



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Consideration of reports submitted by States
parties under article 9 of the Convention**

**Combined twenty-third and twenty-fourth periodic reports
due in 2016**

Ecuador*

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I. Introduction

1. Ecuador has been party to the International Convention on the Elimination of All Forms of Racial Discrimination since 22 September 1966.
2. Under article 9 of the Convention, States parties must submit periodic reports on their compliance with their international obligations arising from this treaty. Ecuador accordingly submitted its combined twentieth to twenty-second periodic reports to the Committee on 31 August 2012.
3. Against that background, the present document contains the combined twenty-third and twenty-fourth periodic reports of Ecuador, in accordance with paragraph 29 of the Committee's concluding observations (CERD/C/ECU/CO/20-22), prepared in conformity with the guidelines set out in document CERD/C/2007/1 and the harmonized guidelines on reporting under the international human rights treaties (HRI/MC/2006/3 and Corr.1).
4. This report presents the main developments relating to the implementation of the Convention, highlighting the legislative, judicial, administrative and practical measures taken by Ecuador during the period 2012-2015.
5. The report was prepared and approved by an inter-agency team bringing together the Ministry of Justice, Human Rights and Religious Affairs and the Ministry of Foreign Affairs and Human Mobility, working with the lead agencies for public policy — the National Secretariat for Policy Management and the Council for Citizen Participation and Social Control — and other relevant institutions .

II. Information relating to the implementation of the Committee's recommendations, as contained in the concluding observations (CERD/C/ECU/CO/20-22), and of the Convention

Issue 1: Policies on the elimination of racial discrimination Implementation of paragraph 11 of the concluding observations

6. The 2008 Constitution of the Republic of Ecuador incorporates innovative human rights concepts and approaches, enshrining the principle of equality and non-discrimination as a mandate,¹ so that all persons, both individually and collectively (communities, peoples

¹ Constitution of the Republic of Ecuador, Art. 3.— “The primary duties of the State are to:

1. Guarantee without any discrimination the effective enjoyment of the rights established in the Constitution and in international instruments, in particular the rights of the inhabitants to education, health, food, social security and water. ...”

“Art. 11.— The exercise of the rights shall be governed by the following principles: ...

2. All persons are equal and shall enjoy the same rights, duties and opportunities. No person shall be discriminated against on the grounds of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, criminal record, socioeconomic status, migrant status, sexual orientation, health status, HIV status, disability, physical difference or any other distinguishing feature, whether personal or collective, temporary or permanent, with the aim or effect of diminishing or nullifying the recognition, enjoyment or exercise of rights. All forms of discrimination shall be punishable by law. The State shall take affirmative action measures to promote effective equality for persons entitled to rights who are in a situation of inequality.”

and nationalities), are deemed to be equal before the law and enjoy the same rights, as described in the country's previous report (CERD/C/ECU/20-22).

7. In the same way, the Constitution repeatedly highlights the diverse demographic and cultural composition of Ecuador, recognizing the existence of peoples and nationalities with their own cultural and anthropological characteristics, whom the State must both protect and unite through actions promoting social inclusion and interculturalism.²

8. Against the backdrop of those two principles, which are frequently referred to in the Constitution, and the rights-based approach of which they form a part, social inclusion and the fight against discrimination have become priority, cross-cutting policies. Consequently, they have become guiding principles for public management as a whole and for all policies formulated at the sectoral and intersectoral levels at each tier of government. The constitutional principles set the standard for the various national planning and management instruments referred to below.

9. In this regard, the National Plan for Good Living 2013-2017³ sets a number of objectives and targets linked to the protection, guarantee and observance of the rights of the peoples and nationalities of Ecuador. The Plan is an important public policy instrument for the promotion of equity, in strict compliance with constitutional requirements. Taking as its starting point the multiple causes of social inequality and poverty, it is laid out in the form of 12 national objectives and contains a wide range of policies and strategic guidelines designed to guarantee equality and non-discrimination in the country. The Plan also sets out the State's duties and responsibilities as regards the fight against the structural causes of inequality, through regulatory mechanisms, action on institutional transformation and the integration and coordination of public services and assets.

10. The National Plan for Good Living 2013-2017 sets out the following objectives: guaranteed provision of intercultural and culturally relevant education for communities, peoples and nationalities; protection of indigenous peoples living in voluntary isolation; promotion of ancestral knowledge and of sustainable traditional practices and innovations; elimination of racial discrimination; development of legislation on prior consultation and citizen participation of communities, peoples and nationalities; provision of differentiated public services tailored to the world view and perspectives of communities, peoples and nationalities; inclusion of peoples and nationalities in public administration; and support for the designation of indigenous administrative districts.⁴

11. The development of the Plan was a highly participatory process. Firstly, it was nurtured by a collaborative government programme, under which about 5,000 people contributed ideas that were included in the document. Secondly, almost 8,200 people took part in more than 100 public and virtual events, as detailed below:⁵

- Good Living Discussions (5,160 participants). Identification of key issues and development of proposals. Regional workshops later aligned the proposals made at the dialogue process with the objectives, policies, aims and indicators of the Plan.
- Workshops, thematic round tables and focus groups (1,061 participants). Discussion of themes including equality, capacities and potential.

² Constitution, preamble and art. 1.

³ Available at: www.buenvivir.gob.ec.

⁴ Directly related to tackling racial and social discrimination in the National Plan for Good Living 2013-2017: Objectives 2 and 6; indirectly related: Objectives 1, 3, 4, 5, 7, 8, 9 and 12.

⁵ All information and quantitative data in this section come from the analytical reports of the round-table discussions on Good Living held in 2012 by the National Secretariat of Planning and Development.

- Oversight committees and observatories (605 participants). These put forward recommendations based on experience of the previous Plan for the implementation of public policy.
- Participatory forward planning workshops at regional level (240 participants). These identified key long-term problems at the national and regional levels.
- Meetings with delegates from national social organizations, sectoral councils and local assemblies (266 participants). Key points and proposals for national policies were identified and preparations were made for the first Plurinational Assembly on Participatory Planning, which approved the National Plan for Good Living.
- International seminar (780 participants). Six conference panels with international experts. Academics and members of the general population participated and aired their concerns about the Plan.
- Radiothons and Internet forums (100 participants). Open radio broadcasts and Internet platforms received comments from the public, who raised their concerns about the development of the Plan.

12. The main element of progress in establishing an institutional structure for the safeguarding and effective exercise of the rights enshrined in the Constitution and international human rights instruments was the preparation by the National Assembly of a bill on national equality councils⁶ in 2012. The bill passed into law as the Organic Act on National Equality Councils, along with its implementing regulations,⁷ following two years of reflection, consultation and debate. The Act created five specialized councils dealing with gender, intergenerational issues, peoples and nationalities, disabilities and movement of persons. The purpose of the councils is to promote and protect respect for the principle of equality and non-discrimination as the cornerstone of the design of legislation on public institutions at all levels of government, including local government, in order to strengthen national unity in diversity and build a plurinational, intercultural State.

13. The national equality councils are governed by public law and hold legal personality. They are part of the executive, with jurisdiction at national level, and enjoy administrative, technical, operative and financial autonomy. They do not depend on decentralized structures or ancillary bodies in the exercise of their responsibilities and functions. They are mandated to participate in the formulation, mainstreaming, monitoring, follow-up and evaluation of public policies relating to individuals, communes, communities, peoples, nationalities and collectives, with the objective of promoting a culture of peace within which to develop human capacities, adopt affirmative action and eradicate discriminatory acts, practices, customs and stereotypes. The national equality councils are governed by the principles of equality, alternation of posts between men and women, democratic participation, inclusion, interculturalism and pluralism.

14. The vision of the national equality councils is to build a society in which priority groups know and exercise their rights and relate to one another and to other groups in an atmosphere of solidarity, fairness and joint responsibility, and in harmony with nature. Their institutional role is to influence society and the State through public policies that focus on equality and rights.

15. To that end, the national agendas for equality, which are mandatory for all offices of State at every level of government, facilitate a direct approach to tackling social issues, including those related to inequality and discrimination. As technical and policymaking tools, they bring together a series of proposals for public policies that have been analysed

⁶ Official Gazette No. 283 of 7 July 2014.

⁷ Executive Decree No. 686, Official Gazette No. 521 of 12 June 2015.

and designed by the national equality councils and the National Secretariat of Planning and Development with the participation of individuals, communities, nationalities and peoples. The aim of the process was to provide public institutions with a tool with which to tackle the multiple causes of discrimination in all its guises, thus building the necessary intersectionality of support for priority groups that suffer multiple rights violations.

16. Specifically, the National Council for Equality of Peoples and Nationalities will be the body responsible for ensuring the full and effective exercise of the rights of indigenous communes, communities, peoples and nationalities, and of Afro-Ecuadorian and Montubio peoples, and also for monitoring intercultural relations in Ecuadorian society.⁸ The body is currently undergoing a process of transition, but this will not prevent its using its powers, which are exercised through the Office of the Under-Secretary for Peoples and Interculturalism of the National Secretariat for Policy Management.

17. Under article 156 and the sixth transitional provision of the Constitution, the transitional development councils — the Council for the Advancement of the Nations and Peoples of Ecuador and the Council for the Development of the Coastal Montubio People and the Subtropical Areas of the Coastal Region — prepared the first draft of the Plurinational Agenda for Public Policies on Equality in Diversity 2013-2017, in conjunction with a variety of social organizations, on a participatory basis and with technical support from the National Secretariat of Planning and Development. Following some final amendments and adjustments, this document is now known as the National Agenda for the Equality of Nationalities and Peoples. The development of the document was supported by the indigenous peoples programme of the German Agency for International Cooperation.

18. The National Agenda for the Equality of Nationalities and Peoples is the principal tool for the forward planning of the work of the National Council for Equality of Peoples and Nationalities and of a number of public institutions, including the executive (both administrative and coordinating ministries), the National Assembly, the judiciary and the Council for Citizen Participation and Social Control. The National Agenda for the Equality of Nationalities and Peoples is responsible for the implementation of public policies essential to the promotion of equality, non-discrimination and the inclusion of indigenous nationalities and Afro-Ecuadorian and Montubio peoples, within the framework of the full exercise of their individual and collective civil, political, economic, social, territorial and cultural rights. Interculturalism is a cross-cutting theme in the design of all aspects of development.

19. As regards the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion, the Government, through Executive Decree No. 060, published in Official Gazette No. 45 of 13 October 2009, granted the Plan the status of State public policy. Consequently, on 18 March 2013, the Council for Citizen Participation and Social Control, in fulfilment of its constitutional mandate, convened social organizations working on issues of peoples and nationalities with the aim of monitoring the effective fulfilment of collective rights. To that end, a Citizens' Observatory was formed, which has the authority to gather information, monitor, evaluate and produce reports and papers.

20. The Observatory currently has structured mechanisms in place and uses its own methodology to ensure its smooth operation. It is working to develop agreements with academic institutions that will enable it to strengthen its investigation processes. The Observatory receives institutional backing from the Council for Citizen Participation and Social Control through the General Coordination Office for Interculturalism and in

⁸ Regulations of the Organic Act on National Equality Councils, art. 1.

partnership with the Social Monitoring Subunit for the management and implementation of the following programmes and policies:

- Employment in public institutions of persons belonging to peoples and nationalities in a proportion no smaller than their share of the population, as identified in the 2010 census.
- Public policies to eradicate all types of discrimination in public institutions.
- Clear affirmative action measures aimed at persons belonging to peoples and nationalities for the development of merit-based selection processes and competitive examinations for entry into or promotion within public services.

21. The Council for Citizen Participation and Social Control publicized the scope of Executive Decree No. 060 at workshops on organizational strengthening and relations with Decentralized Autonomous Governments, which were attended by indigenous peoples and nationalities, and at events for the Decade for Afro-Ecuadorians attended by Afro-Ecuadorian people.

22. Furthermore, the National System for Inclusion and Social Equality, a fully integrated and coordinated set of systems, institutions, policies, standards, programmes and services, ensures the exercise, safeguarding and enforceability of the rights set out in the Constitution⁹ in accordance with the National Plan for Good Living. The System is guided by the principles of universality, equality, equity, progressiveness, interculturalism, solidarity and non-discrimination, and operates on the basis of the criteria of quality, efficiency, effectiveness, transparency, accountability and participation.

