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## I. Introduction

1. The present common core document contains general information on the general demographic characteristics of Ecuador, its constitutional, political, legal, economic and social structure, and its general framework for the protection of human rights. The preparation of this report has been validated by the national institutions that collaborated in drafting it.
2. The common core document has been prepared and submitted on the basis of the harmonized guidelines contained in document HRI/GEN/2/Rev.5 of 29 May 2008 and document HRI/GEN/2/Rev.6 of 3 June 2009.
3. In order to prepare and collect data and draft and submit this report, in accordance with Executive Decree<sup>1</sup> No. 1317 of 9 September 2008, published in *Registro Oficial* No. 428 of 18 November 2008, the Ministry of Foreign Affairs and Human Mobility and the Ministry of Justice, Human Rights and Religion collaborated in the preparation and validation process.
4. Ecuador has paid particular attention to human rights through the National Plan for Good Living 2009-2013 and the latest Plan for 2013-2017. These efforts have been made through the adoption of and in compliance with the latest Constitution,<sup>2</sup> which was approved by a majority in a referendum in 2008 and entered into force in October of the same year.
5. The Government of Ecuador is pleased to provide updated information on the major advances Ecuador has made during the reporting period in the progressive implementation of human rights, which the current national Government and the new 2008 Constitution establish as the foundation for the full development of the people and for creating a new form of civil coexistence, in celebration of diversity and harmony with nature, making *sumak kawsay* (“good living”) possible.

## II. General information on the Republic of Ecuador

6. The Republic of Ecuador became a free and independent South American State following its separation from Gran Colombia in 1830. Since that time, it has been governed by 19 Constitutions. The Constitution of the Republic approved by referendum in September 2008 is the one that currently governs the institutions and powers of the State. It also recognizes a broad framework of rights and guarantees for persons under the jurisdiction of the State and for Ecuadorians abroad.
7. It is important to note that the new Constitution has brought with it a period of political, institutional, regulatory, economic and social transformation, requiring new or amended laws and policies and the reform of out-of-date institutions.
8. Following the signing of the Brasilia Accords with Peru on 26 October 1998, the surface area of the country was established at 256,369.6 km<sup>2</sup>. Ecuador also has ownership without sovereignty of a 1 km<sup>2</sup> stretch of land in Tiwintza inside the Peruvian rainforest, a place which is particularly symbolic because of the border conflict with Peru in 1995. The country borders Colombia to the north, Peru to the south and east, and the Pacific Ocean to the west.

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<sup>1</sup> <http://decretos.cege.gob.ec/decretos/>.

<sup>2</sup> <http://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion>.

9. The national territory is divided geopolitically into 24 provinces,<sup>3</sup> of which one is located in the islands region, seven in the continental coastal region, 10 in the continental highlands region and six in the continental Amazon or trans-Andean region. The regions are determined mainly by the geography and climate of the country, which has nine climate zones.

10. The islands region is an archipelago of volcanic origin located in the Pacific Ocean, 1,050 km away from the continental coastal region. It includes 13 large islands, six small islands and 107 islets, which comprise the equatorial climate zone of the country<sup>4</sup> and cover an area of 8,010 km<sup>2</sup>.

11. The coastal region is located on the western border of the country, and from the coastline to the border with the highlands the geography of the region includes savannah, lush jungle and dense forest, which explains why the dry,<sup>5</sup> tropical,<sup>6</sup> monsoon tropical,<sup>7</sup> humid tropical<sup>8</sup> and mesothermal<sup>9</sup> climate zones are all found in the region. Of the seven provinces in the coastal region, only Esmeraldas, Manabí, Santa Elena, Guayas and El Oro are located on the coast, while Santo Domingo de los Tsáchilas and Los Ríos are located between the coastal provinces and the highlands. The coast covers an area of 68,323.6 km<sup>2</sup>; however, when the islands region is included, the country's total coastal surface area is 70,000 km<sup>2</sup>.

12. The highlands region is located in the mountainous corridor of the Andes mountain range, and its geographical features include hot and cold valleys, mountainous forests, mountain junctions, high plains and snow-capped mountains. It includes the semi-humid mesothermal,<sup>10</sup> dry mesothermal<sup>11</sup> and high plains<sup>12</sup> climate zones and covers a surface area of 63,515.9 km<sup>2</sup>.

13. Lastly, the Amazon or trans-Andean region is located in the eastern continental area of the country and is covered by the Amazon rainforest. From the slopes of the Andes to the jungle, the geographical features of this region include thick, lush jungle and large rivers that are formed from Andean meltwater and forest rains and that feed into the Amazon River. The region includes the mesothermal and humid tropical climate zones and covers a surface area of 115,744.9 km<sup>2</sup>.

14. On 9 January 2000, the United States dollar was adopted as the currency of Ecuador, at an exchange rate of 25,000 sucres to US\$ 1. The change took effect immediately through the enactment of the Economic Transformation of Ecuador Act of 29 February 2000, which established that, as soon as the Act came into force, the Central Bank of Ecuador must take

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<sup>3</sup> The regions of Ecuador comprise the coast, the highlands, the east and Galápagos. The provinces of the coast comprise: Esmeraldas, Manabí, Santo Domingo de los Tsáchilas, Santa Elena, Guayas, Los Ríos and El Oro. The provinces of the highlands comprise: Carchi, Imbabura, Pichincha, Cotopaxi, Tungurahua, Bolívar, Chimborazo, Cañar, Azuay and Loja. The east has six provinces: Sucumbíos, Napo, Orellana, Pastaza, Morona-Santiago and Zamora-Chinchipe. The islands region consists of Galápagos Province.

<sup>4</sup> Average temperatures of 23° C with irregular precipitation at an annual rate of approximately 1,500 mm.

<sup>5</sup> Average temperatures of 23-24° C with annual precipitation between 126 and 500 mm.

<sup>6</sup> Average temperatures of 26° C with annual precipitation between 500 and 1,000 mm.

<sup>7</sup> Average temperatures of 23-27° C with annual precipitation between 1,000 and 2,000 mm.

<sup>8</sup> Temperature of 25° C for most of the year, with annual precipitation between 3,000 and 6,000 mm.

<sup>9</sup> Occurs at altitudes between 500 and 1,500 m where the rainy season lasts all year round, with annual precipitation between 2,000 and 4,000 mm.

<sup>10</sup> Average temperatures of 12-20° C; annual precipitation between 500 and 2,000 mm.

<sup>11</sup> Average temperatures of 12-20° C; annual precipitation less than 500 mm.

<sup>12</sup> Average temperatures of 4-8° C; light but prolonged precipitation at an annual rate of 800-1,000 mm.

all sucres out of circulation and exchange them for United States dollars at a fixed and unchangeable rate of 25,000 sucres to the dollar. Issuing new sucres was also prohibited, except for small denominations that could be circulated as change for existing sucres. The process of changing the currency was completed on 13 September 2000.

15. As an active member of the international community that plays a key role in regional integration processes, Ecuador is a member of the main international organizations, including the United Nations, the Organization of American States (OAS), the Rio Group, the Union of South American Nations (UNASUR), the Andean Community of Nations (CAN), the World Trade Organization (WTO), the Inter-American Development Bank (IDB), the Latin American Reserve Fund (LARF), the Organization of the Petroleum Exporting Countries (OPEC), and the Latin American Energy Organization (OLADE). It has been an Associated State of the Southern Common Market (MERCOSUR) since 2007 and of the Bolivarian Alliance for the Peoples of Our America - Peoples' Trade Treaty (ALBA-TCP) since late 2009.

### III. Demographic, economic, social and cultural characteristics of the Republic of Ecuador

16. The main tool for the formulation of public policy in Ecuador is the National Plan for Good Living, the design and implementation of which have required a radicalization of democracy, defined as socioeconomic democracy. One of its most important objectives is to overcome the historical problems of inequality and oppression.

17. The 2008 Constitution defines the concept of good living, or *sumak kawsay*, as the foundation of national and local planning for development. Good living, based on the traditional indigenous world view of the Andean and Amazonian peoples, is defined as a participatory process of improving quality of life. This process forms part of a harmonious relationship with nature, where the full realization of human potential may not exceed the limits of the ecosystems that sustain it.

18. Human needs include the basic needs of access to education, food, health, employment and work, housing and habitat, and also a participatory way of meeting those needs, in accordance with human rights and without discrimination. Poverty and inequality are regarded as a denial of citizenship and are the main obstacles to a society based on good living, since they prevent the full exercise of rights. These problems are therefore considered central to the public agenda, and the eradication of extreme poverty has been set as a goal for 2017.

19. The current Constitution is based on recognition of the universality of social rights and regards the goals of good living<sup>13</sup> as a fundamental guide for public policy. Social rights are, by nature, progressive and their fulfilment depends on a long-term process of meeting human needs, with the active participation of the State.

20. The human-rights-based development agenda focuses on the preparation of development strategies or plans whose objectives are to close the structural gaps caused by inequality and to prioritize the most marginalized groups.

21. Ecuadorian society is culturally heterogeneous because of the diverse world views and sociocultural practices of the mestizo, Afro-Ecuadorian and Montubio peoples, indigenous nationalities and immigrants from various countries.

<sup>13</sup> National Plan for Good Living, 2013-2017, Goals, pp. 52, 55, 58, 61, 64, 67, 70, 73, 76, 80, 83, 86.

22. In this regard, the Constitution provides for equality before the law, equal enjoyment of rights and equal opportunities, and sets out all the bases of discrimination that are prohibited. Article 66, paragraph 4,<sup>14</sup> includes equality and non-discrimination as a freedom right and sets out each of its manifestations: “formal equality, material equality and the principle of non-discrimination”.

