medium security facility in Quito. It has also provided for the construction of two provisional rehabilitation centres in Quito, with facilities capable of housing 150 inmates each.<sup>13</sup>

59. The Ministry of the Interior has a fund of approximately US\$ 8 million for the aforementioned construction project, and the Quito Chamber of Commerce, the Public Safety Corporation of the Municipality of Quito and the Quito Cultural Heritage Rescue Fund will also contribute funds for this purpose. Their respective contributions will be in the amounts of US\$ 1 million, 1 million and 2 million, or a total of US\$ 4 million. Even though this project is about to be approved, several officials from the Public Safety Corporation of the Municipality of Quito have visited rehabilitation centres in Bogotá, Colombia, in an effort to adapt the successful model used in Bogotá to the situation in Ecuador. The implementation of this project is expected to reduce prison overcrowding and improve the provision of basic services through private suppliers.<sup>14</sup>

60. With respect to the overcrowding experienced by convicted persons in rehabilitation centres, the amendment to the Code of Criminal Procedure that introduced the measure of *detención en firme* had the effect of increasing overcrowding; this occurred at the beginning of 2003. However, the Constitutional Court decision declaring the judicial remedy of *detención en firme* and the articles of the Code of Criminal Procedure governing this remedy to be unconstitutional was published in *Official Gazette* No. 382 of 23 October 2006. As a result, it is estimated that some 2,200 detainees will be released, which will reduce overcrowding.

61. Moreover, the sectoral subcommission on human rights in prisons has begun implementing the policy aimed at reducing prison overcrowding through the conclusion of bilateral agreements providing that foreigners should serve their sentences in their countries of origin. Since July 2005, Ecuador has been a party to the Strasbourg Convention on the Transfer of Sentenced Persons and has signed bilateral agreements with El Salvador, the Dominican Republic, Spain, Peru and Colombia, and hopes to sign 10 more agreements for the transfer of foreigners to their countries of origin.

62. With regard to the Committee's recommendation that Ecuador guarantee the presence of medical personnel to carry out periodic examinations of prisoners, we wish to report that, beginning in July 2004, with the support of the Ministry of Public Health, work began on a

---

<sup>13</sup> Information provided by Mario Correa, Construction Manager, Department of Social Rehabilitation, in official letter No. 1214-DNRS-DC, dated 10 October 2006.

<sup>14</sup> Information provided by telephone by Lantaro Ojeda, Public Safety Corporation, Quito Metropolitan District, on 26 September 2006.

project to prevent HIV/AIDS and sexually transmitted diseases (STDs); the project had been included as a subproject of the macroproject presented by the Ministry of Public Health to the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria.

63. In March 2005, an agreement to implement the HIV/AIDS/STD Prevention Project for persons deprived of their liberty was signed for an initial two-year period. The agreement entered into force in October 2005 with the first transfer of resources by the Ministry of Health to the Department of Social Rehabilitation. Since then, measures have been taken to provide information on a nationwide basis to persons deprived of their liberty, and the results of these measures have been evaluated on a quarterly basis.

64. Currently, some 6,000 persons deprived of their liberty are benefiting from the implementation of the HIV/AIDS/STD Prevention Project. Negotiations are under way with the Global Fund for implementing the second phase of the project.

65. At the same time, efforts have continued on the Tuberculosis Prevention Project, which the Ministry of Health has been implementing among high-risk groups throughout the country.<sup>15</sup>

66. With regard to the work of the sectoral subcommission on human rights in prisons, which was established as part of the National Human Rights Plan, it should be noted that, in January 2006, the subcommission adopted and officially presented important documents on the subject of torture. These included the manuals entitled “Due process in prisons” and “Training for teams of professionals in detention and social rehabilitation centres in Ecuador” and the pamphlets entitled “Rights are for everyone” and “Guidelines for prison visits”. The main objective of these publications is to prevent and eliminate torture and violations of the human rights of persons deprived of their liberty in Ecuador’s pretrial detention and social rehabilitation centres. The manuals and pamphlets have been prepared with the participation of the National Social Rehabilitation Board, the Department of Social Rehabilitation, the Foundation for Integral Rehabilitation of Victims of Violence, the Criminology Institute of the Central University of Ecuador, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the technical support of the Danish International Rehabilitation Council for Torture Victims and the financial support of the Danish International Development Agency.

67. This information has been disseminated through training workshops held by the sectoral subcommission on human rights in prisons. Workshops were held in Macas in July 2006, in Quito in August 2006 and in Riobamba in September 2006. They were attended primarily by local authorities working in areas involving the treatment of prisoners and by persons working in human rights and local civil society organizations. Training materials were sent out to the provinces of Orellana and Tungurahua, and there are plans to carry out similar activities in other provinces of Ecuador up to December 2007. Moreover, a new printing of the texts mentioned in the previous paragraph has been scheduled.

---

<sup>15</sup> Information provided by Hugo Correa, Health Manager, Department of Social Rehabilitation, in official letter No. 1219-DNRS-DPS, dated 3 October 2006.