23. The Elections and Political Organizations Act,¹⁰ also called the Code of Democracy, includes the adoption of affirmative action measures to guarantee the participation of sectors of society that face discrimination,¹¹ and provides for political participation on an equal basis for foreign nationals via the granting of voting rights to persons who have resided legally in Ecuador for a minimum of five years and are listed in the Electoral Register.

24. Another significant step is the implementation of the Decentralized National System for Participatory Planning, founded in the Organic Act on Citizen Participation,¹² the Organic Code of Territorial Organization and the Organic Code of Planning and Public Finances, under which citizen participation is mainstreamed in all national planning exercises.

25. The law provides that participatory processes, particularly those relating to the design of public policies, should focus on the inclusion of sectors that historically have been excluded, such as members of ethnic minorities or persons belonging to indigenous peoples or nationalities, but also on persons belonging to priority groups, such as children and teenagers, older persons, persons with disabilities, persons with catastrophic illnesses, persons deprived of their liberty, pregnant women and migrants.¹³

⁹ Constitution, art. 340.

¹⁰ Supplement to Official Gazette No. 578 of 27 April 2009.

¹¹ Constitution, art. 3: "The State shall promote equal representation of women and men in appointed or elected positions in the civil service, in its administrative and decision-making bodies, and in political parties and movements. Candidates in electoral lists shall appear alternately, in successive order. The State shall adopt affirmative action measures to guarantee the participation of sectors affected by discrimination."

¹² Supplement to Official Gazette No. 175 of 20 April 2009.

¹³ Constitution, art. 35.

26. Executive Decree No. 656 of 29 April 2015¹⁴ set out the Regulations on the operation of sectoral citizens' councils, which provide a forum for dialogue, deliberation, monitoring and evaluation of sectoral public policies. The Decree also established the mechanism for the discussion of guidelines and monitoring of the development of ministerial policies, with the aim of guaranteeing the right to citizen participation in matters of public interest, and the sovereign will of the people, which is the foundation of authority and is exercised through the public authorities and the forms of direct participation laid out in the Constitution.

27. The implementation of Executive Decree No. 656 without discrimination of any kind is mandatory for sectoral ministries and for social organizations and stakeholders in civil society organizations that are involved in sectoral citizens' councils. The Decree sets out the parameters for establishing councils, including requirements, procedures, functions and powers.

28. Over the past year, the Ministry of Public Health has adopted a number of instruments that comply with the principles established in the Constitution, namely equity, universality, solidarity, interculturalism, quality, efficiency, effectiveness, prevention and bioethics, with a gender and generational focus.

29. The Ministry of Economic and Social Inclusion formulates and implements a range of policies, programmes and services to guarantee social cohesion and participation. Services providing comprehensive child development and services aimed at older persons, persons with disabilities, persons in need of special protection and young people, which are all rooted in interculturalism, seek to strengthen the recognition and development of the various ethnic groups. Such government actions are aimed particularly at people living in poverty, including Afro-descendent, indigenous and Montubio groups, which historically have suffered from exclusion.

30. To guarantee interculturalism, the units responsible for each priority group within the Ministry of Economic and Social Inclusion carry out reflection exercises to discuss any changes to the forms of care provided. These exercises, which involve participation by various ethnic groups, are based on studies that enable the units to adopt a more intercultural approach in every action that they take. In addition, in the area of service provision, affirmative action measures are applied in the selection of personnel, giving priority to Afro-descendent, indigenous and Montubio persons.

31. The Ministry of Labour spearheaded the adoption of the Organic Act on Labour Justice and Recognition of Housework,¹⁵ which enshrines the rights of working-class people with the aim of ending discrimination and inequality, in accordance with the principle of non-discrimination on the grounds of membership of a given people, nationality or minority group.

32. This information provides evidence of the progress made by Ecuador in all sectors, through legislation, institution-building and public policy to tackle racial discrimination, with the aim of progressively eradicating it and transforming the conditions that historically have led to the exclusion of disadvantaged groups.¹⁶

¹⁴ Supplement to Official Gazette No. 490 of 29 April 2015.

¹⁵ Supplement to Official Gazette No. 483 of 20 April 2015.

¹⁶ Information supplied by the National Secretariat of Planning and Development, the Council for Citizen Participation and Social Control and the National Secretariat for Policy Management.

Issue 2: Special measures

Implementation of paragraph 12 of the concluding observations

33. Article 11 of the Constitution stipulates that the State should adopt affirmative action measures to promote the effective equality of persons entitled to rights who are in a situation of inequality. On this basis, a series of mechanisms have been developed exclusively for the peoples and nationalities of Ecuador to promote the inclusion of ethnic minorities and their full enjoyment of their collective rights.¹⁷

34. Article 65 of the Organic Act on Public Service¹⁸ stipulates that recruitment for public posts must be conducted on the basis of a merit-based competitive examination that assesses the suitability of applicants and ensures unfettered access to the recruitment process. The article also provides for the introduction of affirmative action to promote the inclusion of persons with disabilities, and of members of communities, peoples and nationalities, and ensure their access to paid employment on equal terms.

35. On 12 August 2013, the Ministry of Labour issued Ministerial Decision No. 86 on the establishment of a technical and operational procedure for the Talent Management Units attached to government institutions with a view to setting up a recruitment process that ensures that the most suitable candidate is chosen for a given public service post. Pursuant to the Decision, when a public sector merit-based competitive examination is held, affirmative action should be taken with regard to persons belonging to any of the following groups:

- (a) Persons with disabilities or catastrophic illnesses, or dependants of such persons;
- (b) Persons who have been designated national heroes;
- (c) Afro-Ecuadorians, indigenous persons and Montubios;
- (d) Emigrants who have previously been public servants; and
- (e) Residents of Galápagos province, pursuant to article 28¹⁹ of the Organic Act on the Special Regime for Galápagos Province.²⁰

36. Article 3 of the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion elevates this principle to the status of public policy,²¹ specifying that all State entities should ensure that Afro-Ecuadorians, indigenous persons and Montubios have access to jobs in a proportion no smaller than their share of the population.

¹⁷ Constitution, arts. 10, 57 and 83.

¹⁸ Supplement to Official Gazette No. 294 of 6 October 2010.

¹⁹ Constitution, art. 28: "Purpose of taxes. The taxes raised under the Special Regime for Galápagos Province shall be earmarked for the provision of good quality public services to tax payers in order to: 1) Meet the population's needs while satisfying the principles of accessibility, quality, continuity, effectiveness, equity, generality, duty, accountability, uniformity and universality; 2) Preserve the natural heritage of the State; 3) Promote the fair and sustainable implementation of the Special Regime for Galápagos Province; 4) Contribute to the implementation of economic, environmental and tourism initiatives. To this end, the entities with jurisdiction under the Special Regime for Galápagos Province shall provide their services in keeping with their legal and constitutional powers."

²⁰ Information submitted by the Ministry of Justice, Human Rights and Religious Affairs.

²¹ Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion, art. 3: "A labour policy on affirmative action shall be adopted in favour of population groups that have historically been discriminated against with a view to creating discrimination-free employment opportunities for all."

37. Article 31 of the Regulations on the career path of higher education teaching staff, issued by the Higher Education Council,²² stipulates that a public sector merit-based competitive examination must be initiated for recruitment to a tenured position at a public or private institution of higher education. The examination is designed to assess and guarantee the suitability of candidates and ensure their free access, in keeping with the principles of transparency and non-discrimination. Affirmative action may be taken to ensure that women and other groups that have historically been discriminated against may enjoy equal opportunities. The Ministry of Labour and the Ministry of Health jointly issued Ministerial Decision No. 12 regulating the recruitment and selection of health professionals,²³ which sets out similar guidelines (arts. 23 and 24).

38. Under article 3 of the Organic Act on Citizen Participation, one of the Act's objectives is to establish mechanisms and procedures for the implementation of affirmative action measures that foster the equal participation of persons entitled to rights who are in a situation of inequality.

39. As a result of the affirmative action measures whereby additional points are awarded to persons who self-identify as being of a given ethnicity, 511 people who self-identified as Afro-Ecuadorians, 462 as indigenous and 487 as Montubio passed public merit-based competitive examinations in 2014.

40. Pursuant to constitutional mandates, the Ministry of Foreign Affairs and Human Mobility held four merit-based competitive examinations²⁴ in implementation of affirmative action measures between 2012 and 2015, in which the criteria of fairness and gender parity were applied. In addition, it applied affirmative action measures in connection with the mandate of the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion and pursuant to article 4 of Executive Decree No. 060. As a result, of the third secretaries working in the Ministry, 16 per cent are Afro-Ecuadorians, 19 per cent indigenous, 6 per cent Montubio and 59 per cent self-identifying mixed race. This is a key element in the formation of a national diplomatic service with the participation of communities, peoples and nationalities in public life on an equal footing.

41. In its Resolution No. 008-347-CPCCS-2015 of 22 April 2015, the Council for Citizen Participation and Social Control trained its units in the application of a National Assembly resolution of 7 April 2015 urging State entities to implement Decree No. 060.

42. In addition, the Council introduced an item on inclusion in the forms to be used by other State entities in their reporting, which represents a substantial step forward in building a plurinational, intercultural, inclusive and fair State, inasmuch as, under Ecuadorian law, the reporting process is mandatory for elected or appointed government authorities, the legal representatives of public companies or legal persons in the private sector that manage public funds or carry out activities in the public interest.

43. Acting on behalf of the Ministry of the Interior and the Police, the Directorate for the Protection of Rights and the National Education Directorate of the National Police have held a series of training sessions for police officers and civil servants, in coordination with other national and international organizations. Various campaigns have been carried out on the prevention and eradication of insecurity, crime, organized crime and violence. Between

²² Higher Education Council Resolution No. 265, Institutional Document 2012 of 31 October 2012.

²³ Ministerial Decision No. 12, Official Gazette No. 921 of 27 March 2013.

²⁴ 1. Ministerial Decision No. 000027 of 10 April 2012, to fill 70 vacancies in the Foreign Service for the post of third secretary; 2. Ministerial Decision No. 000027 of 28 January 2013 to fill 100 vacancies in the Foreign Service for the post of third secretary; 3. Ministerial Decision No. 000043 of 16 April 2013 to fill vacancies in the Foreign Service for the auxiliary post of counsellor; 4. Ministerial Decision No. 000046 of 28 May 2015 to fill vacancies in various categories and occupational groups of Foreign Service auxiliary personnel.

February and June 2015, the Ministry took affirmative action in favour of the indigenous population, making two recruitment calls for police cadets, which were attended by young indigenous persons belonging to indigenous peoples' associations from the provinces of Chimborazo, Cotopaxi, Pichincha, Tungurahua, Bolívar, Zamora Chinchipe and Morona Santiago; a total of 658 cadets were recruited from an indigenous nationality.

Issue 3: The Ecuadorian population of Roma origin Implementation of paragraph 13 of the concluding observations

44. Although the Roma in Ecuador do not constitute a large group, the State guarantees and promotes freedom of movement for all the inhabitants of the planet. It considers that all persons are equal before the law and have the same rights, duties and opportunities without any discrimination whatsoever on grounds of membership of a minority group, whether they are Ecuadorian or foreign nationals.

45. Pursuant to this firm commitment, the Ministry of Foreign Affairs and Human Mobility initiated a direct dialogue with the Ecuadorian population of Roma origin at a meeting with the president of the National Roma Association of Ecuador, Mr. Alfredo Yancovich, in order to ascertain the needs of this population group with a view to designing better strategies on access to health, education and housing, given that the Roma tended to lack identity documents. During the process, it emerged that the exact number of Roma living in Ecuador was unknown, as a consequence of their cultural and beliefs systems.