23. In order to reduce inequality, article 11, paragraph 2, of the Constitution recognizes the mechanism of affirmative action, under which “the State shall adopt affirmative action measures to promote genuine equality for rights-holders who are in a situation of inequality”. Such differentiated treatment is justified in order to achieve real or material equality of outcomes.

24. Article 85 of the Constitution<sup>15</sup> introduces two concepts related to equality that affirm the reputation of Ecuador as a State of justice and rights, equity and solidarity. It provides that the implementation of public policy and the provision of goods and services shall be aimed at achieving good living, and all rights shall be formulated in keeping with the principle of solidarity.

25. The Constitution laid the foundations for the recovery of the public sector, the reconstitution of the State and its regulatory role, and a decentralized form of government.

26. Since 2007, social investment and the State’s role in the economy have been bolstered as part of a new development strategy aimed at economic transformation with greater social inclusion in a context of sustainability.

27. Another important process in the transformation and consolidation of the State has been its territorial reorganization, the aim of which has been to build territorial equity and cohesion.

28. Under the State’s new institutional model, article 156 of the Constitution establishes that the national equality councils shall be “the bodies responsible for the full application and exercise of the rights enshrined in the Constitution and in international human rights instruments. They shall be responsible for the formulation, mainstreaming, implementation, monitoring and evaluation of public policies dealing with gender, ethnic, generational, intercultural, disability and human mobility issues. These councils must coordinate with the agencies responsible for supervising and implementing policy and with rights-protection bodies at all levels”.

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<sup>14</sup> Chapter 6. Freedom rights. Art. 66. The following rights shall be recognized and guaranteed ... 4. The right to formal equality, material equality and non-discrimination.

<sup>15</sup> Chapter 2. Public policy, public services and citizen participation. Art. 85. The design, implementation, evaluation and monitoring of public policy and public services that guarantee the rights recognized in the Constitution shall be governed by the following provisions: 1. The implementation of public policy and the provision of public goods and services shall be aimed at achieving good living and giving effect to all rights, and shall be formulated in keeping with the principle of solidarity. 2. Without prejudice to the primacy of collective over individual interests, when the effects of the implementation of public policy or the provision of public goods and services violate or threaten to violate constitutional rights, the policy or provision in question shall be reformulated or alternative measures adopted so as to reconcile the conflicting rights. 3. The State shall ensure that the budget for the implementation of public policy and the provision of public goods and services is allocated equitably and in keeping with the principle of solidarity. The participation of individuals, communities, peoples and nationalities in the design, implementation, evaluation and monitoring of public policy and public services shall be guaranteed.

29. The national decentralized system of participatory planning was established under the 2008 Constitution and is governed by article 279.<sup>16</sup> The system comprises the National Planning Council, the sectoral public policy councils of the executive branch, the national equality councils, the planning councils in the decentralized autonomous administrations, sectoral citizens' councils and other forums for participation.

30. The sectoral policy agendas address national planning in every area of government activity, and the agendas for equality consolidate policy guidelines for the inclusion of women, persons with disabilities, indigenous peoples and nationalities, children, older persons and persons in a situation of mobility, among others.

31. The transformation of the State is reflected in an appropriate distribution of power through decentralization processes which themselves form part of democratization.

32. In 2007 the National Development Plan 2007-2010 was launched;<sup>17</sup> it included the implementation of a change that had been proposed in the Programme of Government presented to the public for the 2006 elections. The project was completed by 2008, when the National Plan for Good Living 2009-2013<sup>18</sup> was introduced, and now the National Plan for Good Living 2013-2017,<sup>19</sup> the third nationwide plan, is under way.

33. The objectives of the National Plan<sup>20</sup> are:

- To consolidate the democratic State and build the people's power;
- To foster social and territorial equality, cohesion, inclusion and equity in diversity. To improve people's quality of life. To strengthen citizens' capacities and potential;
- To build public meeting spaces and strengthen both national identity and the diversity of identities, plurinationality and interculturalism;
- To consolidate the transformation of the justice system and strengthen comprehensive security, with strict respect for human rights. To safeguard the rights of nature and promote local and global sustainability;
- To consolidate a sustainable socioeconomic system based on solidarity. To guarantee decent work in all its forms. To encourage the transformation of the production matrix;
- To ensure the sovereignty and efficiency of strategic sectors with a view to industrial and technological change;
- To guarantee sovereignty and peace, and increase strategic integration in the world and Latin American integration.

<sup>16</sup> Chapter 2. Participatory planning for development. Art. 279. The national decentralized system of participatory planning shall organize planning for development. The system shall consist of a national planning council drawn from different levels of government, with citizen participation, and shall be coordinated by a technical secretariat. The purpose of this council shall be to issue guidelines and policies for the system and to adopt the National Development Plan, and it shall be chaired by the President of the Republic. The planning councils in the decentralized autonomous administrations shall be chaired by their most senior officials and shall be formed in accordance with the law. The citizens' councils shall be forums for discussion and formulation of long-term guidelines and strategic agreements, which will shape national development.

<sup>17</sup> National Secretariat of Planning and Development (SENPLADES), 2007. <http://www.planificacion.gob.ec/plan-nacional-de-desarrollo-2007-2010/>.

<sup>18</sup> National Secretariat of Planning and Development, 2009. <http://www.planificacion.gob.ec/plan-nacional-para-el-buen-vivir-2013-2013/>.

<sup>19</sup> National Secretariat of Planning and Development, 2013. <http://www.buenvivir.gob.ec/>.

<sup>20</sup> National Plan for Good Living. National Good Living Objectives, pp. 45-86.

34. Five key aspects of the new Ecuadorian social covenant are set out below:

35. **A constitutional State that guarantees rights and justice:** this is set out in article 1 of the Constitution, which proclaims Ecuador as a State that guarantees rights and places human beings at the centre of all its actions. Guaranteeing rights is therefore of fundamental importance, as it becomes the State's paramount duty. Hence article 11, paragraph 9, provides that "the most important duty of the State shall be to respect, and ensure respect for, the rights guaranteed in the Constitution".

36. **Institutional change:** public policy plays a key role in the proper fulfilment of constitutional rights. Likewise, State bodies with legislative and regulatory powers exercise those powers in compliance with the human rights set out in the Constitution and in international treaties.

37. **An economic system and regime of accumulation based on social values and solidarity:** the 2008 Constitution affirms the superiority of human beings over capital through the establishment of an economic system based on social values and solidarity. Under this model, the aim is to meet human needs on the basis of knowledge, science and technology while respecting nature.

38. **Territorial equity:** guaranteeing rights requires the provision of high-quality public services but also the formulation of public policies that ensure territorial equity. To that end, the Constitution establishes a national system of jurisdictions with a view to organizing the exercise of jurisdiction by the different levels of government, recognizing the political, administrative and financial independence of the decentralized autonomous administrations, in the context of a unitary and decentralized State governed by the principles of solidarity, subsidiarity, territorial equity, integration and citizen participation.

39. **Plural sovereignties:** the new Constitution provides that the country's international relations shall be conducted in the interests of the Ecuadorian people, to whom the relevant parties shall be accountable. It also condemns all forms of imperialism, colonialism and neo-colonialism and recognizes the right of peoples to resistance and liberation from all forms of oppression.

40. Lastly, it should be mentioned that in 2011 Ecuador was ranked eighty-third out of 187 countries in the world on the United Nations Development Programme (UNDP) human development index. Its per capita income remained below the Latin American average; 35 per cent of the population were affected by poverty, and the Gini coefficient of social inequality was 0.495 in 2010, a value considered high in comparison with other countries.

## A. Right to education

41. One of the most important achievements of the past seven years is the expansion of education coverage, particularly secondary education. The net secondary school attendance rate increased from 46 per cent in 2001 to 71 per cent in 2010, whereas between 1990 and 2001 it remained almost unchanged.

42. The table below shows the percentage of children and adolescents enrolled in the various schools: State, private and municipal.

### Percentage of children and adolescents enrolled in school

		<i>National</i>	<i>Urban</i>	<i>Rural</i>
Enrolment in primary schools				
State schools	Percentage	71.3	59.8	87.9

		<i>National</i>	<i>Urban</i>	<i>Rural</i>
Private schools	Number	1 407 201	692 796	714 406
	Percentage	24.3	36.7	6.7
Municipal, provincial, and State-funded religious schools	Number	480 023	425 911	54 113
	Percentage	4.3	3.5	5.5
Enrolment in secondary schools				
State schools	Percentage	64.3	60.6	72.9
	Number	895 777	591 248	304 529
Private schools	Percentage	30.2	34.8	19.4
	Number	420 640	339 569	81 071
Municipal, provincial, and State-funded religious schools	Percentage	5.5	4.5	7.7
	Number	76 290	44 077	32 212

*Source:* National Statistics and Census Institute (INEC).

43. In 2010, 90.8 per cent of children and adolescents attended basic education institutions, an increase of 12 percentage points compared with 2001.<sup>21</sup> This significant increase also indicates that there are now practically no disparities in access to basic education between boys and girls or between different ethno-cultural groups, and that progress is being made towards universalization of this level of education.

44. The largest increase in access to basic education occurred among indigenous children and adolescents, among whom coverage increased by 20 per cent during the period between censuses, followed by the Afro-Ecuadorian population, among whom coverage increased by around 15 per cent.<sup>22</sup>

45. This increase in access by groups that have traditionally been discriminated against in Ecuadorian society is an important change in the elimination of inequalities in relation to basic education coverage.

46. The net attendance rate of around 90 per cent is a significant achievement in terms of equity and the guarantee of the right to education.