68. The sectoral subcommission has worked continuously with the Inmate Committee in order to strengthen the latter's efforts to promote legal reforms that would introduce a system to reduce sentences in Ecuador, and has participated in the reform process with the National Social Rehabilitation Board. The sectoral subcommission has also cooperated with the Inmate Committee in organizing a training day under the auspices of the Central University of Ecuador. The training day, entitled "Legal and administrative reform of the prison system", was held in June 2006.<sup>16</sup>

69. We wish to inform the Committee against Torture that the manual entitled "Due process in prisons" contains, inter alia, the sanctions prescribed by the Criminal Code for persons who fail to comply with the legal provisions established by national and international standards and who violate the rights of persons deprived of their liberty.

70. The manual entitled "Training for teams of professionals in detention and social rehabilitation centres in Ecuador" is designed to train teams of professionals (doctors, psychologists, social workers, teachers) or prison service staff to provide diagnosis and treatment in detention and social rehabilitation centres. The manual is a guide for carrying out technical procedures when the dignity or human rights of persons deprived of their liberty are violated. The objective of the manual is to make human rights the cross-cutting theme of prison assistance and treatment by placing violence and torture in a historical context and portraying them as crimes against humanity punishable under national and international law, and drawing attention to the fact that such practices persist in Ecuador despite efforts to eliminate them. The manual is also intended to help individuals to deal with the pain and trauma caused by acts of torture and to address the obligation of prison service professionals at all levels to be vigilant and prevent such acts.

71. The pamphlets entitled "Rights are for everyone" and "Guidelines for prison visits" are intended for custodial staff. They are both valuable tools for preventing torture and human rights violations, documenting prisoners' living conditions, improving and providing decent conditions of detention, in addition to strengthening social reintegration and reducing institutional and social violence.

## **Paragraph 25**

72. With regard to the Committee's recommendation that Ecuador ensure that the ordinary courts fully exercise their competence, in keeping with its international obligations and the terms of transitional provision No. 26 of the Constitution, so as to ensure the full independence of the judiciary, Ecuador wishes to report that its constitutional and legal norms recognize the existence of special courts, both by virtue of the status of certain authorities and civil servants and by virtue of membership in the armed forces and the National Police. The jurisdiction of such courts is regulated by law and is restricted to offences committed in the performance of specific duties.

---

<sup>16</sup> Information provided by telephone by Wilson Mayorga, Standing Commission for Follow-up of the National Human Rights Plan, on 31 October 2006.

73. In its decisions, the Supreme Court has ensured strict compliance with the prescribed procedural principles. Military and police courts may not try ordinary offences, that is, offences other than those committed in the performance of specific duties.<sup>17</sup>

74. Notwithstanding what has been stated in the foregoing paragraphs, the National Judiciary Council has submitted a bill to Congress with a view to facilitating compliance with transitional provision No. 26 of the Constitution, which stipulates that “all magistrates and judges under the executive branch shall be transferred to the judiciary, and, unless otherwise provided for by law, shall be subject to their own organization acts”; this provision includes military and police judges. The bill has not yet been considered.

75. In accordance with the provisions of the Constitution, article 110 of the Police Act stipulates, with regard to the police court, that “the jurisdiction of the court for members of the National Police applies only to offences that they commit in the exercise of their specific duties as members of that institution”. It follows that the competence of the police justice system is restricted exclusively to offences committed in the performance of police duties; offences that fall outside this area are matters for the ordinary courts.

76. It is important to point out that the police courts and tribunals maintain independence from the National Police Command; thus, their decisions are independent and not subject to any interference, as is the case in the ordinary justice system.

77. The National Police agrees with the concept of jurisdictional unity and believes that the system of police justice should be incorporated into the judiciary. It requests that judges have specialized training in police matters and should bear in mind the special techniques and methods used by those subject to their jurisdiction.<sup>18</sup>

78. With respect to the existence of military courts, the Ministry of Defence has submitted to Congress a bill on the armed forces that is in keeping with the 1998 Constitution, whose transitional provision No. 26 establishes jurisdictional unity. Moreover, they have participated actively with representatives of the Supreme Court and Congress<sup>19</sup> in drafting a bill on the Judiciary Organization Act. The bill, which amends the Judiciary Organization Act, provides for a review of Ecuador’s domestic legislation in order to bring it into line with the Committee’s recommendations on the question of jurisdictional unity. The congressional Civil and Criminal Law Committee is currently considering the bill, and it is hoped that its report will be positive.<sup>20</sup>

---

<sup>17</sup> Information provided by Jaime Velasco Dávila, President of the Supreme Court, in official letter No. 1914-SP-CSJ, dated 19 October 2006.

<sup>18</sup> Information provided by General José Vinuesa, General Commander of the National Police, in official letter No. 2200-CG-2006, dated 18 October 2006.

<sup>19</sup> Information provided by General Fabián Varela Moncayo, Under-Secretary of National Defence, in official letter No. MS-7-5-2006-327.

<sup>20</sup> Information provided by Gustavo Donoso, National Judiciary Council, on 31 October 2006.



79. Ecuador is attempting to correct the shortcomings noted by the Committee against Torture by ensuring that the ordinary courts exercise jurisdiction in these matters. For example, in the case of Second Lieutenant Robles Eras, who was tortured and murdered during the celebration of his promotion to second lieutenant, the amicable settlement reached on 10 October 2006 envisages, as one means of reparation, the submission of a formal request that the persons who were already found guilty of violating the right to life under military jurisdiction be tried in the ordinary courts for violation of the right to personal integrity. This has been done, and it is hoped that this will set a precedent.

-----