Issue 4: Refugees Implementation of paragraph 14 of the concluding observations

46. Article 3 (1) of the Constitution stipulates that the State must guarantee, without any discrimination whatsoever, the effective enjoyment of the rights enshrined in the Constitution and international human rights instruments. Furthermore, under articles 26, 32 and 326 of the Constitution, the State must safeguard the right to health, education and employment in keeping with the constitutional requirement whereby foreign nationals in Ecuador have the same rights and duties as Ecuadorian nationals.²⁵

47. Given its status as a country of origin, transit and destination of migrants, Ecuador first implemented a public policy on refugees, which was unprecedented in Latin America, in September 2008.²⁶ The policy was put in place in keeping with commitments made under the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, the 1984 Cartagena Declaration on Refugees and the 2004 Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America, with a focus on solidarity and shared responsibility with the international community.²⁷

48. At the national level, the policy is two-pronged: on the one hand, guaranteeing full protection for vulnerable persons, in the broadest sense of the word, including an assurance that foreign refugees who settle in the country may enjoy their human and civil rights in practice and, on the other, guaranteeing an effective and sustainable solution to the situation of refugees, for example through voluntary and humane return to the country of origin, where possible.²⁸

²⁵ Constitution, art. 9.

²⁶ National Agenda for Equal Human Mobility 2013-2017, p. 17.

²⁷ For Ecuador policy on refugees, see: http://www.acnur.org/t3/fileadmin/Documentos/RefugiadosAmericas/Ecuador/Politica_del_Ecuador_en_materia_de_refugio.pdf?view=1.

²⁸ Ibid.

49. Pursuant to the policy, the Government rolled out the Borders of Solidarity programme, spearheaded by the Office of the United Nations High Commissioner for Refugees (UNHCR), with a view to raising the profile of refugees and host communities in a vulnerable situation, with a particular focus on women, children and the indigenous and Afro-descendent population living in border areas; promoting social public policies on access to opportunities for development for displaced persons, without causing conflict in the host community, thereby guaranteeing peaceful coexistence and the well-being of the entire population; and promoting the socioeconomic integration of refugees through income-generating activities and microcredit loans.²⁹

50. In recognition of the fact that the policy on refugees needed to be strengthened and supplemented by the appropriate institutional machinery and the allocation of human, technical and financial resources by the State, the Government committed itself to contributing public funds for programmes on the protection of refugee rights.

51. As a result, the process known as the extended register was launched in December 2008 and was steadily rolled out by mobile units, between March 2009 and March 2010, in all the provinces along the northern border, reaching 32,000 Colombian refugees.³⁰

52. It should be noted that Ecuador is the Latin American country with the highest number of refugees, some 60,000 currently, of whom 95 per cent are Colombian.³¹ The Government considers the provision of protection to these individuals, on the basis of their refugee status, to be a priority and effectively safeguards the life, physical integrity, freedom and safety of those who have had to flee their country of origin.³²

53. The Ministry of Education issued the regulations governing refugees' access to the Ecuadorian education system³³ under Ministerial Decision No. 337 with a view to guaranteeing the right to education of vulnerable migrant children and adolescents. The Decision ensures access to education for children and young people who hold an identification document demonstrating their status as refugees or asylum seekers, a civil status document from their country of origin or a passport or other form of identification. In the absence of such documentation, schools are required to allow them to enrol temporarily.

54. Regarding access to employment, article 35 of the regulations governing the application in Ecuador of the right to asylum stipulates that, during its period of validity, a temporary asylum seeker certificate gives the holder the right to engage in lawful economic activities, either as a self-employed worker or as an employee. Article 46 of the Regulations extends the same right to holders of the refugee identification document, thereby permitting access to employment for this population group.

55. In addition, Ministerial Decision No. 118 of the Ministry of Labour Relations rescinds the requirement to obtain a temporary work authorization for refugees.³⁴

56. It should be noted that refugees with disabilities have access to the Manuela Espejo programme, which provides housing, financial loans, furniture, assistance in the form of medical equipment and supplies, and a Joaquín Gallegos Lara voucher (for persons with catastrophic illnesses) on a par with Ecuadorian nationals.

²⁹ Ibid.

³⁰ Situation Bulletin of the Andean Migration Information System, May 2010.

³¹ Information provided by the Office of the Under-Secretary for Immigrant Care of the Ministry of Foreign Affairs and Human Mobility.

³² For the national policy on refugees, see http://www.acnur.org/t3/fileadmin/Documentos/RefugiadosAmericas/Ecuador/Politica_del_Ecuador_en_materia_de_refugio.pdf?view=1.

³³ Official Gazette No. 459 of 4 November 2008.

³⁴ Official Gazette No. 746 of 16 July 2012.

57. The Ministry of Health, as the lead authority on health, has turned its efforts towards removing barriers to access to comprehensive health care under the Comprehensive Health Care Model, which focuses on safeguarding the right to health of individuals, families and communities in keeping with the principles of universality, comprehensiveness, fairness, continuity, participation, efficiency, effectiveness, quality and kindness. In 2014, in order to implement the Model, the Office of the Under-Secretary for the Promotion of Health and Equality rolled out a four-point strategy on inclusive health-care services that are free from discrimination and contamination, are participatory and promote healthy activities. The goal is to build the skills of health-care professionals in order to provide comprehensive, good quality and kind care to all, without any discrimination whatsoever.³⁵ The Constitution guarantees the migrant population the same rights as Ecuadorian nationals.³⁶

58. It should also be noted that the Government, in conjunction with UNHCR, coordinates efforts to provide comprehensive support to migrants in three areas: the promotion of local integration, resettlement and voluntary repatriation; the adoption of public policies, domestic legislation and administrative practices that ensure access to a fair and efficient asylum process; and the improvement of public information on refugees and migrants as a means of fighting discrimination.

Issue 5: Migrant workers and their families

Implementation of paragraph 15 of the concluding observations

59. Article 40 of the Constitution stipulates that no human being can be considered illegal and upholds the principle of universal citizenship, as mentioned in earlier paragraphs. Objective 12 of the National Plan for Good Living 2013-2017 proposes the expansion of efforts to increase solidarity and integration among the countries of Latin America and the Caribbean in order to promote the implementation of migration agreements with a view to creating a shared South American identity and safeguarding the rights of migrants, while paying particular attention to the special protection needs of priority groups.

60. The National Agenda for Equality in Human Mobility 2013-2017 was established in order to guide the efforts of all national actors to provide comprehensive protection, restore rights, guarantee the rights under the National Plan for Good Living 2013-2017, take joint responsibility at the international level and promote participation. As part of the non-discrimination policy, measures have been taken to prevent, monitor and punish racist, xenophobic and violent acts committed against migrants in Ecuador, to ensure that victims of such acts receive comprehensive redress for the violation of their rights and to prevent such acts from being committed abroad.

61. The following public policies and processes are under way for the comprehensive development of human mobility in Ecuador:

- The updating of visa requirements for the various categories of non-immigrants, while ensuring that the changes do not negatively affect acquired rights.
- The reform of migration law and the rules governing the border areas with Peru and Colombia to reflect the situation in the twenty-first century.
- The facilitation of the adoption and implementation of the Southern Common Market (MERCOSUR) Residence Agreement³⁷ to eradicate irregular migration, as a

³⁵ Constitution, art. 11 (2).

³⁶ Patient Rights and Protection Act, art. 3.

³⁷ Official Gazette No. 209 of 21 March 2014 and its internal regulations as set out in Ministerial Decision No. 000031 of 2 April 2014, which designates nationals of Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru and Uruguay as being eligible for this category of visa.

result of which 18,000 nationals of the Union of South American Nations have received protection in Ecuador.

- The reform of services to safeguard the life and personal and sexual integrity of the population.

62. Between September 2014 and August 2015, 2,320 non-immigrant visas and 457 immigrant visas³⁸ were granted on the northern border. Between January 2014 and October 2015, a total of 118,685 non-immigrant visas were granted.

63. In 2015, training programmes were held for staff members of the Ministry of Foreign Affairs and Human Mobility in their capacity as the persons responsible for providing assistance to refugees and individuals under international protection. The objective of the training was to remove the barriers encountered by migrants and their families in exercising their rights. In addition, eight training sessions for public servants and private sector employees were held to raise awareness of international protection, the refugee process in Ecuador and the rights and obligations of asylum seekers in the country.

64. Regarding the fight against stereotypes on migrant workers in the media, article 19 of the Constitution prohibits the broadcasting of advertisements inciting violence, discrimination, racism, drug-taking, sexism, religious or political intolerance and any infringement of rights.

65. Furthermore, the Information and Communication Regulations and Development Board facilitates the establishment of spaces for dialogue and rapprochement between the media and organizations with a view to preventing the dissemination of discriminatory material. Thus, in June 2014, a seminar on news coverage called Human Mobility Today was held to inform dozens of journalists from various media outlets of issues related to asylum and human mobility in Ecuador. The talks were convened by UNHCR and the Ombudsman's Office.

Issue 6: Combating discrimination in the media

Implementation of paragraph 16 of the concluding observations

66. Pursuant to the Organic Act on Communication, the Information and Communication Regulations and Development Board has the authority to examine the content to be transmitted and set strategies to prevent the media from replicating exclusionary and/or discriminatory practices. In order to initiate processes enabling people to claim their communication-related rights, including the right to redress for the use of discriminatory criteria, the Board developed methodological guidelines, supported by empirical analysis, which have led to the establishment of a framework for action.

67. The Board is currently finalizing a directory of intercultural material produced in Ecuador for dissemination on various social media with a view to creating spaces for people of different ethnicities and cultures to meet and get to know one another as an essential step in combating racial discrimination.

68. The Board has provided training to media personnel and has run public campaigns to boost the social role of the media and promote educational communication in an attempt to combat preconceived notions about race.

69. In addition, it has held academic workshops to raise awareness of violence, discrimination and non-discriminatory communication among the general public and

³⁸ This reference comes from the visa service in Zone 1, which commenced operations in September 2014.

communications professionals. In 2015, 36 meetings were held with social organizations, and 12 educational technical assistance projects were organized on the topic of intercultural material and relevant regulations; a total of 772 people participated.

70. A study on interculturalism was carried out, together with information workshops on the production of intercultural content for the general public and for the producers of such content in order to strengthen cultural identities and increase awareness of cultural diversity at the national level as a means of overcoming historical discrimination, especially racism. In 2015, 13 meetings were held with social organizations, and five educational technical assistance projects were organized on the topic of intercultural material and relevant regulations.

71. The use of the directory of intercultural material will ensure the mass dissemination in the media of content produced by indigenous peoples and nationalities, people of African descent and Montubios, thereby ensuring respect for interculturalism. As a result of the inter-institutional coordination of the Professionalization Plan and the implementation of related strategies, the skills of communications professionals have been strengthened, with a focus on the role of the media, through educational technical assistance projects, information and training workshops, conferences and meetings with the media and social organizations with a view to promoting the production of material that eliminates discrimination against peoples and nationalities.³⁹

Issue 7: Lack of participation, consultation and consent Implementation of paragraph 17 of the concluding observations

72. Regarding the implementation of the necessary measures to set up effective consultation processes with the communities, peoples and nationalities of Ecuador, the National Assembly, in an effort to bring about the participatory direct democracy provided for in the Constitution, has enacted the following laws on the effective participation in public entities of communities, peoples and nationalities:

- The Environmental Management Act,⁴⁰ which grants all natural and legal persons the right to take part in environmental management, in exercise of their right to be informed of any activity undertaken by State institutions that may have an environmental impact (art. 29).
- The Organic Act on Citizen Participation, which guarantees the right of communities to be consulted regarding plans and programmes on the exploitation of resources found in their territory, to share in the proceeds of the projects and to receive compensation in the event of harm (art. 81).
- The Organic Act on the Legislative Branch,⁴¹ which provides for the possibility for individuals, in exercise of their political rights, and civil society organizations to table a bill (art. 54) and encourages their participation in the discussion, whether personally or through representatives, with the prior authorization of the President of the National Assembly. It also provides for public participation in the development of new laws, allotting at least two weeks for the submission of comments on bills, in cases where individuals have a stake in a bill's adoption or consider that their rights may be affected by its adoption.

³⁹ Information supplied by the Ministry of Justice, Human Rights and Religious Affairs.

⁴⁰ Supplement to Official Gazette No. 418 of 10 September 2001, promulgated by the National Congress.

⁴¹ Official Gazette No. 642 of 27 July 2009.

- The Organic Act on Water Resources and Water Use and Management,⁴² which protects and realizes the collective rights of indigenous peoples, communes and nationalities with regard to water use and management and access to water. It lays down the right of these groups to automatic, prior, free and informed consultation within a reasonable period of time on any legal decision or State authorization that may have an impact on the management of water that runs through their lands and territories (art. 71 (f)).