47. This achievement is the result of a sustained combination of policies in recent years aimed at expanding education provision by adding eighth, ninth and tenth grades to schools and reducing barriers to access by promoting free education, eliminating quotas and providing food, school supplies and school uniforms. In addition, women who receive the "human development voucher"<sup>23</sup> are obliged to keep their children in school.

48. The human development voucher has been one of the main thrusts of State action for more than a decade. It is a programme that benefits poor and extremely poor households. The amount paid increased from US\$ 15 to US\$ 35 in 2007 and subsequently from \$35 to \$50 in 2012.

49. The Government's approach in this regard has been innovative in that recipients of the voucher have been able to obtain credit in the financial system. Housing vouchers have

<sup>21</sup> Atlas of Inequality. Table 1: Net basic education attendance rate by area, 2001 and 2010, p. 56.

<sup>22</sup> Atlas of Inequality. Net basic education attendance rate by ethnicity and sex, 2001 and 2010, p. 57.

<sup>23</sup> <http://www.inclusion.gob.ec/programas-y-servicios/servicio-de-proteccion-social/>.

also doubled in value from \$1,800 to \$3,600, and the Joaquín Gallegos Lara voucher has been introduced for those who care for persons with disabilities.

50. The education sector spearheaded a significant reform process in the second half of the last decade. In November 2006 the 10-Year Education Plan 2006-2015<sup>24</sup> was approved by referendum and became State policy.

51. The current Constitution was adopted and promulgated in 2008; various legal instruments followed, such as the National Plan for Good Living and, later, the Organic Act on Intercultural Education.<sup>25</sup>

52. The principle of universal, free, high-quality education underpins the actions of all actors in the national education system.

53. In addition to inequalities in access to the various levels of education depending on place of residence and ethnicity, there are four major indicators of the persistent discrepancies or obstacles in access to education: (a) the sharp fall in school attendance from the age of 15; (b) the high proportion of pupils who fall behind, which reduces the number of children and young people that remain in the education system and the inclusion of those who are not in the system; (c) the prevalence of illiteracy among indigenous women; and (d) the significant discrepancy between the urban population and the rural population with regard to the number of years of schooling completed.

54. Despite the progress made in achieving almost universal access to basic education and the increase in the numbers completing secondary education, there remain problems and discrepancies in the education system, which are reflected in the drastic drop in school enrolment from the age of 15.

55. Information from the most recent census in 2010 shows that school enrolment drops by at least 30 per cent between the ages of 15 and 18. This raises questions about access to secondary education for people of various ages or with particular characteristics or educational needs. Universal access to secondary education therefore constitutes a challenge in the short and medium term.

56. With regard to the literacy of indigenous women, the net illiteracy rate in the age group 15 and over fell from 9 per cent in 2001 to 6.8 per cent in 2010.<sup>26</sup> However, the discrepancy between urban and rural areas remains almost unchanged: 12.9 per cent of the rural population is illiterate, compared with 3.8 per cent in urban centres.<sup>27</sup>

## **B. Right to health**

57. Between 1990 and 2006, public spending on health in Ecuador remained at around 1 per cent of gross domestic product (GDP), one of the lowest levels in Latin America.<sup>28</sup> Since 2007, social expenditure, including on education and health, has increased considerably.

58. The proportion of the population without access to health services in their own parish fell from 6.4 per cent in 1990 to 1.5 per cent in 2001 and 0.6 per cent in 2010, which represents a significant advance in health service coverage. However, in 2010, 84,000

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<sup>24</sup> <http://planipolis.iiep.unesco.org/upload/Ecuador/EcuadorPlanDecenaldeEducacionSpa.pdf>.

<sup>25</sup> <http://educacion.gob.ec/wp-content/uploads/downloads/2012/08/LOEI.pdf>.

<sup>26</sup> Atlas of Inequality. Illiteracy rate for those aged 15 and over by sex and area, 2001 and 2010, p. 66.

<sup>27</sup> *Ibid.*, p. 67.

<sup>28</sup> CEPALSTAT, Statistics on Latin America and the Caribbean. [http://estadisticas.cepal.org/cepalstat/WEB\\_CEPALSTAT/Portada.asp](http://estadisticas.cepal.org/cepalstat/WEB_CEPALSTAT/Portada.asp).

people still lacked such services in their own parish, more than half of whom were in the highlands region, while the remainder were distributed between the coastal region and the Amazon region.

59. The coverage and quality of public health care have been considerably improved. The average number of health-care workers per 10,000 population increased from the equivalent of 37 doctors to 50 between 2001 and 2010.

60. The discrepancy between the countryside and the cities in access to health services has also narrowed but remains significant.

61. Health service coverage has increased considerably, the cost of services for the public has fallen and the quality of care has improved; however, social inequity in access to health care between urban and rural areas persists to some extent.

62. The Ministry of Health has registered cases and infection rates for communicable diseases among an estimated population of 13,605,485. The data are set out in the following table.

### Major communicable and non-communicable diseases, 2011

Type of disease	Disease	Cases
Acute respiratory infections	Acute respiratory infections	1 981
Food- and water-borne	Diarrhoeal diseases	32 106
	Food poisoning	1 642
	Salmonella	1 581
Vector-borne	Classical dengue	3 827
	Plasmodium vivax malaria	-
Chronic communicable	Pulmonary tuberculosis BK+	-
	HIV	662
Preventable through vaccination	Hepatitis B	18
	Pertussis	31
Zoonoses	Taeniasis (tapeworm infection)	0
Chronic non-communicable	High blood pressure	8 653
	Diabetes	18 550
Due to external causes	Domestic accidents	-
	Accidents on land	-
	Violence and ill-treatment	-
Mental health	Depression	-

Source: National Statistics and Census Institute.

63. The Ministry of Public Health reports that, of the 10 leading causes of death, diabetes mellitus and hypertension-related diseases account for the highest proportion, at 7.15 per cent and 7.03 per cent respectively (see annex, table 22).

64. Infant mortality has declined to approximately half of the 1990 rate, at 29 per 1,000 live births,<sup>29</sup> and the gap between rural and urban areas has narrowed. However, the rate

<sup>29</sup> Atlas of Inequality. Demographic indicators, p. 80.

remains higher in rural areas, at 35 per 1,000 live births, compared with 25 per 1,000 in urban areas. The highland region and the Amazon region are the most affected.

65. In this regard, it should be noted that the reduction in infant mortality has been achieved through the dissemination of medical technology, the expansion of health-service coverage, in particular primary care, and the progress towards universal vaccination.

66. In addition, life expectancy at birth has increased significantly and the overall fertility rate has fallen.

67. Chronic child malnutrition, which irrevocably hinders the intellectual and psychomotor development of children under 5, continues to affect 25.9 per cent of children in Ecuador,<sup>30</sup> particularly indigenous children, and in general is higher in the rural highlands region.

68. The Survey of Living Conditions conducted by the National Statistics and Census Institute in 2005-2006 revealed that 123,728 children were affected by general malnutrition and 260,600 by chronic malnutrition (see annex, table 20).

69. Life expectancy at birth increased from 58.9 years in the period 1970-1975 to 75.6 years in the current five-year period.

70. There has also been a significant reduction in overall fertility rates, which fall as female participation in the labour market increases and as the rate of female enrolment in education at all levels increases, and also as a result of greater access to contraception.

71. The discrepancy between rural and urban areas persists in this respect also, although it has diminished in relative terms.

72. During the two years leading up to the 2010 census, 18 per cent of children born were to adolescents aged between 12 and 19.<sup>31</sup> Adolescent pregnancy, which is generally unwanted, limits young women's educational and work opportunities, often increases households' social vulnerability, reduces children's future prospects and exacerbates the transmission of poverty from generation to generation.

73. Adolescent pregnancy (gauged by the fertility rate for women aged between 15 and 19) continues to be a serious public health problem with grave consequences for women's lives.

74. With regard to contraceptive use by women aged between 15 and 49, the fifth Survey of Living Conditions, conducted by the National Statistics and Census Institute in 2005-2006, found that, out of a total of 3,095,866 women who knew about contraceptive methods, 1,528,788, or 49 per cent, used them.

75. According to the last census in 2010, one in five women (18.5 per cent) had had at least one child by the age of 19, and 18 per cent of all children born in Ecuador were to women aged between 12 and 19.

76. Recent studies confirm that adolescent pregnancy occurs more frequently in poor households, in rural areas and among women with a low level of education, and has the greatest impact on the most vulnerable groups in society.

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<sup>30</sup> Atlas of Inequality. Table 6: Chronic malnutrition in children under 5 by region and area, 2006, p. 80.

<sup>31</sup> Atlas of Inequality. Demographic data, p. 80.

77. In this regard, and in order to improve this important indicator, the national Government is implementing the National Intersectoral Strategy for Family Planning and the Prevention of Adolescent Pregnancies<sup>32</sup> to coordinate policies in this area.

78. Since there is a close link between poverty and adolescent pregnancy, Ecuador is pursuing an overall policy aimed at reducing poverty and social inequity through education and the creation of productive employment, particularly in rural areas.

79. The sensitive issue of gender-based violence is a widespread social problem: 6 in 10 Ecuadorian women aged 15 or over have suffered one or more incidents of physical, psychological, sexual or property-related violence because they are women. Violence affects women of all ages from various ethno-cultural groups, from all socioeconomic sectors and from all the different regions of the country.

80. Executive Decree No. 620 of September 2007,<sup>33</sup> which declared as State policy the eradication of gender-based violence against children, adolescents and women and also set out a national plan to implement that policy, represents an important step forward in public policy.