73. Article 57 (17) of the Constitution provides for the right of indigenous peoples, communes and nationalities to pre-legislative consultation, to be undertaken before the adoption of a legal measure that might affect their collective rights. With a view to ensuring that the right to pre-legislative consultation is upheld in practice, the Constitutional Court, through Decision No. 001-10-SIN-CC of 18 March 2010 (published in the supplement to Official Gazette No. 176 of 21 April 2010), ruled that the National Assembly was the constitutional body responsible for conducting pre-legislative consultations and ordered that the National Assembly should adopt an administrative act to establish the requisite procedure.

74. Pursuant to the aforementioned constitutional decision, and in exercise of the powers conferred on it by articles 13 and 14 of the Organic Act on the Legislative Branch, the Legislative Council issued the Instructions on Pre-Legislative Consultation, which were codified on 19 February 2013 and 24 September 2013. It should be noted that the National Assembly carried out a pre-legislative consultation on the following legislative process, inasmuch as it had an impact on peoples and nationalities:

- The Bill on Rural Lands and Ancestral Territories was submitted to the National Assembly in March 2012. It is currently before the Specialized Standing Committee on Food Sovereignty and the Development of Agriculture and Fisheries, which, since its endorsement of the Bill on 3 September 2014, has been developing a time frame for dissemination and public participation in general commissions. The purpose of the Bill is to regulate the use of and access to rural land, thereby fulfilling a social and environmental function. It will also regulate the tenure, ownership, management and redistribution of land as a means of guaranteeing food sovereignty, improving productivity, ensuring a sustainable and balanced environment and providing legal security for rights holders. In particular, the goal of the Bill is to ensure the recognition, allocation and titling of ancestral lands and territories belonging to indigenous communes, communities, peoples and nationalities, Afro-Ecuadorians and the Montubio. The legislative process in relation to the Bill has thus far included 23 provincial hearings, in which approximately 6,500 members of associations representing indigenous peoples and nationalities have taken part.
- Of the 48 organizations registered to take part in the provincial hearings, 23 actually participated and a further 594 organizations attended as well, for a total of 617 nationwide.

75. Ecuador, as one of the pioneers in the region, introduced prior, free and informed consultation pursuant to article 57 (7) of the Constitution,⁴³ articles 81 and 83 of the

⁴² Official Gazette No. 305 of 6 August 2014.

⁴³ Constitution, art. 57: “The following collective rights of indigenous communes, communities, peoples and nations are recognized and guaranteed in accordance with this Constitution and with the covenants, agreements, declarations and other international human rights instruments in force: 7. Prior, free and informed consultation within a reasonable period of time on plans and programmes to locate, exploit and market non-renewable resources that are found on their lands and that may have an environmental or cultural impact on them; a share in the benefits of these projects and compensation for any adverse social, cultural or environmental effects that the projects may cause. The competent

Organic Act on Citizen Participation⁴⁴ and Executive Decree No. 1247,⁴⁵ which contains the regulations on prior, free and informed consultation in bidding and award processes for hydrocarbon-bearing tracts and blocks, thus restoring the right to effective participation and providing equal opportunity for indigenous communities, peoples and nationalities to express their concerns and views and to have a say in planning and decision-making with regard to sustainable hydrocarbon development.

76. Genuine intercultural dialogues have been held with the following indigenous organizations, communities, peoples and nationalities in the provinces of Pastaza, Morona Santiago, Napo and Orellana in relation to the 13 blocks that make up the Ecuador south-eastern oil-licensing round:

- Waorani nationality of Ecuador
- Andwa nationality of Ecuador
- Sapara nationality of Ecuador
- Kichwa nationality of Ecuador
- Shuar Organization of Ecuador
- Leaders of communities and associations of the Shuar nationality in Pastaza and Morona Santiago
- Leaders of communities and associations of the Achuar nationality in Pastaza
- Leaders of communities and associations of the Shiwiar nationality
- Mixed-race persons and settlers
- Decentralized Autonomous Parish Governments in Napo, Orellana, Pastaza and Morona Santiago Provinces.

77. The activities planned and held with the various authorities and government councils of the indigenous communities, peoples and nationalities were based on the principles of legitimacy and representation and on unwavering respect for the provisions of the Constitution regarding the preservation and development of indigenous modes of coexistence and social organization and the establishment and exercise of authority in their legally recognized territories and ancestral community lands.

authorities shall be required to hold consultations in a timely manner. Where the consent of the community in question cannot be obtained, the parties must then proceed as provided in the Constitution and other legislation.”

⁴⁴ Organic Act on Citizen Participation, art. 81: “Prior, free and informed consultation. Indigenous communes, communities, peoples and nationalities, and Afro-Ecuadorian and Montubio peoples, shall be guaranteed the collective right to prior, free and informed consent within a reasonable period of time. With regard to prior consultation on plans and programmes to locate, exploit and market non-renewable resources found on their territories and lands, indigenous communes, communities, peoples and nationalities and Afro-Ecuadorian and Montubio peoples shall, through their legitimate authorities, share in the benefits of these projects and shall receive compensation for any adverse social, cultural or environmental effects. The competent authorities shall be required to hold consultations in a timely manner. Where the consent of the community in question cannot be obtained, the parties must then proceed as provided in the Constitution and other legislation.” Art. 83: “Assessment. Where consultation processes result in widespread opposition in the community concerned, the decision to proceed with or cancel the project shall be taken in a duly reasoned resolution by the relevant higher administrative body. If the administrative body decides to proceed, it shall set parameters to minimize the impact on the communities and ecosystems and shall provide for measures to mitigate, compensate and repair any damage and, where possible, recruit members of the community to work on the project under conditions that ensure human dignity.”

⁴⁵ Official Gazette No. 759 of 2 August 2012.

78. The Hydrocarbons Secretariat, in conjunction with representatives of the contributing entities, and under the supervision of the Ministry of Hydrocarbons, carried out the following prior, free and informed consultation processes⁴⁶ from 2012 to 2015:

- 2012: in relation to the Eleventh Ecuador south-eastern oil-licensing round, or Amazon Consultation
- 2013: in relation to Block 10 in the Jibimkipi area
- 2013: in relation to Block 43 in Ishpingo-Tambococha-Tiputini (ITT)
- 2014-2015: in relation to Blocks 74 and 75.

79. Before holding a prior, free and informed consultation, various factors are considered, such as the territorial affiliation, language and forms of organization of the indigenous peoples concerned. Invitations are sent to their representative bodies. All processes are coordinated with the community leaders and representatives in order that communities may be kept informed and encouraged to take part in every step of the process. Other ad hoc methods for inviting participants include notifications to community representatives, advertisements in the local media (radio, press) and methods typically used by local organizations, such as going door to door.

80. In addition, before the Ministry of the Environment approves environmental impact studies on the implementation phase of projects, it carries out social participation processes targeting primarily communities in the area affected by a project by issuing invitations to the public (through the media or by individual notification of the social actors concerned), opening public information centres and holding public assemblies.

81. Ecuador guarantees that communities are able to exercise their collective right to be informed, in keeping with the Constitution and international conventions, through a prior, tailored and accessible dialogue conducted in good faith, thereby illustrating the State's commitment to all the indigenous communities and peoples.

Issue 8: Lack of judicial proceedings in cases of racial discrimination Implementation of paragraph 18 of the list of issues

82. With regard to the recommendation on the training of court officials who deal with cases involving racial discrimination, the Council of the Judiciary has set up the Judicial Training School. The School provides training for all justice officials, including mandatory training on commencement of service. The initial training programme covers a number of issues related to the recommendation, including:

- The principle of equality: real, formal and practical equality
- The principle of non-discrimination
- The principle of inclusion
- Interculturalism and principles
- Judicial pluralism in the administration of justice

⁴⁶ Article 5 (4) of Executive Decree No. 1247 defines prior consultation as an instrument of participation and information, which the Hydrocarbons Secretariat is required to carry out before the allocation of blocks or tracts, in accordance with article 57 of the Constitution, the international human rights instruments that deal with prior consultation and that have been duly ratified by Ecuador, article 4 of Executive Decree No. 1247 and other legal texts. The purpose of prior consultation is to give access to information on plans or programmes to be implemented and to lend legitimacy, security and a legal basis to policies on the management of the country's hydrocarbon resources.

- National and international legislative frameworks for the protection of indigenous justice in Ecuador.

83. The National Police has established a continuing comprehensive training programme in the provinces of Cotopaxi, Manabí, Guayas and Tungurahua. In compliance with Executive Decree No. 060 on the Public Policy on the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion, officers of all ranks receive training in such topics as the collective rights of indigenous, Montubio and Afro-descendent peoples; plurinationalism and interculturalism; indigenous justice; constitutional law and indigenous, Montubio and Afro-Ecuadorian movements; safeguarding and violations of collective rights; collective holders of rights; challenges of interculturalism; and analysis and discussion of cases involving collective rights. In 2014, 31,857 police officers received training.

84. With a view to taking more effective action and ensuring equal access to judicial services, article 191 of the Constitution makes provision for the Public Defender Service as a body that ensures full and equal access to justice for persons whose vulnerability or economic, social or cultural situation prevents them from retaining defence counsel to protect their interests.

85. To date, 760 public defenders have received specialist training in judicial pluralism and in indigenous culture and justice. The Judicial Service has 43 expert translators and interpreters, and staff receive ongoing training to become accredited interpreters in a number of languages, including ancestral languages, so as to be able to provide timely assistance to persons belonging to indigenous peoples and nationalities. Training for sign language interpreters to assist people with hearing disabilities is also provided.

86. In the area of access to judicial services, the Council of the Judiciary has an office that develops proposals and initiatives to optimize access to judicial services for all. The office has four national subsections, dealing with human rights, gender, access to justice and legal pluralism and mediation services, and magistrates' courts.

87. The Comprehensive Organic Criminal Code,⁴⁷ which has been in force since 10 August 2014, codifies the relevant sanctions for offences that infringe the individual or collective rights of peoples and nationalities. In the chapter on offences infringing the right to equality, article 176 classifies discrimination as an offence carrying a penalty of deprivation of liberty for between 1 and 3 years. Discrimination is understood as the act of differentiation, restriction, exclusion or preference on the grounds of ethnicity or cultural identity, among others. The penalty rises to between 3 and 5 years if the offence is committed by a public official.

88. Article 177 of the Code defines hate crime, which is understood as acts of physical or psychological violence against one or more persons on the grounds of their ethnicity or cultural identity, among others. The offence carries a penalty of deprivation of liberty for between 1 and 3 years. Article 80 sanctions the offence of ethnocide with a penalty of deprivation of liberty for between 16 and 19 years, in the interests of protecting the cultural identity of peoples living in voluntary isolation. Article 82 defines enslavement as an offence, and punishes any person exercising all or part of the right to ownership over another person with deprivation of liberty for between 22 and 26 years.

89. Since 2014, 46 cases have been brought nationwide: 31 involved alleged discrimination offences and 15 involved alleged hate crimes. No disaggregated data are available regarding ethnic, religious, linguistic or national minorities within the criminal justice system. However, a training management programme for the Council of the

⁴⁷ Supplement to Official Gazette No. 180 of 10 February 2014, last amended 26 October 2015.

Judiciary is currently being implemented, the strategic objectives of which are to coordinate the processes for the generation, validation, standardization and dissemination of data and institutional information and to design regulations, procedures and technical tools for the capture, storage, processing, systematization, standardization, validation, formalization and distribution of data and information. The ultimate aims are to support and improve institutional management, optimize decision-making and meet the information needs of internal and external clients via a website. The use of this tool will provide disaggregated data on users of the justice system nationwide.

90. In November 2015, a sentence was handed down to a lieutenant of the armed forces for an offence of racial hatred committed against an Afro-Ecuadorian, which proves that sanctions are indeed imposed in cases of racial discrimination. This was the first racial discrimination case to be prosecuted in the country and set an important precedent. A complaint had been lodged with the Ombudsman's Office in 2013, alleging inhuman and degrading treatment by the lieutenant towards a lower-ranking officer enrolled at the Eloy Alfaro Military Academy. Following an investigation, the Office found violations of the right to personal integrity, the right to equality and the right to non-discrimination on grounds of ethnicity. The case was sent to court in 2013 and the defendant placed in pretrial detention for the alleged offence of racial hatred. In 2015, the accused was convicted and sentenced to imprisonment for a term of 5 months and 4 days and the military academy was ordered to make a public apology to the complainant in a special military ceremony.⁴⁸ The Council for Citizen Participation and Social Control ensured that due process was followed in the case, through the Social Control Subunit and the General Coordination Office for Interculturalism.⁴⁹

Issue 9: Coordination between the indigenous and ordinary justice systems

Implementation of paragraph 19 of the list of issues

91. The Constitution recognizes the right of indigenous peoples to freely maintain, develop and strengthen their identity, sense of belonging, ancestral traditions and forms of social organization, and their collective right to create, develop, apply and practise their own and customary laws.⁵⁰ These rights are reaffirmed in article 171, which recognizes the judicial functions of indigenous communities, peoples and nationalities on the basis of their ancestral traditions and their own laws.

92. In Judgment No. 113-14-SEP-CC of 30 July 2014 on the *La Cocha* case, which involved the need to determine the relative jurisdiction of the ordinary and indigenous justice systems, the Constitutional Court undertook an in-depth analysis of the exercise of judicial powers and competencies by indigenous authorities. The Court found that the indigenous justice system had jurisdiction to hear and resolve internal conflicts that arose between its members within their territory and that affected their community values.

93. In cases where the parties involved belonged to indigenous peoples or nationalities, the Constitutional Court, in Judgment No. 004-14-SCN-CC⁵¹ of 6 August 2014, found that, in order to protect and safeguard the rights of indigenous peoples and nationalities and maintain real and appropriate administration of justice, principles must be observed from an intercultural perspective. For that reason, judicial officials have the obligation to consider

⁴⁸ Information supplied by the Ministry of Justice, Human Rights and Religious Affairs.

⁴⁹ Information supplied by the Council for Citizen Participation and Social Control.

⁵⁰ Constitution, art. 57 (1) and (10).

⁵¹ Constitutional Court of Ecuador, Judgment No. 004-14-SCN-CC, Case No. 0072-14-CN of 6 August 2014.

the particular world view of indigenous peoples when dealing with any aspect of life, including the mounting of criminal prosecutions.

94. On behalf of the Government, the Council of the Judiciary has developed the Legal Pluralism Plan, which contains strategies on the following objectives:

- To provide judges with a technical tool for the prosecution under the ordinary criminal system of indigenous persons involved in criminal offences.
- To formulate a training curriculum on issues of judicial pluralism for judges, prosecutors and public defenders.
- To promote an understanding of the coordination and cooperation between the ordinary and indigenous justice systems in cities and provinces with large indigenous populations.
- To promote understanding and discussion of the bill on coordination and cooperation between the ordinary and indigenous justice systems currently before the National Assembly.
- To compare good practices with regional practices in respect of legislation and other mechanisms for coordination and cooperation between the ordinary and indigenous justice systems.

95. Training plans have also been developed for indigenous judicial authorities and procedures to facilitate knowledge-sharing regarding the ordinary and indigenous justice systems have been introduced.⁵²

Issue 10: Economic, social and cultural rights of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities

Implementation of paragraph 20 of the list of issues

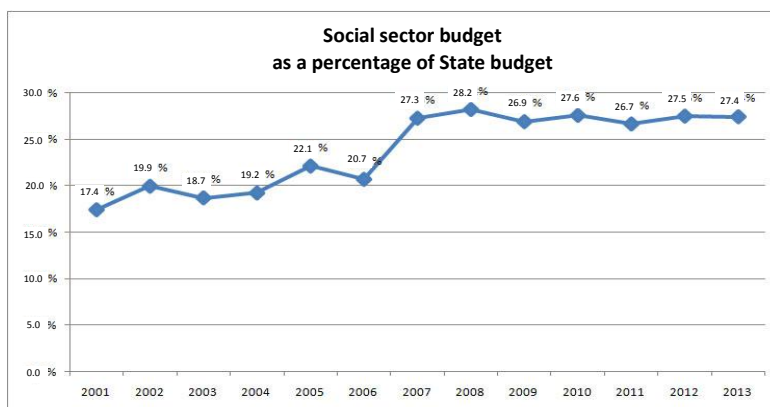
96. Ecuador has introduced and implemented public and investment policies on the eradication of poverty and the promotion of social inclusion, the elimination of discrimination, for whatever reason, against peoples, nationalities and minorities, and access to basic services, education and employment.

97. As a result of the changes that have taken place in Ecuador, the Gini coefficient, which measures income inequality among the population, stood at 0.4601 in March 2014, a drop of 4 points since 2006. Around 1.3 million people have been lifted out of poverty.

98. As shown in figure 1, social investment as a proportion of the State budget rose from 17.4 per cent in 2001 to 20.7 per cent in 2006 and to 27.4 per cent in 2013. This reflects a budget increase from US\$ 500 million in 2000 to US\$ 6.4 billion in 2013, a trend that has continued in subsequent years.

⁵² Information supplied by the Ministry of Justice, Human Rights and Religious Affairs.

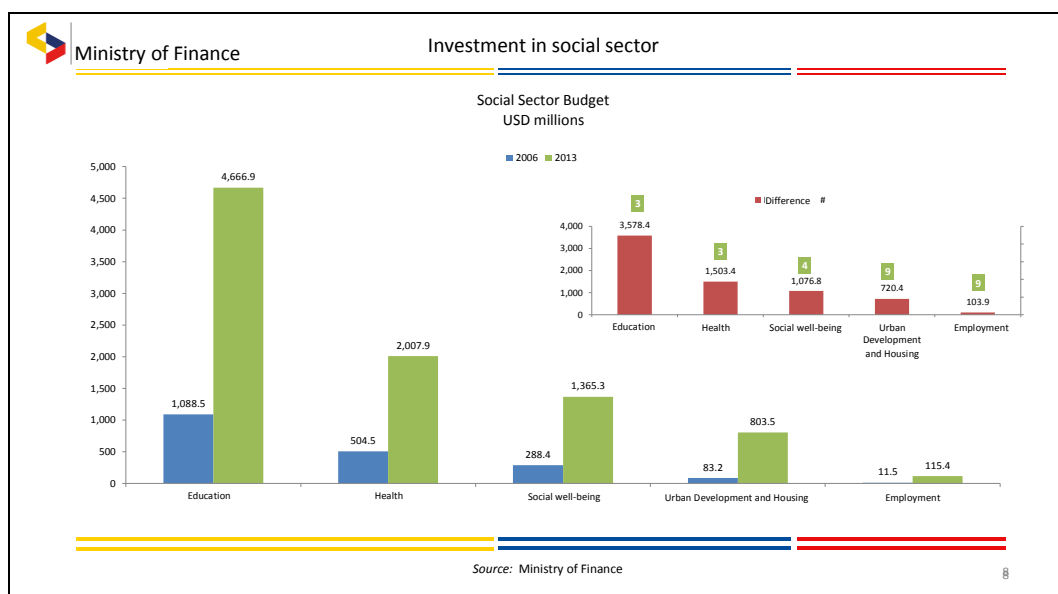
Figure 1



Source: Ministry of Finance — Electronic Integrated Financial Management System. Prepared by: Integrated System of Social Indicators of Ecuador.

99. Furthermore, figure 2 compares investment in the social sector between 2006 and 2013. It shows that investment in health, education, social welfare, housing and work have been prioritized, thus improving the socioeconomic situation of Ecuadorians, including indigenous peoples and nationalities.

Figure 2



100. The Ministry of Economic and Social Inclusion provides public services for the whole of the population of Ecuador, including priority groups belonging to peoples and nationalities, such as children, teenagers, young people, older people and persons with disabilities. A 2013 census on ethnic self-identification of service users found that, in comprehensive child development services, 76 per cent of children aged up to 3 years were mixed race, 11 per cent were indigenous (33,950 children), 6 per cent were Afro-Ecuadorian (17,560 children) and 3 per cent were mulattos (9,219 children).

101. In services for older people, 86 per cent were mixed race and 6 per cent (1,022) were indigenous. In addition, the services were used by 563 Afro-descendent, mulatto and black persons and 362 Montubio persons.

- In services for persons with disabilities, 87 per cent of service users were mixed race, 4 per cent (924 persons) were indigenous, 4 per cent (797 persons) were Montubio and the remainder self-identified as another ethnicity.
- In special protection services, 81 per cent of service users were mixed race, 11 per cent (6,796 persons) were indigenous, 4 per cent (2,429 persons) were Afro-descendants and the remainder self-identified as another ethnicity.
- Lastly, in services for young people, 62 per cent of service users were mixed race and 27 per cent were Montubio (27,271 persons).

102. When it comes to economic inclusion and poverty reduction policies, of the people who were, as of July 2015, in receipt of monetary transfers (either the Human Development Bond for persons living in poverty or the Joaquín Gallegos Lara voucher for caregivers of persons with severe disabilities) or old-age or disability pensions, 67 per cent were mixed race and 14 per cent (157,021 persons) were indigenous. Montubio persons made up 12 per cent of the total (133,124 persons), while 4 per cent were Afro-descendants or mulattos (40,463 persons).

103. Economic and social inclusion programmes are designed to meet the needs of all who require them and are required to cover all ethnic groups, including Afro-descendants and Montubios, as provided for in the Convention. A number of strategies have been implemented by different services to strengthen their intercultural approach, with the active participation of the public. The aim is to bolster affirmative measures so that persons belonging to the various ethnic groups can find work or training, and participate in the career services that are available.

104. With regard to data disaggregated by ethnic self-identification, the information systems used by the Ministry are constantly being updated to enable the inclusion of all variables.

105. Significant progress has been made at the national level with regard to access to education for peoples and nationalities. The net rate of primary school attendance for boys and girls aged 6-11 years belonging to peoples and nationalities has increased significantly, as shown in the table below:

Table 1
Net rate of primary school attendance (children aged 6-11 years), %, 2012-2014

<i>Ethnic self-identification</i>	<i>December 2012</i>	<i>December 2013</i>	<i>December 2014</i>
Indigenous	96.91	95.73	97.01
Afro-Ecuadorian	96.70	98.19	96.55
Mixed race	95.87	96.49	96.90
White	96.51	98.81	96.42
Montubio	97.41	96.12	96.62
Other	100.00	89.45	100.00

Source: Ministry of Education.

106. The net rate of secondary school attendance for young people aged 12-17 years also showed significant improvement, as shown in the table below:

Table 2

Net rate of secondary school attendance (children aged 12-17 years), %

<i>Ethnic self-identification</i>	<i>December 2012</i>	<i>December 2013</i>	<i>December 2014</i>
Indigenous	69.21	78.35	76.09
Afro-Ecuadorian	73.55	74.50	74.87
Mixed race	81.74	82.56	83.71
White	73.55	91.14	72.99
Montubio	60.72	66.93	67.23
Other	100.00	89.20	61.43

Source: Ministry of Education.

107. In order to safeguard respect for cultural identity, educational institutions have been established with the task of preserving the languages, knowledge and ancestral wisdom of the indigenous peoples and nationalities of Ecuador. The objectives of the institutions are to strengthen, maintain and revitalize languages, to conserve and promote ancestral knowledge and wisdom, to safeguard the world views of the nationalities and to promote dialogue to share ancestral and Western knowledge.

108. As shown in the following table, there are currently 1,795 intercultural bilingual educational establishments in existence, with 8,303 teachers. At these establishments, the Ministry of Education caters for 146,346 children belonging to aboriginal peoples and nationalities.

Table 3

Intercultural Bilingual Education System Services

<i>Intercultural Bilingual Education System Services Zones</i>	<i>Institutions</i>	<i>Teachers</i>	<i>Students</i>
Zone 1	266	1 276	25 123
Zone 2	316	1 582	26 881
Zone 3	533	2 821	45 646
Zone 4	12	59	1 207
Zone 5	94	407	7 926
Zone 6	427	1 341	25 610
Zone 7	129	493	6 284
Zone 8	8	132	3 187
Zone 9	10	192	4 482
Total	1 795	8 303	146 346

Source: Intercultural Bilingual Education System, Ministry of Education, 2016.