81. Goal 9.4.1 of the National Plan for Good Living 2009-2013<sup>34</sup> was to reduce violence against women, and the same goal appears in the Plan for 2013-2017.<sup>35</sup>

82. The national plan to eradicate gender-based violence needs to be institutionalized so as to ensure an inter-agency approach and the allocation of resources for the proposed objectives: to change sociocultural patterns; to create information systems and systems for the registration, protection and comprehensive care of victims; and to provide flexible and timely access to justice free of charge.

83. In Ecuador, it is considered essential to prioritize the prevention of gender-based violence. Efforts to change sociocultural patterns that foster violence are therefore being expanded and enhanced, for example in the media, universities, schools, neighbourhood organizations and women's organizations.

### C. Child labour

84. Ecuador has made significant efforts to eradicate child labour, which have led to a decline in the number of children working, particularly in rural areas and among the indigenous population. The number of children who only work and do not go to school has also fallen.

85. The country has a clear regulatory framework with regard to child labour: article 46<sup>36</sup> of the Constitution explicitly prohibits it for children aged under 15, allows it in

<sup>32</sup> <http://www.salud.gob.ec/estrategia-nacional-intersectorial-de-planificacion-familiar-y-prevencion-de-embarazos-en-adolescentes/>.

<sup>33</sup> <http://decretos.cege.gob.ec/decretos/>.

<sup>34</sup> National Secretariat of Planning and Development, 2009. <http://www.planificacion.gob.ec/plan-nacional-para-el-buen-vivir-2013-2013/>.

<sup>35</sup> National Secretariat of Planning and Development, 2013. <http://www.buenvivir.gob.ec/>.

<sup>36</sup> Art. 46. The State shall adopt, inter alia, measures to ensure the following: 1. Care for children aged under 6 to guarantee their nutrition, health, education and day-to-day care as part of the comprehensive protection of their rights. 2. Special protection for children and adolescents from any form of labour or economic exploitation. The employment of children aged under 15 shall be prohibited, and policies shall be implemented to ensure the gradual elimination of child labour. The employment of adolescents shall be permitted in exceptional cases only and may not violate their right to education or take place in environments that are harmful or that endanger their health or

exceptional cases only for adolescents over the age of 15 and establishes a State obligation to implement programmes for its gradual elimination.

86. The Code on Children and Adolescents, in force since 2003, contains specific regulations reflecting the international instruments to which Ecuador is a signatory: International Labour Organization (ILO) Conventions No. 138<sup>37</sup> concerning Minimum Age for Admission to Employment and No. 182<sup>38</sup> concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

87. With regard to institutional spheres of competence, the Ministry of Labour Relations is the lead agency in all matters relating to child labour.

88. Since 2009 the Ministry has been carrying out its work through the political and technical inter-agency committee, which brings together public institutions that are competent in this area. It is led by the Ministry and involves private institutions and organizations responsible for international cooperation, which participate as consultative, advisory and technical assistance bodies.

89. The Ministry establishes national priorities with regard to child labour, plans and coordinates strategic activities and determines the roles and functions of each institution.

90. Accordingly, the Ministry initiated the establishment of the production sector committee on the prevention and elimination of child labour as a forum for dialogue and inter-agency coordination to support the formulation of public policy with companies in the country's production sector.

91. The production sector committee comprises the Chamber of Agriculture, the national associations of stockbreeders, loggers, African oil palm producers and banana and flower exporters, and the Chamber of Construction Companies.

92. The Ministry of Labour Relations has also set up the Network of Companies for an Ecuador Free of Child Labour, the objective of which is to commit companies to social responsibility activities aimed at eliminating child labour throughout their value chain. It is responsible for the national inspection system, whose operations were recently reorganized, with the number of inspectors increasing from 22 to more than 200.

93. The Ministry of Economic and Social Inclusion and the National Institute for the Family and Adolescence (INFA) are responsible for organizing the national system of special protection, which is aimed at restoring the rights of children and adolescents, giving priority to those who work.

94. With regard to public policy, the elimination of child labour, including child begging, was included in the objectives and goals of the National Development Plan 2007-2010<sup>39</sup> and the National Plan for Good Living 2009-2013,<sup>40</sup> which prioritized action to reduce the proportion of children who work and do not go to school.

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personal development. Their employment and other activities shall be respected, recognized and supported provided that these do not affect their education or their overall development.

<sup>37</sup> [http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312283](http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312283).

<sup>38</sup> [http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312327:NO](http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312327:NO).

<sup>39</sup> National Secretariat of Planning and Development, 2007. <http://www.planificacion.gob.ec/plan-nacional-de-desarrollo-2007-2010/>.

<sup>40</sup> National Secretariat of Planning and Development, 2009. <http://www.planificacion.gob.ec/plan-nacional-para-el-buen-vivir-2013-2013/>.

95. A number of specific public policies have been introduced for the prevention and elimination of child labour, including the elimination of child labour in rubbish dumps in 2011. The achievement of this milestone was unprecedented in the region, since it was the first successful attempt to completely eliminate child labour within a particular economic activity.

96. The national Government also sought to eliminate child labour in markets, abattoirs and land terminals in 2012 and 2013. To date, child labour in abattoirs has been eliminated.

97. In addition, since 2007 the national Government has been working on the elimination of child begging, which it views as a form of labour exploitation of children, and is proposing to eliminate it by 2013.

98. Since 2013, the Ministry of Economic and Social Inclusion/National Institute for the Family and Adolescence, in conjunction with local administrations, community-based organizations, non-governmental organizations (NGOs) and the National Directorate of Special Police for Children and Adolescents (DINAPEN), have conducted a national campaign every year, which has led to a visible reduction in the problem of child begging and has raised public awareness of it, although the precise number of children who have been prevented from begging or withdrawn from it is not known.

99. Lastly, the National Institute for the Family and Adolescence has for more than a decade been implementing programmes and methods aimed at overcoming barriers in access to education; keeping children who are at risk and those who work in the education system; reintegrating working children into the system; and eliminating the worst forms of child labour (for example, begging or work in brickworks, rubbish dumps or mines).

100. These initiatives have been or are being transferred to the Ministry of Education (in the case of the education-related methods) or are being redefined as part of an internal reorganization.

101. There are currently 116,443 children and adolescents aged between 5 and 15 working in Ecuador. This means that the incidence of child labour has fallen in the period between censuses, from 6.6 per cent to 3.5 per cent.

102. This reduction in child labour has been matched by an increase in access to education: enrolment has increased and the number of school-age children outside the education system has fallen.

103. The incidence of child labour continues to be proportionately higher in rural areas than in urban areas. However, the gap narrowed significantly between 2001 and 2010. In fact, the greatest reduction in child labour occurred in rural areas: in 2001, 10.5 per cent of all rural children worked, whereas the proportion fell to 5.5 per cent in 2010.<sup>41</sup>

104. In both 2001 and 2010, the provinces with the highest incidence of child labour were those in the Amazon region, followed by those in the highland region.

105. According to data from the 2001 and 2010 censuses, the incidence of child labour is higher among children over 12; this is the age at which they normally finish primary school.

106. Ensuring that children enter and remain in the education system is considered one of the most effective strategies for preventing and eliminating child labour. One of the most important changes in this regard is the significant drop in the number and percentage of

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<sup>41</sup> Atlas of Inequality. Children under 15 who work, by area, 2001 and 2010, p. 148.

children excluded from the education system, whether they work or not. The proportion of children outside the system fell from 16.8 per cent in 2001 to 6.9 per cent in 2010.<sup>42</sup>

107. Alongside this figure, the proportion of children who only go to school increased by 10 percentage points, from 81 per cent to 91 per cent, in the period between censuses.

108. Efforts to provide universal basic education are reflected in the data relating to child labour: in 2001, of all children who were working, 73 per cent did not go to school, whereas in 2010 the proportion fell to 43 per cent.<sup>43</sup> There has, therefore, been a significant structural change in child labour among those aged under 15: in 2001, the majority of children who worked did not go to school, whereas in 2010, the pattern was reversed, as the majority of those who worked combined employment with studying.

109. The biggest fall in the number of children who only work and do not go to school has occurred among indigenous people.

110. Child labour in Ecuador is significantly higher among boys than among girls. In 2001, 7 in 10 children who worked were boys. In 2010 the proportion fell slightly, to 6.6 in 10.

111. In the case of indigenous children, the situation was reversed in 2010, and there was a significant fall in child labour, from 16 per cent to 7.7 per cent.

112. However, there remain a number of problems and inequalities that are being taken into account in policy design and public programmes. One of the most effective strategies for eliminating child labour has been greater access to education. Therefore, the expansion of the last three grades of basic education is one of the measures that will have to be prioritized in order to make progress in the elimination of child labour.

113. Similarly, it is essential to ensure that children enter and remain in the education system, particularly older children and adolescents in rural areas.

114. Another major challenge is to increase the involvement of the Ministry of Education in the formulation and implementation of public policy to combat child labour. However, most child labour is concentrated in family-run economic activities.

115. It should be noted, however, that significant progress has been made since 2009, when the Ministry of Economic and Social Inclusion/National Institute for the Family and Adolescence established and launched the first public network of specialized services for victims of child abuse and sexual abuse.

116. Ecuador currently has 83 rights protection centres, which work in close coordination with the justice system, dealing with around 30,000 cases each year.

## **D. Demographic data**

117. The most recent national population census was obtained on the basis of the seventh population census and the sixth housing census, conducted in 2010 by the National Statistics and Census Institute.

118. Specifically, according to the 2010 census, the country has a population of 14,483,499. The ethnic composition of the population is 71.9 per cent mestizo, 7.4 per cent Montubio, 7.2 per cent Afro-Ecuadorian and 7 per cent indigenous. In the period between the 2001 and 2010 censuses, the population grew at an annual rate of 1.95 per cent.