109. Furthermore, the National Secretariat of Science and Technology has implemented communication strategies for properly publicizing the availability of scholarships to develop the potential of members of peoples and nationalities. In that connection, decentralized strategies for the dissemination of information have been developed in

partnership with the Institute for the Development of Human Potential, with a view to reaching areas with high concentrations of persons belonging to peoples and nationalities.

110. Equally, in observance of the principle of the progressive nature of rights, the application criteria for the awarding of scholarships may be amended to increase the number of awards made to persons belonging to peoples and nationalities.

111. Ecuador has encouraged the participation of State ministries in optimizing the work of the units responsible for promoting citizen participation, social control, transparency and accountability.

112. The National Plan for Good Living 2013-2017 sets out the objective of tackling the lack of access to employment, particularly in the public sector, for population groups belonging to peoples and nationalities. Unemployment is a consequence of inequality and discrimination, as well as of a lack of access to education. Goal 2.7 of the Plan addresses the latter problem, with a view to implementing public policies designed to reduce illiteracy rates to 4 per cent among the indigenous and Montubio populations aged between 15 and 49.

113. In the area of investment, the Ministry of Finance has introduced a system for the classification of spending on intercultural equality policies, which will facilitate the recording and monitoring of the public resources allocated to policies with an intercultural focus and to the safeguarding of the rights of the peoples and nationalities of Ecuador. The system includes a category for the promotion and strengthening of the fight against racism, discrimination and intolerance. The classification of spending on intercultural equality policies began in 2014 and the Ministry of Finance has run awareness-raising sessions in public institutions on the recording of resources allocated to those policies.

114. Under article 7 of the Organic Act on the Council for Citizen Participation and Social Control, the Council is responsible for establishing and regulating financial, judicial and technical support mechanisms, while recognizing the autonomy of civil society. This is achieved by means of a competitive grant fund for citizen participation schemes, with the aim of promoting citizen participation, social control, transparency and the fight against corruption. The fund, which was declared a priority by the National Secretariat of Planning and Development in 2012, began operations in 2013 and will have been fully implemented by 2017. The fund is designed to incentivize good practice in the areas mentioned above and is implemented via the allocation of a non-refundable sum of money to the social organizations that are selected. The programme values and seeks to strengthen self-organization initiatives within society.

115. In the first round of applications, in 2013, the programme supported citizen initiatives to boost the social participation and organization of women in rural areas of Ecuador. A total of 72 applications were received, and the Council allocated US\$ 10,000 in competitive funding to the 13 best proposals designed to benefit women, particularly those from the indigenous, Afro-descendent and Montubio populations. The projects that received funding helped to strengthen the organization and mobilization of women's groups through the promotion of citizen participation and respect for their rights. The outcomes of the 13 winning projects reflect the effective mainstreaming of the gender-, intercultural-, generational- and disability-based approaches. The targeting of indigenous, Afro-Ecuadorian and Montubio women in rural areas of the country made it possible to address the needs of vulnerable sectors of the population, while at the same time implementing the affirmative actions mandated by the Constitution and international instruments.

116. In fulfilment of the constitutional mandate and the provisions of the Elections and Political Organizations Act, the National Electoral Council initiated a series of programmes to promote greater citizen involvement and engagement in the electoral process, which were implemented during the 2013 general elections and the 2014 local elections. Flagship

projects were set up to promote respect for political rights, as enshrined in title 2, chapter 5, of the Constitution on the right to participation. The projects, which incorporated the strengthening of democracy as a cross-cutting theme, mainly focused on minority sectors that in practice have remained on the periphery of politics in Ecuador. The organization of elections and the provision of support for social and political organizations ensured equitable, equal, intercultural, free, democratic and fair participation for voters and candidates.

117. The National Statistics and Census Institute has implemented the Integrated System of Household Surveys, the aim of which is to coordinate relevant information on different aspects of households, such as demographic characteristics, migration, employment, education, health and nutrition, income and expenditure, living conditions, human settlements and housing, justice and crime, use of time, mortality and fertility rates, domestic violence and child abuse, basic services and access to property. The design of the Institute's statistical operations disaggregates information by age group, gender, ethnic origin, geographical location and so on, referencing the areas covered by the Convention. All the information produced by the Institute is public and supports decision-making at all levels. It is available at www.ecuadorencifras.gob.ec.

118. The policies of Ecuador are designed to promote social and labour market inclusion for all, as demonstrated throughout this report. Affirmative action favouring the employment of Afro-descendants and Montubios, as laid out in Ministerial Decision No. 56 on recruitment and selection of personnel in the public sector, issued by the Ministry of Labour Relations, is described in the section on issue 2 in this report.

119. In relation to access to work, Objectives 1 and 2 of the National Plan for Good Living 2013-2017 contain the greatest number of policies designed to tackle discrimination in all its forms, with the emphasis on peoples and nationalities. These public policy guidelines are detailed further in the goals laid out in the National Development Plan for each of its objectives. The goals are mandatory and thus constitute essential commitments for the bodies responsible for public policy. Goal 1.6 and Goal 2.7, which was mentioned above, directly address some of the specific expressions of social discrimination:

- Goal 1.6: Increase to 14 per cent the proportion of Afro-Ecuadorians and indigenous and Montubio persons employed in the public sector;
- Goal 2.7: Reduce illiteracy among the indigenous and Montubio population aged between 15 and 49 to 4 per cent.

Issue 11: Wider access to ethnically relevant public health services Implementation of paragraph 21 of the concluding observations

120. The Constitution guarantees universal health coverage and promotes respect for ancestral medicine: article 32 stipulates that health is a right guaranteed by the State, the fulfilment of which is linked to the exercise of other rights, including the right to water, food, education, sports, work, social security and healthy environments, inter alia, that contribute to good living conditions.

121. Articles 358, 359 and 360 state that the National Health System recognizes social and cultural diversity, is governed by the general principles of the national system of social equity and inclusion and by the principles of bioethics, sufficiency and interculturalism, reflects sensitivity to gender and generational issues, and will coordinate the various levels of care and promote complementarity with ancestral and alternative medicines.

122. Article 362 stipulates that health care as a public service must be provided through State, private, autonomous and community entities, as well as those which practise

alternative and complementary ancestral medicine. Health services must be safe, of good quality and compassionate, and informed consent, access to information and confidentiality of patient information must be guaranteed.

123. In this regard, the State promotes the recognition of the indigenous health-care system and ancestral medicine as a means of conserving and protecting the knowledge that forms part of their culture and that is a component of national diversity.

124. The Comprehensive Health Care Model provides for the incorporation of the gender perspective in the design of public policies, in order to achieve a better understanding of reality and of the lives, needs and specific conditions of women and persons with diverse gender identity, taking as a central problem the unequal power relationships between women and men, their causes and their effects on society.

125. The Ministry of Public Health drafted a document entitled “Assessment and strengthening of interculturalism in the training of health-care personnel”, with funding from Inter-American Development Bank project 2431/OC-EC. The document sets out guidelines for the inclusion of an intercultural approach in the content of the postgraduate degree course in family and community medicine for primary health-care workers, in training and awareness-raising for health-care and administrative personnel within the Ministry and in university courses for health-care professionals, with the objective of improving human and technical capacities in the delivery of services with an intercultural approach.⁵³

126. The Government has also promoted access to basic services and institutional health care, particularly in rural areas, that are adapted to the different linguistic and cultural characteristics of indigenous peoples.

127. The Technical Standard on the coordination of knowledge and practices of ancestral midwives in the National Health System has been published as a mechanism for the provision of culturally relevant obstetric care. The Standard recognizes the work done by ancestral midwives based on parameters that were collectively designed by the communities.

128. The National Directorate for Intercultural Health attached to the Ministry of Health promotes culturally relevant attended natural childbirth with freedom of positioning as a fundamental feature of the rights and quality of care provided for service users. Culturally appropriate and respectful childbirth is a question of rights that do not apply exclusively to particular nationalities or peoples in Ecuador. Standards and indicators on freedom of positioning during childbirth are monitored monthly, as follows:

- In all primary health centres (Type C) and secondary health-care establishments (general hospitals), delivery rooms and maternity units must be equipped for normal low-risk childbirth, with freedom of positioning that respects intercultural relevance.
- All primary health-care establishments (health posts and Type A and B health centres) must have an appropriate environment for imminent low-risk childbirth, with freedom of positioning that respects intercultural relevance.
- All primary and secondary health-care establishments must be fully provided with the fittings, equipment, apparatus, materials, medicines and regulatory standards required for low-risk birth, with freedom of positioning that respects intercultural relevance.
- Every member of staff in the health-care system who is involved in assisting with childbirth must be made aware of and trained in assisting normal low-risk childbirth,

⁵³ Information from the National Directorate of Health-Care System Policies and Models.

with freedom of positioning that respects intercultural relevance. At the present time, the National Directorate of Statistics and Information Analysis has recorded 210 health-care establishments that cater for childbirth with freedom of positioning.

Issue 12: Access to intercultural education that reflects the ethnic composition of Ecuador

Implementation of paragraph 22 of the concluding observations

129. In addition to the response on issue 10, the Organic Act on Intercultural Education⁵⁴ and its general regulations⁵⁵ guarantee universal access to the education system without any form of discrimination, with the right to continuity, mobility and completion, and stipulate that it is compulsory at the pre-primary, primary and secondary levels. Ecuador has thus achieved universal basic education for children between the ages of 5 and 16, with 96 per cent coverage.

130. As regards higher education, in response to the results of the National Secondary Education Examination, and mindful of the need to reduce disparities among university entrants in the area of verbal, abstract and numerical reasoning, Ecuador has decided to implement a teaching methodology, including operating strategies, to be used throughout the country, for the three areas covered by the examination. In this connection, the National Upgrading and Admissions System has developed the National Support Programme for Peoples and Nationalities, which promotes workshops tailored to the populations enrolled.

131. Since the establishment of the National Upgrading and Admissions System, a public policy has been implemented on the democratization of access to higher education as one of the key features in the promotion of an educational revolution, with the aim of achieving a knowledge-based society that seeks to empower human talent and capacities by adopting the standards of quality, merit, transparency and equal opportunity.

132. Furthermore, a system of affirmative action has been implemented through the award of scholarships under a quota policy that assists candidates who are particularly vulnerable by comparison with the others in securing a place in one of the public higher education institutions. The scholarship is awarded if a person passes the National Secondary Education Examination with a minimum score of 601, which then qualifies that person for a place under the higher education institutions quota policy, either jointly financed or self-financed. One of the factors taken into account is membership of one of the peoples or nationalities, other factors being disability, income, area of residence (rural or urban) and migration status. Thus, 91 per cent of the current beneficiaries of this policy are from peoples and nationalities, and access to higher education institutions among the indigenous population increased by 50 per cent in 2014 compared to 2013.

133. The National Upgrading and Admissions System has run communications campaigns in the media to disseminate relevant information about its programmes. However, given that not everyone has access to the media, the System is also preparing training for rural sectors and communities, with a particular emphasis on reaching peoples and nationalities, including indigenous, Afro-descendent and Montubio groups. The training programmes take place under the National Support Programme for Peoples and Nationalities and promote motivational workshops with the aim of awakening the interest of candidates in continuing their higher academic training.

134. These strategies are reflected in an increase in access to higher education by persons belonging to peoples and nationalities: between 2006 and 2014, the rate of attendance at

⁵⁴ Official Gazette No. 417 of 31 March 2011.

⁵⁵ Decree No. 1241, published in the Supplement to the Official Gazette No. 754 of 26 July 2012.

higher education institutions rose by 8 percentage points, from 9.3 per cent in 2006 to 17.3 per cent in 2014. Equally, the rate of attendance at higher education institutions increased by 4 percentage points, from 14.1 per cent in 2006 to 18.2 per cent in 2014. A comparative review of school districts shows that, since the implementation of the National Upgrading and Admissions System, access to higher education institutions by Afro-descendent populations has risen. In the coastal district, the number of Afro-descendent candidates sitting the National Secondary Education Examination has increased by 60 per cent and in the highlands district the number has increased by 39 per cent over the last two times that the examination has been held.

135. As regards the policy on meritocracy, a certain percentage of the High Performance Group⁵⁶ is made up of persons belonging to peoples and nationalities. Indigenous persons made up 25 per cent of the persons in the 2013 High Performance Group who belonged to peoples or nationalities; this figure rose by 26 per cent in 2014, when they comprised 51 per cent of the total belonging to peoples or nationalities. Afro-Ecuadorians represented 63 per cent of the total belonging to peoples or nationalities in 2013, but in 2014 this figure dropped to 33 per cent. Montubio persons made up 13 per cent of the total in 2013, dropping to 11 per cent in 2014. Mass media information campaigns about the National Secondary Education Examination process are run periodically, thus increasing awareness among the population and demystifying certain beliefs that have implanted themselves in the collective imagination. Pre-examination campaigns are also run as part of the National Upgrading and Admissions System with the aim of informing the population and promoting free and responsible choice based on valid information.

136. The Ministry of Education, in Notice No. 222-SEIM-2011 of 5 December 2011, asked the Council for Citizen Participation and Social Control to designate a representative of each nationality for the creation of the Plurinational Council of the Bilingual Intercultural System, under article 85 of the Organic Act on Intercultural Education. The Council designated 14 nationality representatives to participate in the process of designing the curriculum of the National Bilingual Intercultural Education System.

Issue 13: Multiple forms of discrimination

Implementation of paragraph 23 of the concluding observations

137. In response to paragraph 23 on the gender-related dimensions of racial discrimination, the Ecuadorian Constitution enshrines the right to material equality and non-discrimination.

138. Furthermore, the National Plan for Good Living 2013-2017, as a public policy instrument that promotes equality, gives priority to protecting and guaranteeing the rights of women and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, and to preventing and eradicating gender-based violence.

139. One of the most significant achievements in this area is the creation of the National Council for Gender Equality, within the national equality councils, as the body responsible for ensuring the full enjoyment and exercise of the rights of women and LGBTI persons and for guaranteeing gender equality.

140. The most important technical/policy strategy of the National Council for Gender Equality is the National Agenda for Women and Gender Equality. Various women and LGBTI persons played an active role in putting the Agenda together. That process took

⁵⁶ The High Performance Group is made up of the candidates with the highest scores in the National Secondary Education Examination, according to the parameters established in the National Upgrading and Admissions System.

place in two phases: firstly, there were three prior consultations, seven political dialogues at the departmental level and two national meetings, with an intercultural focus, in the Sierra Centro and the Galapagos regions. Secondly, three workshops were held with specific groups of women. The information compiled during the dialogues on gender equality held in the context of the National Plan for Good Living 2013-2017 was also disseminated as part of these activities. The topics discussed as part of the political dialogues included production, employment and work, the care economy, health, the eradication of violence, education, recreation, knowledge and information and communication technology, political participation and parity, the environment and natural resources.

141. Articles 343 and 347 of the Constitution provide that the purpose of the national education system is to develop the population's individual and collective capacity and potential, and establish the responsibility of the State for eradicating all forms of violence in the education system, preserving the physical, psychological and sexual integrity of students and maintaining a bilingual, intercultural system in which the language of the nationality in question is to be used as the main language of instruction and in which Spanish is to be used as the language of intercultural relations.

142. Article 232 of the Code of the Judiciary provides that judges specializing in cases of violence against women and the family are competent to deal with acts of violence and violations committed by the police in the cases provided for in the law against violence against women and the family. The Code also specifies that mediation, arbitration and special privileges are not applicable in cases of domestic violence and guarantees a specialized public defender service for women, girls and adolescents who are victims of violence.

143. Moreover, the Elections and Political Organizations Act regulates gender parity in multi-person electoral lists and establishes that committing an act of gender-based violence or defaulting on child-support payments constitutes grounds for disqualifying a candidate from standing for office. It also stipulates, as a measure of affirmative action, that, in an election, if there is a tie between a man and a woman for the last seat, the seat must be awarded to the woman.

144. The Organic Act on the Legislative Branch mainstreams an approach based on women's rights and gender equality through the creation of the Legislative Technical Unit, the purpose of which is to facilitate the legislative process and to submit a non-binding report on major issues to the specialized committees and the National Assembly.

145. Article 19 of the Organic Act on the Council for Citizen Participation and Social Control guarantees parity between men and women in the membership of the Council alternately and sequentially from among the highest-ranked candidates on the basis of merit and competition.

146. Similarly, article 14 of the Code of Planning and Public Finances provides for the establishment of coordination mechanisms for the purposes of public planning and policymaking with a view to mainstreaming the gender, ethnic and cultural, generational, disability and mobility perspectives.

147. Article 48 of the Organic Act on Public Service establishes the grounds for dismissal of public officials, which include committing acts of harassment or sexual abuse, human trafficking or acts of discrimination or violence of any nature; and, in a similar vein, article 21 of the Code of Democracy provides that, to be a member of the Council, persons who have been penalized for domestic or gender-based violence first have to comply with the rehabilitation measures prescribed by the competent authorities.

148. The Comprehensive Organic Criminal Code criminalizes discrimination on the grounds of sex, gender or sexual orientation, and acts of hatred committed on the grounds

of sex, gender and/or sexual orientation, and penalizes any person committing acts of that nature.

149. The Code also provides for the crime of femicide and its aggravating circumstances in articles 141 and 142,⁵⁷ respectively, and includes violence against women or family members as a new crime or offence. Such offences will in future be prosecuted under special, accelerated proceedings that will allow administrators of justice to act in a more expeditious, appropriate and effective manner.

150. In the case of various offences, the Code also makes it an aggravating circumstance if the victim is under 18 or over 65 years of age, is a pregnant woman or a person with disabilities or is suffering from a life-threatening illness. The other offences in which these are aggravating circumstances include sexual harassment, sexual abuse, rape and other offences involving sexual violence.

151. Similarly, the Code provides for the denial of bail for offences in which the victims are children or adolescents, persons with disabilities or older persons. Bail will also be denied for offences involving violence against women or family members.⁵⁸

152. In the knowledge that access to justice is a fundamental element in the prevention and eradication of violence against women, the Public Assistance Unit of the Attorney General's Office is working alongside the Comprehensive Expert Response Unit to reduce the time taken to receive complaints and to produce an expert report in the case of sexual offences, given that these services are all located in one place. Moreover, doctors, psychologists and social workers provide professional support to victims at every stage of the trial. To ensure compliance with the Comprehensive Organic Criminal Code, the following standardized protocols were developed, with the participation of justice officials, judicial bodies, the Attorney General's Office, the Ministry of Public Health and the forensic medicine unit of the Criminal Investigation Service:

- Protocol for expert forensic medical assessments in the case of criminal offences related to domestic violence, sexual offences and injuries when the victim's injuries are not life-threatening
- Technical standards for DNA testing in Ecuador
- Informed consent form and expert forensic psychology appraisal for children, adolescents and adults; forensic evaluation report
- Informed consent form and forensic social worker's evaluation

⁵⁷ Comprehensive Organic Criminal Code, art. 141: "Femicide. A person who, as a result of power relations expressed in any kind of violence, kills a woman on account of her being a woman or on account of her gender, shall be liable to a term of imprisonment of between 20 and 26 years." Art. 142: "Aggravating circumstances for femicide. If one or more of the following circumstances occur, the maximum penalty provided for in the preceding article shall be imposed, where:

1. The perpetrator sought to establish or re-establish an intimate relationship with the victim.
2. There were or had been, between the perpetrator and the victim, family or conjugal relations, relations based on cohabitation, intimacy, courtship, friendship, comradeship, or workplace or school relations or any other relations that involve trust, subordination or superiority.
3. The crime was committed in the presence of the children or any other relative of the victim.
4. The body of the victim was exposed or abandoned in a public place."

⁵⁸ Ibid, art. 544: "Denial. Bail shall be denied where:

1. The victims of the offence are children or adolescents, persons with disabilities or older persons.
2. The offence carries a maximum term of imprisonment of more than 5 years.
3. The defendant violates the conditions of bail in any way."

- Gesell Dome rules of procedure; instructions and know-how
- Protocol for the single interview with victims, conducted by a psychologist
- Protocol for taking advanced testimony in a Gesell Dome, and
- Protocol for investigating violent deaths of women on account of their gender, used by UN-Women in cases of femicide.

153. In July 2015, specialized units for dealing with gender-based violence were created for the purpose of implementing procedures for the specialized investigation of crimes such as femicide and offences against sexual integrity. The units take advanced testimonies and conduct expert forensic, medical and psychological assessments.

154. As part of the legal system reform process, the Ecuadorian Government is making progress with setting up legal units specializing in cases of violence against women and the family, and in devising care protocols to prevent the revictimization of women who have gained access to the legal system. The purpose of the legal units is to address violence suffered within the family setting. The units comprise an interdisciplinary team, which includes doctors, psychologists and social workers. In 2013, 23 legal units specializing in cases of violence against women or family members were set up in 18 provinces. The following rules and regulations apply to these units:

- Protocols for judicial conduct and action and expert evaluation in cases involving violence against women or family members (Decision No. 154-2014).
- Regulations governing judicial proceedings relating to acts of violence against women or family members (Decision No. 172-2014).

155. The principle underpinning the protocols is to treat the victim as a central subject of rights, deserving of effective, specific and multidisciplinary legal protection and of comprehensive protection at every stage of the judicial proceedings. Similarly, the protocols establish the cross-cutting nature of human rights issues, gender issues, intergenerational issues, intercultural issues, comprehensive care, equity and non-discrimination in the administration of the legal proceedings and provide models for action for each level of the specialized assistance provided by the legal units.

156. A national policy to eradicate violence was adopted in 2007, namely the National Plan for the Eradication of Gender-Based Violence against Children, Young Persons and Women, which strengthens the role of the State and guarantees women of all ages a life free from violence. The National Plan has guided inter-agency coordination of action to prevent, punish and eliminate gender-based violence. Its strategic lines of action include the transformation of sociocultural patterns, the introduction of a system of comprehensive protection and access to justice.

157. Under the system of comprehensive protection, priority is given to setting up and putting into operation shelters and care centres for women victims of violence, in coordination with civil society organizations and under the authority of the Ministry of Justice, Human Rights and Religious Affairs.

158. Rights protection centres have also been set up to receive complaints and to publicize and provide legal, social and psychological assistance to women, children and adolescents whose rights have been violated.

159. Furthermore, as part of the comprehensive gender-based violence care programme, primary care facilities have been set up in public hospitals to provide victims of sexual offences and domestic violence with quality care in the form of comprehensive and specialized medical, psychological, social and legal assistance in a welcoming environment.

160. Fifteen such facilities have been set up in hospital accident and emergency departments and are staffed by a medical professional, a psychologist and a social worker. A total of 14,000 victims of gender-based violence were treated across the country in 2013 and 24,302 in 2014.

161. As for the updating of the technical standards for providing comprehensive care for victims of gender-based violence, a protocol for conducting expert assessments in cases of sexual offences, which is coordinated with the Attorney General's Office, is in place and is also followed in foreigner internment centres.

162. As stated on the issue of wider access to public health services, the aim of the Comprehensive Health Care Model, as a service strategy, is to promote equal treatment and non-discrimination and to guarantee comprehensive care for victims of gender-based violence. The following units and specialized centres are being set up to oversee the effective implementation of the strategy:

- An emergency unit with the minimum equipment necessary to handle cases of sexual and/or gender-based violence
- An emergency unit with a reserved space for providing possible victims of gender-based and sexual violence with medical care
- A health-care centre applying the technical standards for providing comprehensive care to victims of gender-based violence, and
- A health-care centre with psychological support facilities for providing care and support to and monitoring the situation of victims of gender-based and/or sexual violence.

163. The Office of the Deputy Director for Gender Issues within the Council of the Judiciary is empowered, *inter alia*, to initiate advisory processes and provide input into training activities with a view to mainstreaming the gender perspective in judicial, subsidiary and autonomous bodies. In this connection, during the process of disseminating the protocols for judicial conduct and action and expert evaluation in cases of violence against women or family members, special attention is paid to the principles underpinning victim care, one of which is interculturalism.