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<sup>42</sup> Atlas of Inequality. Child labour and education, p. 149.

<sup>43</sup> Ibid.

119. According to the census, of the country's 14,483,499 inhabitants, 63 per cent, or 9,090,786, live in urban areas and 37 per cent, or 5,392,713, live in rural areas (see annex, table 1).

120. On the basis of the census information, the urban and rural population can be disaggregated by age group and sex as follows: 4,451,434 men live in urban areas and 2,726,249 in rural areas, while the number of women living in urban areas is 4,639,352 and the number in rural areas is 2,666,464 (see annex, table 2).

121. The projections for 2020, disaggregated by age group and sex, suggest that, of the country's 14,483,499 inhabitants, 3,139,142 men will be living in rural areas and 5,526,795 in urban areas (see annex, tables 3 and 3.1).

122. The projection of the female population for 2020 suggests that 5,750,850 women will be living in urban areas and 3,093,856 in rural areas (see annex, tables 4 and 4.1).

123. An analysis of population density shows that there are 6,081,342 persons living in the highlands region, 7,604,835 in the coastal region, 739,814 in the Amazon region, 25,124 in the islands region and 32,384 in the non-delimited zones. These figures include Santo Domingo de los Tsáchilas and Santa Elena, which became provinces in November 2007.

124. Most of the inhabitants of Ecuador speak Spanish, which is why the Constitution recognizes Spanish as the official language. However, the Constitution also recognizes Ecuador as a plurinational State with other ancestral languages that are in official use by indigenous peoples and nationalities. However, because the 2010 census established that there were 591,448 speakers of Quechua, the Constitution recognizes Spanish, Quechua and Shuar as official languages for intercultural relations and it recognizes that the other ancestral languages are in official use by indigenous nationalities. The Shuar indigenous population numbers 61,910 (see annex, table 7). Of the Quechua population, 105,436 persons live in urban areas and 486,012 in rural areas, and data disaggregated by sex show that there are 285,719 men and 305,729 women. According to the same classification for the Shuar indigenous population, 4,310 persons live in urban areas and 57,600 in rural areas. The total number of men is 31,057 and the number of women is 30,853 (see annex, tables 7.1 and 7.2).

125. A variable was included in the 2010 census to determine the country's ethnic groups on the basis of a question that asked inhabitants which of the following categories they felt they belonged to: mestizo, indigenous, mulatto, Afro-Ecuadorian, white or other. The results showed that the distribution of the population by culture and custom was as follows: the indigenous population numbered 1,018,176, Afro-Ecuadorian 615,262, black 145,398, mulatto 280,899, Montubio 1,070,728, mestizo 10,417,299 and white 882,383 (see annex, tables 8 and 8.1).

126. The 2010 census did not provide information on religious affiliation. However, the Constitution recognizes freedom of religion for the people of Ecuador.

127. Statistics on births and deaths are taken from a study on vital and health statistics conducted by the National Statistics and Census Institute in 2011. Using the results of this study it is possible to disaggregate the information on births and deaths by province and age group. The birth statistics show that Guayas Province accounts for the largest proportion of births, with 30,525 boys and 20,584 girls, followed by Manabí Province with 11,887 boys and 11,155 girls (see annex, table 9). Manabí Province also has the highest number of deaths, with 9,207 men and 6,922 women (see annex, table 10).

128. Another important point to mention besides the demographic situation is the pattern of household consumption. Information on this can be obtained from the Survey of Living Conditions conducted by the National Statistics and Census Institute. According to this

information, rural households spend the largest proportion of their income — 35.5 per cent — on food and non-alcoholic drinks, compared with the national average of 27.9 per cent (see annex, table 13).

129. This information can be viewed in the context of certain poverty indicators, such as the poverty and extreme poverty lines, and poverty and extreme poverty as measured by consumption. The following information was obtained by the National Statistics and Census Institute through the Survey of Living Conditions for 2006.

#### Poverty and extreme poverty lines, 2006

<i>Food basket</i>	<i>Extreme poverty</i>	<i>Poverty</i>
Daily	1.06	1.89
Fortnightly	15.96	28.3
Monthly	31.92	56.6

*Source:* National Statistics and Census Institute.

#### Poverty and extreme poverty as measured by consumption, 2006

<i>Scope</i>	<i>% of population in extreme poverty</i>	<i>% of population in poverty</i>
Daily	12.8	38.3
Fortnightly	4.8	24.9
Monthly	26.9	61.5

*Source:* National Statistics and Census Institute.

130. The information obtained through the surveys shows that in Bolívar Province there are 108,577 persons, or 60.6 per cent of the province's population, living in poverty; throughout the entire Amazon region there are 382,687 persons, or 59 per cent of the region's population, living in poverty; and in Carchi Province there are 89,292 persons, or 54.6 per cent of the province's population, living in poverty. These areas of the country thus have the highest levels of poverty as measured by consumption.

131. The three provinces with the lowest poverty levels as measured by consumption are Pichincha, with 509,186 persons, or 22.4 per cent of its population, living in poverty; Azuay, with 176,310 persons, or 26.6 per cent of its population, living in poverty; and El Oro, with 165,279 persons, or 20.1 per cent of its population, living in poverty.

132. Other important poverty indicators are poverty as measured by basic unmet needs, which calculates people's access to health care, food, education, housing, urban services and employment opportunities, and the Gini coefficient. The following tables set out the information obtained through the 2005-2006 Survey of Living Conditions.

**Percentage of inhabitants with basic unmet needs, 2006**

<i>National</i>	<i>Total</i>	<i>45.8</i>
Regional	Urban	24.8
	Rural	82.2
	Coast	51.4
	Highlands	36.9
	Amazon	71

*Source:* National Statistics and Census Institute, 2005/2006.

**National poverty indicators in urban and rural areas (percentages)**

<i>Quarter</i>	<i>Incidence of poverty</i>	<i>Standard error</i>	<i>Lower limit</i>	<i>Upper limit</i>
June 2010	33.01	0.69	31.66	34.39
December 2010	32.76	0.59	31.61	33.94

*Source:* National Statistics and Census Institute and National Secretariat of Planning and Development (SENPLADES), 2010.

**Poverty in urban areas (percentages)**

<i>Quarter</i>	<i>Incidence of poverty</i>	<i>Standard error</i>	<i>Lower limit</i>	<i>Upper limit</i>
March 2010	22.60	0.92	20.85	24.45
June 2010	22.91	0.79	21.39	24.50
September 2010	22.71	0.81	21.16	24.34
December 2010	22.45	0.70	21.10	23.86

*Source:* National Statistics and Census Institute and National Secretariat of Planning and Development, 2010.

**Poverty in rural areas (percentages)**

<i>Quarter</i>	<i>Incidence of poverty</i>	<i>Standard error</i>	<i>Lower limit</i>	<i>Upper limit</i>
June 2010	52.89	1.09	50.75	55.02
December 2010	52.96	1.01	50.96	54.94

*Source:* National Statistics and Census Institute and National Secretariat of Planning and Development, 2010.

**E. Labour rights**

133. Per capita income grew at an average annual rate of 0.8 per cent between 1982 and 2006. By contrast, in the period 2006-2011, per capita income grew almost six times as fast, at an annual rate of 4.6 per cent, despite some decline resulting from the international financial crisis that unfolded in 2008. The recovery was due mainly to the favourable prices of oil and other export goods and to the growth in remittances from international migrants, although in 2009 they began to fall because of the crisis in the United States of America and Spain, the main destinations for Ecuadorian migrants.

134. On the basis of the rights recognized in the 2008 Constitution, the National Plan for Good Living 2009-2013 aims to “guarantee stable, fair and decent work in its various forms” (objective 6).<sup>44</sup>

135. Significant progress has been made in this regard, but there are still marked inequalities that place various population groups at a disadvantage because of their age, sex, place of residence and/or ethno-cultural identity.

136. The economic and employment recovery that began in 2000 following the domestic crisis of the late 1990s continued and gained strength from 2007 as a result of changes in the economic model and the adoption of policies aimed at improving living conditions and the labour market.

137. The improvement in the activity status of the economically active population stalled in 2008 and 2009, but in subsequent years it resumed and the trend continued.

138. According to surveys conducted by the National Statistics and Census Institute, as at March 2010, unemployment affected 9.1 per cent of the economically active population in urban areas in Ecuador - 0.5 percentage points more than the previous year. Disaggregation of the unemployment rate by gender shows that female unemployment (11.6 per cent) was much higher than male unemployment (7.2 per cent). In addition, 51.3 per cent of the economically active population were underemployed, compared with 37.6 per cent who were in full-time employment. These two figures had, however, decreased in comparison with March 2009.

139. Of the total population in employment (full-time and underemployed), the percentage working in the informal sector (43.4 per cent) remains higher than in the formal sector (39.4 per cent). The two branches of activity accounting for the largest number of jobs are retail, at 26.6 per cent, and industry, at 13.9 per cent. The following cities posted a full-time employment rate higher than the national average of 37.6 per cent: Cuenca (50.1 per cent), Quito (49.2 per cent), Ambato (44.7 per cent) and Guayaquil (38.4 per cent). Machala (37 per cent) is the only city with a full-time employment rate below the national average.

140. Machala has the highest rate of underemployment, at 53.4 per cent. In Guayaquil, the unemployment rate (12.3 per cent) was higher than in any other city and above the national average.

141. Since 1 January 2013, the unified basic wage<sup>45</sup> for workers in general has been US\$ 318.00, which is 8.81 per cent, or US\$ 26, higher than the wage for the previous year.