164. As for the participation and empowerment of indigenous women, the National Electoral Council has signed an agreement with the Women's Association of the Rural Parish Boards of Ecuador that will consolidate the efforts deployed to train female rural leaders, female electoral candidates and female members of elected authorities on democratic processes. This agreement, which is administered by the Institute for Democracy, provides for the design of specific programmes aimed at building the capacities of female electoral candidates and female members of rural authorities with a view to increasing their visibility at the local and national levels. To this end, efforts have been focused on: (1) rural issues; (2) gender in rural areas; (3) government workplans and programmes; and (4) participation of rural women in political life.

165. Similarly, the National Electoral Council signed an agreement with the National Council of Rural Parish Boards of Ecuador to strengthen the exercise of the right to participate in political life and to improve the management of electoral processes and activities related to the central democratic role played by the authorities and by the social and citizen-led organizations located in the country's rural parishes. The aims of the agreement, which is also administered by the Institute for Democracy, are: (1) to invigorate institutional relations; (2) to build the capacity of electoral candidates and political leaders; and (3) to investigate community democracy and its mechanisms.

166. In the interests of promoting the development of projects and joint training activities, the work conducted in the framework of this agreement gives priority to the following:

- Community democracy
- Political leadership and public administration
- The training of potential electoral candidates, and
- Training on the right to participate in political life.

Issue 14: Free peoples living in voluntary isolation Implementation of paragraph 24 of the concluding observations

167. Ecuador has become a regional reference point for the protection of the rights of indigenous peoples living in voluntary isolation, as it has gradually adopted different measures to safeguard their life, integrity and other rights guaranteed by the Constitution and international instruments, namely:

- Executive Decree No. 552⁵⁹ of 29 January 1999, which declared the territory in which indigenous peoples living in voluntary isolation have built their living and development space to be a protected conservation zone where all extractive activity is prohibited.
- Executive Decree No. 2187⁶⁰ of 3 January 2007, which demarcated the Tagaeri-Taromenane Protected Zone, the surface area of which covers 785,051 hectares. As an additional legal and technical safeguard, a buffer zone of 10 kilometres was established around the Tagaeri-Taromenane Protected Zone, where mining activities, the manufacture of forest products for commercial purposes, the granting of mining concessions and also infrastructure projects such as roads, hydroelectric power plants, centres for oil facilities and other projects that run counter to the purpose of the Tagaeri-Taromenane Protected Zone are prohibited.
- The National Policy Plan for Free Peoples Living in Voluntary Isolation, which was published on 18 April 2007, lays down the principles and strategic lines of action for the protection of indigenous peoples living in voluntary isolation.
- An interministerial agreement between the Ministry of the Environment, the Ministry of the Interior and the Police and the Ministry of National Defence, which was concluded on 25 February 2008 and which provided for the setting up of a monitoring station for the Tagaeri-Taromenane Protected Zone.
- Interministerial Agreement No. 120 of 6 March 2008, which approved the code of conduct to be observed by public and private enterprises to ensure that the activities and procedures of hydrocarbon companies neighbouring the Tagaeri-Taromenane Protected Zone are carried out in accordance with the applicable standards guaranteeing respect for the sociocultural practices and manifestations of indigenous peoples living in voluntary isolation.

168. There has been constant monitoring and geo-referencing of signs of the presence of indigenous peoples living in voluntary isolation and the security forces, public officials and people from the surrounding villages undergo continuing training on the rights of these

⁵⁹ Executive Decree No. 552, published in the Supplement to Official Gazette No. 121 of 2 February 1999.

⁶⁰ Executive Decree No. 2187, published in the Supplement to Official Gazette No. 1 of 16 January 2007.

peoples. In addition, medical brigades have conducted visits to various indigenous communities close to the Tagaeri-Taromenane Protected Zone.

169. Furthermore, a protocol for managing encounters with indigenous peoples living in voluntary isolation has been issued. The protocol serves as a procedural guide to approaching possible scenarios in which such peoples may be encountered and sets out protocols for action in situations where:

- There are signs of the possible presence of indigenous peoples living in voluntary isolation in the area
- Indigenous peoples living in voluntary isolation visit a community or encampment
- Indigenous peoples living in voluntary isolation are observed in the forest or remote locations
- Indigenous peoples living in voluntary isolation prolong their stay in a community or encampment
- Indigenous peoples living in voluntary isolation carry out a violent attack.
- Indigenous peoples living in voluntary isolation with health problems are encountered
- The dead bodies of indigenous peoples living in voluntary isolation are discovered, and
- Archaeological sites and/or funeral remains are identified.

170. Moreover, as part of the national policy to protect indigenous peoples living in voluntary isolation, by virtue of Ministerial Agreement No. 0869 of 3 March 2015, the Ministry of Justice, Human Rights and Religious Affairs created the Directorate for the Protection of Indigenous Peoples Living in Voluntary Isolation, which is attached to the Office of the Under-Secretary for Human Rights of that Ministry, empowering it to:⁶¹

- Formulate, coordinate and evaluate the implementation of protocols, procedures, contingency plans, technical standards, codes of conduct and guidelines for the protection of indigenous peoples living in voluntary isolation
- Build capacity for the monitoring and interpretation of jungle cultures
- Implement and enforce the comprehensive policy to protect indigenous peoples living in voluntary isolation
- Monitor and oversee the implementation of precautionary measures and the principles of the national policy and the sectoral protocols for the protection of peoples living in voluntary isolation in the territory
- Systematize, prioritize and process the requests of the indigenous peoples involved with a view to bringing peace to conflict zones
- Facilitate the work of the consultative councils tasked with overseeing the implementation of precautionary measures of a general nature and, in particular, those intended to protect peoples living in voluntary isolation, and monitor opportunities for participation
- Coordinate the preparation of plans and programmes to carry out economically and ecologically sustainable activities in the protected zone and surrounding areas

⁶¹ Article 2 of Ministerial Agreement No. 0869, published in the Supplement to Official Gazette No. 573 of 26 August 2015.

- Coordinate with relevant institutions in the development and implementation of plans, programmes and projects to help protect indigenous peoples living in voluntary isolation in terms of health care, education, tourism, the environment and the security of the Tagaeri-Taromenane Protected Zone, and
- Evaluate the implementation of plans, programmes and projects to protect indigenous peoples living in voluntary isolation.

Issue 15: Follow-up to the Durban Declaration and Programme of Action

Implementation of paragraph 25 of the concluding observations

171. Ecuador is a signatory to the Durban Declaration and Programme of Action and, as such, has reflected the principles of the Declaration in its domestic legislation. Ecuador is aware of the fact that discrimination may be double or multiple in nature and, for this reason, has enacted domestic legislation to mainstream the gender perspective and the human mobility approach simultaneously. Pursuant to this international commitment, the laws, standards, plans and programmes referred to in this report attest to the measures taken by Ecuador to give effect to the international precepts that it has espoused.

172. On 6 August 2015, pursuant to General Assembly resolution 68/237 of 23 December 2013 proclaiming the International Decade for People of African Descent, the Ecuadorian Government relaunched the round table initiative for the Ecuador chapter of the Decade for People of African Descent, organizing a round table, in the cantons of Durán and Guayaquil in the province of Guayas, at which a discussion and an integration evening took place with Afro-Ecuadorian peoples' leaders and organizations.

173. Furthermore, as evidence of the Government's continuing commitment to marking the Decade, on 16 February 2016, it issued Executive Decree No. 915, which declared that it was national policy to achieve the aims and objectives of the Programme of activities for the implementation of the International Decade for People of African Descent: Recognition, justice and development 2015-2024, adopted under General Assembly resolution 69/16 of 18 November 2014.

174. Regular meetings are currently being held on the main themes of the Decade in the form of open dialogues between persons of African descent and State entities, with a view to promoting social development, in such areas as justice, education, equality, health, housing, inclusion in the labour market and the recovery of ancestral sites. These meetings are chaired by social organizations so that the demands of persons of African descent may be heard directly and translated into practical and efficient policies and public actions that will guarantee the improvement of their living conditions.

Issue 16: Dissemination of reports

Implementation of paragraph 26 of the concluding observations

175. In response to paragraph 26 of the concluding observations, the Ecuadorian Government decided to establish the Committee for Transparency to ensure compliance with the obligations set out in article 7⁶² of the Freedom of Information Act. The State

⁶² Freedom of Information Act, art. 7 (Classification and conservation of information): "To guarantee the dissemination of and access to historical information that has been published through the institution's website, the information published each month under each of the paragraphs making up article 7 of the Act must be kept under the 'Transparency' tab with a separate link for each fiscal year."

ensures that the information referred to in article 7 of the Act is duly disseminated by identifying the units in possession of such information, which they provide by entering it into a special form. These forms are then published each month on the website of the Council on the Regulation and Development of Information and Communication under the tab “Transparency”,⁶³ thus providing the general public with access to reports on the activities carried out by different institutions.

176. As for the assistance provided through the e-mail address atención.ciudadana@cordicom.gob.ec, the Council reports having sent a total of 1,104 replies between January and July 2015. This service responds to requests for information on matters concerning institutional management.

177. The Ministry of Justice, Human Rights and Religious Affairs, in the exercise of its powers, created the web platform Sistema de Información sobre Derechos Humanos (SIDERECHOS) to allow institutions and the public to access information on human rights and see an overview of the advances made in that area. SIDERECHOS is a virtual platform containing a network of information on the rights of persons living in Ecuador, in keeping with the Constitution and international human rights treaties. The platform is a useful tool, designed with a view to consolidating a democratic State and building the power of the people, which is born of knowledge and guaranteed rights for all within a framework of justice in diversity. It is a system specifically intended for public officials, journalists, students, teachers and practising lawyers. The SIDERECHOS⁶⁴ page includes a search engine for constitutional and international standards, a library of reports, human rights reports currently being prepared and follow-up to international recommendations.

178. To guarantee access to information, the Government of Ecuador will provide translations in indigenous languages for the benefit of indigenous groups.

III. Conclusions

179. The present report demonstrates the importance that the Government, as the cornerstone of public administration, attaches to the fight against discrimination, including intersectional and, in particular, racial discrimination, which it approaches in a holistic manner. This has paved the way for the establishment of regulatory, institutional and administrative instruments that have successfully put the State’s proposed actions in this area into effect, immediately and permanently.

180. The competent public institutions have worked to develop policies and multisectoral and comprehensive programmes with the aim of consolidating the enjoyment of these rights in practice. Thus, Ecuador has worked to design a system for the comprehensive promotion of human rights, in keeping with the obligations that it incurred under international human rights instruments.

181. Attention should be drawn to the specific considerations set out in the Constitution in that regard and to those set out in the various instruments regulating the decentralized national system for participatory planning. Similarly, the action taken by the State is becoming more effective and intersectoral, as the National Development Plan now includes two specific national goals related to combating discrimination against peoples and nationalities throughout the national territory. The incorporation of a rights-based approach, underpinned by the principles of equality, plurinationalism and interculturalism in national planning, into national objectives, policies and goals also entails steering the whole public administration in that direction, which, in turn, requires that all other sectoral planning

⁶³ Website of the Council: www.cordicom.gob.ec.

⁶⁴ Available at: www.siderechos.gob.ec.

instruments should be deployed in accordance with these principles and that the various bodies responsible for implementing public policy should abide by that commitment. In addition, attention should be drawn to the importance of the fact that discrimination and acts of hatred are criminalized in the Comprehensive Organic Criminal Code, which prescribes appropriate penalties for the perpetrators of these crimes in an attempt to prevent them from being perpetrated in the future.

182. In addition, the Government's public policies were designed and implemented as part of an unprecedented participatory exercise in which it recognized the diversity of the population by reaching out to the various sectors with their different ethnic and sociocultural characteristics. This exercise allowed citizens to feed into and enrich the process of developing the National Plan for Good Living 2013-2017, which is the central instrument for national planning.

183. These actions, coupled with the guiding principles of the Constitution and the National Plan for Good Living 2013-2017, confirm and reinforce the State's commitment to and engagement with the global fight against racial discrimination, as expressed by a Government with a long-term vision.

184. Lastly, Ecuador is aware that racial discrimination persists in various forms, especially in respect of participation and access to work, education and health care, and is therefore committed to continuing to promote public policies that entail the direct participation of their beneficiaries in efforts to eradicate racial discrimination for the benefit of all Ecuadorians and foreign nationals residing in the country.