142. With regard to employment policy, in April 2010 the Sectoral Production Council,<sup>46</sup> through the Ministry for the Coordination of Production, Employment and Competitiveness, launched the Agenda for Production Change.<sup>47</sup> The Agenda highlights objectives, policies, strategies, programmes and projects in terms of both production and employment. It also establishes 14 priority sectors for the development of the country’s

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<sup>44</sup> [http://www.planificacion.gob.ec/wp-content/uploads/downloads/2012/07/Plan\\_Nacional\\_para\\_el\\_Buen\\_Vivir](http://www.planificacion.gob.ec/wp-content/uploads/downloads/2012/07/Plan_Nacional_para_el_Buen_Vivir), p. 80.

<sup>45</sup> <http://www.ecuadorlegalonline.com/laboral/salario-minimo-2013/>.

<sup>46</sup> The Sectoral Council for Production, Employment and Competitiveness was established by Executive Decree No. 726. It comprises bodies that review, organize, coordinate, harmonize and approve public policy relating to production and industry at the national level and is chaired by the Minister for the Coordination of Production, Employment and Competitiveness.

<sup>47</sup> [http://www.produccion.gob.ec/wp-content/uploads/downloads/2012/07/Agenda\\_Productiva%5B1%5D.pdf](http://www.produccion.gob.ec/wp-content/uploads/downloads/2012/07/Agenda_Productiva%5B1%5D.pdf).

production, which are included in the Production Development Strategy and the National Plan for Good Living.

143. The country's progress is reflected in the fall in underemployment, from 49.7 per cent in December 2005 to 31.6 per cent in December 2011, and the rise in the proportion of workers with appropriate employment, which doubled from 8.4 per cent to 20.1 per cent in the same period.<sup>48</sup> This represents the workforce that receives remuneration above the poverty line and has social security, a fair working day, job stability, and is of working age.

144. The period December 2005 to December 2011 saw a doubling of the economically active population<sup>49</sup> in appropriate conditions of work, meaning that they were of an appropriate age for work (between 15 and 65) and received remuneration that allowed them to live above the poverty line in a decent home, with social security, job stability and a working week of no more than 48 hours.

145. This achievement is, to a large extent, the result of the employment policies adopted by the current Government, including the elimination of outsourcing, a real wage increase and promotion of workers' rights, together with the adoption of measures to monitor their implementation.

146. In addition to the yearly increase in the minimum living wage, since 2010 a "decent wage" has been put in place, which corresponds to the cost of the basic family food basket. For 2011 the decent wage was set at \$350.70, whereas the minimum living wage was \$264.

147. Nonetheless, women continue to earn lower wages than men, although the gap has narrowed significantly. The disparity between women's income and men's income fell between 2005, when men earned 40.5 per cent more than women, and 2011, when the figure stood at 14.1 per cent.

148. With regard to geographical distribution, despite the improvements between 2005 and 2011, underemployment is most prevalent in the highlands region, particularly in Bolívar, Chimborazo and Cañar provinces. The Amazon provinces also have high percentages of underemployment because they are rural and a significant proportion of the population is indigenous. Sucumbíos is an exception: because it is an oil province, it has lower underemployment and a higher rate of appropriate and adequate employment.

149. Although unemployment has fallen significantly in recent years, there are still regional disparities: the coastal region has the highest levels of unemployment, while the highland provinces (Cotopaxi, Bolívar, Chimborazo and Tungurahua) and the Amazon provinces have the lowest levels.

150. With regard to persons with disabilities, the 2010 population census showed that 5.6 per cent of the country's total population, or 816,156 persons,<sup>50</sup> had a permanent disability lasting more than one year.

151. Persons with disabilities account for a significant proportion of the economically active population and have an unemployment rate of 5.1 per cent, similar to the rate among persons without disabilities (5.4 per cent).<sup>51</sup> This is a result of the current Government's affirmative action policy for integrating persons with disabilities into the workforce.

<sup>48</sup> Atlas of Inequality. Activity status of the economically active population, p. 123.

<sup>49</sup> Atlas of Inequality. Appropriate employment, p. 123.

<sup>50</sup> Atlas of Inequality. Employment and persons with disabilities, p. 138/139.

<sup>51</sup> Atlas of Inequality. Table showing unemployment by permanent disability as a proportion of the economically active population, 2010, p. 138.

## F. Social security and retirement

152. In accordance with the constitutional mandate concerning the right to stable, fair and decent work, social security is recognized as “a universal and inalienable right of all working persons” (art. 34),<sup>52</sup> and in that regard a number of policies have been introduced with the aim of expanding social security coverage and benefits.

153. Between the 2001 and 2010 censuses there was a significant increase in the population aged over 15 participating in the social security scheme: the percentage increased by seven points among men and almost five points among women. The reason for the disparity is that a significant proportion of women do not participate in the labour market because of their domestic and care responsibilities. An analysis of the economically active population reveals even greater growth of around 10 points: the proportion of women participating in the social security scheme increased from 24.3 per cent in 2001 to 34.2 per cent in 2010. The rate among men increased by 12 points during the same period, from 23.1 per cent to 33.2 per cent.<sup>53</sup> The gender gap in the labour market in this respect has practically closed.

154. The inequities affecting the rural population are repeated with regard to social security.

155. With regard to retirement, although the proportion of persons aged 65 or over who have social security and receive retirement benefits or pensions in Ecuador has increased by almost six points since 2001, when it stood at 7.6 per cent, it is still barely 13.1 per cent, according to the 2010 census.<sup>54</sup>

156. In this regard, the country is planning to implement policies focused on remedying the lack of protection that affects the majority of older people in terms of having a pension, social security and the other social benefits received by retirees.

157. Another important advance is the recognition of domestic work and reproduction. Article 333<sup>55</sup> of the Constitution recognizes these as productive work that requires the State’s protection and also provides that social security protection shall be extended gradually to persons who perform unpaid family work in the home, thus expanding the rights of women and others who perform such work.

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<sup>52</sup> Art. 34. The right to social security is an inalienable right of all persons and shall be a paramount duty and responsibility of the State. The social security system shall be governed by the principles of solidarity, mandatory membership, universal coverage, equity, efficiency, subsidiarity, sufficiency, transparency and participation, and shall be designed to meet individual and collective needs. The State shall guarantee and give effect to the full exercise of the right to social security, including by persons who perform unpaid work in the home or who engage in rural subsistence activities or any form of self-employment, and those who are unemployed.

<sup>53</sup> Atlas of Inequality. Employment and persons with disabilities, p. 138/139, Social security and retirement, p. 193.

<sup>54</sup> Atlas of Inequality. Figure 15: Persons aged 65 and over receiving a pension by area, 2001 and 2010, p. 140.

<sup>55</sup> Art. 333. Unpaid work performed in the home to provide for oneself and care for others shall be recognized as productive work. The State shall promote an employment system that operates in harmony with care needs and that facilitates appropriate services, infrastructure and working hours; in particular, it shall provide childcare services, services for persons with disabilities and other services that are necessary in order to enable working persons to perform their employment activities. It shall foster joint responsibility and reciprocity between men and women with regard to domestic work and family duties. Social security protection shall be extended gradually to persons who perform unpaid family work in the home, in accordance with the general terms of the system and the law.

158. A study of time spent on domestic work shows clearly that women bear a disproportionate share of the responsibility for such work. It is therefore necessary to devise policies that will foster a change in sociocultural patterns, involving inter-agency action to change gender stereotypes, encourage more flexible roles and foster the appropriate distribution of domestic responsibilities in order to achieve greater equity between women and men.

## G. Housing

159. There continues to be a serious shortage of quality housing in Ecuador. Approximately 45 per cent of housing still lacks drinking water and sewage systems.

160. However, as stated in a study on the shortage of quality housing conducted between 1990 and 2010 and published in the population and housing census conducted by the National Statistics and Census Institute,<sup>56</sup> living conditions in Ecuador have improved continuously since 1982, and the greatest improvement occurred in the period between the last two censuses, 2001-2010, when the shortage was reduced by almost 10 per cent, equivalent to double the improvements achieved during previous periods between censuses.

161. There are significant regional disparities in housing conditions. In urban areas, half of all housing is adequate, whereas in rural areas barely 8 per cent is adequate. The regions most affected are the Amazon region, with a deficit of 84 per cent, Galápagos with 82 per cent, and the coastal region with 71 per cent.

162. With regard to information on the size of homes, the 2007 Survey of Living Conditions provided data on the “housing quality deficit”; this category indicates the condition of housing in terms of space, basic services and construction materials. The survey also included a category called “ample living space in homes”, under which a home is considered to have ample living space if it contains more than two rooms. Table 11 below sets out the criteria considered.

### Criteria for assessing the “housing quality deficit”

<i>Type</i>	<i>Dimensions/ overcrowding</i>	<i>Basic services</i>	<i>Construction materials</i>
Not deficient	Three or fewer persons per bedroom	Lighting: public or private electric company  Water: mains, public fountain or tap  Sanitation services: toilet and sewer or toilet and septic tank	Floor: floorboards, parquet, polished timber, treated wooden planks, floating floor, ceramic, tiles, vinyl, marble, faux marble  Walls: concrete, breeze block, brick, asbestos/cement (Fibrolit), wood  Roof: concrete, slab, cement, asbestos (Eternit), zinc, tile

<sup>56</sup> Atlas of Inequality, p. 171, Table 1: Housing quality deficit (%) by region and area, 1982-2010.

<i>Type</i>	<i>Dimensions/ overcrowding</i>	<i>Basic services</i>	<i>Construction materials</i>
Deficient	More than three persons per bedroom	Lighting: solar panels, candles, oil lamps, gas or none  Water: other piped source, delivery cart/tricycle, well, river, spring, stream or rain  Sanitation services: toilet and cesspit, latrine or none	Floor: cement, brick, boards, untreated wooden planks, cane, earth, pambil palm, stone  Walls: adobe/rammed earth, wattle and daub (covered cane and reed), cane, reed, plastic, zinc  Roof: palm, thatch, leaves, wood, canvas, plastic

*Source:* National Statistics and Census Institute.

163. It should be noted that Ecuador has implemented a policy of investing heavily in knowledge, since the development of productive forces is centred on the development of human talent and the generation of knowledge, innovation, new technologies, good practices and new production tools.

164. Investment in research, development and innovation stood at 0.23 per cent of GDP in 2007 and 0.44 per cent in 2009,<sup>57</sup> which is a significant increase in a short space of time.

165. A notable development in this regard is the establishment of the University for Research on Experimental Technology (Yachay), whose aim is to develop human talent with ethical awareness. Its areas of research are life sciences, nanoscience, information and communications technology, renewable energy and climate change, and petrochemicals.

166. Another important point to mention is that policy is focused on environmental sustainability and the rights of nature. These rights<sup>58</sup> are enshrined in our Constitution. Ecuador has thus set a benchmark by being the first country on the planet to recognize the rights of nature in its constitutional framework.

167. Ecuador is promoting a strategy of wealth accumulation through sustainable productive activities, which require the production matrix to be transformed in a context of respect for the rights of nature and intergenerational justice. Although wealth accumulation will depend in the first instance on extractive processes, the Ecuadorian strategy is focused on promoting new non-polluting industries and the diversification of exports based on bioproducts and ecological services with a view to significantly reducing pressure on the environment in the long term.

## H. Objectives for the future

168. Ecuador has set a number of important social objectives, including the following:

<sup>57</sup> National Plan for Good Living 2013-2017, 5.1.2. Technology, innovation and knowledge, p. 40.

<sup>58</sup> Chapter 7. The rights of nature. Art. 71. Nature, or Pachamama, is where life is reproduced and lived. As such, it shall have the right to full respect for its existence and for the continuation and regeneration of its life cycles, structure, functions and evolutionary processes. Every person, community, people or nationality may demand that public authorities protect the rights of nature. For the application and interpretation of these rights, the principles set out in the Constitution shall be observed as appropriate. The State shall encourage natural and legal persons and groups to protect nature and shall promote respect for all the elements of the ecosystem.

- To eradicate extreme poverty and reduce the current poverty rate by at least 80 per cent;
- To reduce illiteracy among the indigenous and Montubio population aged between 15 and 49 to 4 per cent;
- To reduce the maternal mortality rate by 29 per cent;
- To reduce the infant mortality rate by 41 per cent;
- To eradicate chronic malnutrition in children under the age of 2;
- To reduce the rate of malnutrition in children under 5 by 40 per cent, paying special attention to the indigenous population in the highlands, which is currently the most affected social group. The aim is to reduce the rate substantially through an integrated set of policies for food fortification and supplementation;
- To reduce the incidence of income poverty by 20 per cent;
- To reduce social inequity, as measured by the Gini coefficient (which fell from 0.55 in 2007 to 0.48 in 2012) to a figure no higher than 0.36;
- Adolescent pregnancy will be the subject of special attention. The aim is to reduce by 15 per cent the fertility rate among those aged 15 to 19 through comprehensive sex education programmes, the creation of job opportunities for adolescents and measures to combat discrimination;
- With regard to work, the key aims will be to create more decent employment, reduce structural underemployment and gradually increase the purchasing power of employment income as part of the strengthening of an economic system that is based on social values and solidarity and the diversification of production with investment in knowledge and technology;
- Another aim is to reduce the rate of underemployment by 40 per cent compared with its current level. It is vital to complement these strategies with a policy of strengthening micro-, small and medium-sized enterprises in strategic sectors through labour demand, production linkages and innovation capacity;
- In rural areas, this strategy will be complemented with territorial policies aimed at expanding access to land and water sources for small and medium-sized producers and expanding access to sustainable technological alternatives based on agroforestry and agroecology;
- Bearing in mind that one of the main elements of the current housing quality deficit is the lack of provision of drinking water and sewers, the goal in this regard is to expand the current level of coverage by at least 40 per cent. It is vital to focus on formulating policies aimed at reducing disparities between urban and rural areas and improving the quality and reliability of these services;
- The human development index value in Ecuador rose from 0.59 in 1980 to 0.65 in 2000 and 0.72 in 2012,<sup>59</sup> and the goal for 2030 is to increase it to at least 0.8213;
- With regard to the demographic situation, it is hoped that the population of Ecuador will be 17,893,000 in 2030, and that annual rates of population growth will fall from the current figure of 1.35 per cent to 0.76 per cent;
- Another aim is to reduce the number of persons aged under 15 in the workforce.

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<sup>59</sup> UNDP 2012.

#### IV. Constitutional, political and legal structure of the State

169. Article 1 of the Constitution establishes that Ecuador is a constitutional State that guarantees rights and justice. It is organized as a social, democratic, sovereign, independent, unitary, intercultural, plurinational and secular republic and is governed in a decentralized way.

170. With regard to the supremacy of the Constitution, article 424 establishes that the Constitution is the supreme law which prevails over all other domestic legislation; accordingly, Government regulations and actions must be consistent with the Constitution, failing which they will be without effect.

171. Interculturalism and plurinationality, elements of a single, unitary State, are reflected in the Constitution through the incorporation of the principle of good living or *sumak kawsay*, which serves as a framework for interpreting certain rights and as a guideline for public policy on inclusion, equity and resource management, as well as in the recognition of self-determination of peoples, communities and nationalities and other forms of social organization for the purpose of self-determination processes.

172. With regard to the inclusion of *sumak kawsay*, Title II of the Constitution, on rights, includes a chapter on rights related to good living, which include the right to water, a healthy and ecologically balanced environment, communication, information, culture, science, education, habitat, housing, health, work and social security. Title VII, on good living, establishes various guarantees and guidelines aimed at promoting inclusion and equity and a sustainable use of natural resources that is respectful of other living beings.

173. The rights of communities, peoples and nationalities are recognized in chapter 4 of Title II. Article 56 establishes that indigenous communities, peoples and nationalities, Afro-Ecuadorian and Montubio peoples and communes form part of the State. Article 57 recognizes, inter alia, the following rights of those groups: (a) to maintain, develop and strengthen their identity, sense of belonging, ancestral traditions and forms of social organization; (b) to retain indefeasible title to their communal lands, which shall be inalienable, not subject to attachment and indivisible; (c) to engage in prior, free and informed consultation on plans and programmes to locate, exploit and market non-renewable resources found on their lands; (d) to maintain and develop their own forms of society and social structures and methods of establishing and exercising authority in their legally recognized territories; and (e) to develop, strengthen and fully realize an intercultural, bilingual education system.

174. In addition, in Title IV (chap. 1, sect. 2), on participation and government structure, article 96 recognizes all forms of social organization as expressions of the people's sovereignty to carry out processes of self-determination, and to influence decisions, public policy and social control of all levels of government and public and private bodies providing public services. Article 97 provides that such organizations may, inter alia, develop alternative forms of mediation and dispute settlement, seek reparations, formulate economic, political, environmental, social, cultural or any other proposals and demands that could contribute to good living, exercise their right to resist and demand the recognition of new rights.

175. The republican form of the State is provided for in Title IV, on participation and government structure, and in Title V, on the territorial organization of the State. In this respect, it is necessary to refer to: (a) the organization of social participation; (b) central Government institutions; (c) autonomous decentralized administrations and special regimes; and (d) the system of powers.

176. In addition to the participation rights provided for in Title II, Title IV establishes guidelines for organizing participation in the running of the State. Article 95 provides that citizens, individually or collectively, shall participate actively in decision-making, planning and the management of public affairs, and in public scrutiny of State institutions and their representatives, in an ongoing process of building citizen power.

177. The article also establishes that participation shall be guided by the principles of equality, autonomy, public consultation, respect for difference, public scrutiny, solidarity and interculturalism; and, furthermore, that participation shall be exercised through mechanisms of representative, direct and community democracy.

178. Title IV also contains provisions relating to article 1 of the Constitution on the establishment of a democratic State and the coordination of public participation in the republican form of government. Article 100 of the Constitution establishes that every level of government in the State shall be governed by democratic principles, for which purpose participatory bodies shall be established consisting of elected representatives of the dependent regime and society in the territorial jurisdiction of the relevant level of government.

179. Under this article, participation in government bodies shall be exercised in order to: (a) formulate national, local and sectoral plans and policies with the agreement of administrations and citizens; (b) improve the quality of public investment and set development agendas; (c) prepare administrations' participatory budgets; (d) strengthen democracy by means of permanent transparency, accountability and social control mechanisms; and (e) promote citizen participation and improve communication processes.

180. Section 4 of Title IV, on direct democracy, establishes in article 103 that it is possible, by popular initiative, to submit to the legislature proposals to introduce, amend or repeal legislation, including proposals for constitutional reform. If the legislature fails to act, the National Electoral Council may submit the proposals to popular vote. Under the terms of article 104, the relevant electoral body or the President of the Republic may also call a referendum on any matters judged to be appropriate; autonomous, decentralized administrations may do likewise on matters of interest within their jurisdiction, as may citizens themselves on any issue. In addition, under article 105, it is possible for citizens in possession of their political rights to revoke the mandate of elected officials.

181. Section 5 of Title IV refers to political organizations. Article 108 recognizes political parties and movements as non-State public organizations that constitute expressions of the political plurality of the people based on philosophical, political and ideological concepts that are inclusive and non-discriminatory. In addition, it provides that their organization, structure and functioning shall be democratic and shall guarantee rotation of power, accountability and gender parity on their boards. Article 109 provides that parties shall be organized nationally and that movements may correspond to any level of government, including the constituency for citizens living abroad. Accordingly, both must state their ideological principles, propose a programme of government and keep a record of members in the case of parties and supporters in the case of movements. Lastly, articles 110 and 111 establish that parties and movements shall be funded by contributions from their members or supporters and, if they comply with legal requirements, by State funds, which are subject to monitoring; their right to exercise political opposition at all levels of government is recognized.

182. With regard to political representation, section 6 of Title IV (art. 112) provides for political parties and movements to present candidates for elected posts. Article 113 deals with eligibility criteria for candidates, which disqualify, among others, persons who have contracts with the State; those who have been convicted and sentenced for, inter alia, unlawful enrichment or embezzlement of public funds; those who owe alimony payments;

those who have exercised executive authority in de facto administrations; and members of the Armed Forces and the National Police on active duty. In addition, article 114 provides that elected officials may be re-elected only once, whether consecutively or not, to the same post. Article 115 guarantees the promotion of elections through the media in order to encourage debate and the dissemination of proposals, with fair and impartial State support. Article 116 provides for the establishment of a multi-candidate election system that upholds the principles of proportionality, voter equality, fairness, parity and rotation between men and women. Article 117 prohibits electoral law reform in the year preceding elections.

183. With regard to State institutions, chapters 2 to 6 of Title IV deal with the five main branches of government, while chapter 2 of Title V establishes the territorial organization of the State and chapter 3 provides for the autonomous decentralized administrations. Table 25 in the annex sets out the composition of the five branches of central Government, namely: (1) the legislature; (2) the executive; (3) the judicial and indigenous justice branch; (4) the transparency and social control branch; and (5) the electoral branch.

184. Chapter 2 deals with matters relating to the National Assembly. Article 119 provides that members of the Assembly shall be of Ecuadorian nationality, have reached the age of majority and be entitled to exercise their political rights. Article 118 provides for a unicameral assembly based in Quito, with members serving four-year terms, and consisting of 15 members elected in a nationwide constituency, two in each province, and one additional member for every 200,000 inhabitants or fraction thereof over 150,000 inhabitants, calculated on the basis of the most recent national census. Under article 123, the Assembly shall meet, without requiring to be convened, on 14 May of the year of the election, and sit in ordinary session throughout the year, with two recesses of 15 days each, during which periods it may sit in extraordinary session. The sessions of the Assembly shall be public, except as otherwise provided by law.

185. Article 120 establishes the functions of the Assembly, the most relevant of which are: (a) to swear in the President and Vice-President of the Republic following their election by popular vote; (b) to declare the President's mental or physical incapacity to perform the duties of his or her office and to decide to remove the President from office; (c) to review the annual reports of the President and to comment on them; (d) to participate in the constitutional reform process; (e) to enact, codify, revise and repeal laws and to give generally legally-binding interpretations of laws; (f) to introduce, modify or abolish taxes by law; (g) to approve or reject international treaties, where appropriate; (h) to supervise the acts of the executive, electoral and transparency and social control branches of government and other government organs; (i) to approve the State budget, set the public debt limit and oversee its implementation; and (j) to grant amnesties for political offences and pardons on humanitarian grounds.

186. In accordance with article 122, the highest body of the legislative administration shall consist of the President and the two Vice-Presidents of the National Assembly and four members elected by the Assembly in plenary session. Article 124 provides that a party or movement representing 10 per cent of the Assembly's membership may form a legislative caucus, and that a caucus may also be formed by parties and movements that join together for that purpose. Article 126 provides for the establishment of specialized standing committees to perform the Assembly's work; their number, composition and powers shall be regulated by law.

187. Article 127 establishes the disqualifications to which members of the Assembly are subject, and article 128 provides that members shall enjoy immunity from proceedings before the National Court of Justice and that they may not be held civilly or criminally responsible for any opinions expressed or any decisions made or acts carried out in the exercise of their functions either inside or outside the National Assembly. However, the article also establishes that, in order to bring criminal proceedings against a member, the

Assembly's prior authorization shall be required, except in cases unrelated to the performance of their duties.

188. Article 129 provides that the National Assembly may proceed with the impeachment of the President or Vice-President of the Republic only in the case of offences against the security of the State, extortion, bribery, embezzlement of public funds, unlawful enrichment or genocide, torture, enforced disappearance, abduction or homicide for political reasons or reasons of belief. Article 130 provides for the possibility of removing the President from office for assuming functions not assigned by the Constitution, following a ruling by the Constitutional Court, or on account of a serious political crisis or internal disturbance.

189. With regard to legislative procedure, article 132 establishes that the Assembly shall adopt as laws general rules of common interest and that laws shall be required for the following purposes: (a) to regulate the exercise of constitutional rights and guarantees; (b) to define offences and establish the corresponding penalties; (c) to introduce, modify or abolish taxes; (d) to assign duties, responsibilities and powers to the autonomous decentralized administrations; (e) to modify the political and administrative structure of the country, except at the parish level; and (f) to vest in public regulatory and oversight bodies the power to issue general rules in matters within their competence. Under article 133, laws shall be either organic laws or ordinary laws, organic laws being those which (a) regulate the organization and functioning of institutions established under the Constitution; (b) regulate the exercise of constitutional rights and guarantees; (c) regulate the organization, competences, powers and functioning of autonomous decentralized administrations; and (d) relate to the political party system and the electoral system. All other laws are ordinary laws and cannot take precedence over organic laws.

190. Under article 134, the initiative to propose bills lies with: (a) members of the Assembly who have the support of 5 per cent of the Assembly or a legislative caucus; (b) the President of the Republic; (c) the other branches of government, within their respective spheres of competence; (d) the Constitutional Court, Counsel General's Office (Procuraduría General del Estado), Attorney General's Office (Fiscalía General del Estado), Ombudsman's Office (Defensoría del Pueblo) and Public Defender Service (Defensoría Pública) in matters within their mandates; and (e) citizens in possession of their political rights and social organizations with the support of 0.25 per cent of registered voters. These bills, in accordance with articles 137 to 139, shall be debated twice and made widely available in order to enable those persons affected by the bills to explain their reasons and arguments before the Assembly. Once a bill has been passed, it shall be sent to the President for signature or veto. If the President expresses an outright objection to the bill, it may be reconsidered only after one year; if the objection is partial, the President shall submit an alternative text, which the Assembly may accept, or it may ratify the original bill, although a ruling by the Constitutional Court is necessary if the President's objection is made on grounds of unconstitutionality.

191. Lastly, article 140 provides for the possibility for the President to submit to the National Assembly emergency bills on economic matters. They are considered in the normal way but under an expedited procedure and must be passed, amended or rejected within 30 days of their submission.

192. With regard to the executive branch, chapter 3, article 141, provides that the President of the Republic is the Head of State and Government and is therefore responsible for public administration. In addition, the executive branch is considered to consist of the Office of the President, the Office of the Vice-President, the ministries of State and the other bodies and institutions necessary for the stewardship, planning, implementation and evaluation of national public policies.

193. Under article 144, the President's term of office shall begin within 10 days of the establishment of the National Assembly. The President shall swear the oath of office before the Assembly, serve for four years and may be re-elected for one additional term. Article 145 establishes grounds for termination of office, including: (a) expiry of the term; (b) resignation; (c) removal from office in accordance with the Constitution; (d) physical or mental incapacity; (e) desertion of office, as confirmed by the Constitutional Court; and (f) recall.

194. Article 147 establishes the powers of the President of the Republic, which are, inter alia:

- (a) To comply with and enforce the Constitution, international treaties, laws and other legal provisions within his or her sphere of competence;
- (b) To present, on taking office, an outline of policies to be pursued;
- (c) To formulate and direct the executive's public policies;
- (d) To submit to the National Planning Council the proposed National Development Plan for approval;
- (e) To direct the public administration in a decentralized way and issue the necessary decrees relating to recruitment, organization, regulation and oversight;
- (f) To establish, modify and abolish ministries, entities and coordination bodies;
- (g) To present annually before the National Assembly a progress report on the National Development Plan and the proposed objectives for the following year;
- (h) To submit the draft national budget to the National Assembly for approval;
- (i) To appoint and remove from office ministers of State and other public officials whom he or she is empowered to appoint;
- (j) To define foreign policy, sign and ratify international treaties, and appoint and remove from office ambassadors and heads of mission;
- (k) To participate with legislative initiatives in the process of formulating laws and to issue the necessary regulations for the implementation of laws;
- (l) To call a referendum in the circumstances set out in the Constitution and in accordance with constitutional requirements;
- (m) To convene the National Assembly for special sessions;
- (n) To exercise supreme command of the Armed Forces and National Police and to appoint senior officers.

195. Article 148 provides for the possibility for the President to dissolve, one time only and within three years of taking office, the National Assembly for assuming functions for which it has no constitutional mandate, subject to a prior favourable ruling by the Constitutional Court.

196. With regard to ministers, article 151 establishes that they shall be politically, civilly and criminally responsible for acts and contracts undertaken in the exercise of their duties, regardless of any vicarious liability of the State. Disqualifications for the office of minister are set forth in article 152; they include being related to the President or Vice-President, having a contract with the State and being a member of the security forces on active duty. Article 154 establishes two responsibilities for ministers of State in addition to those established by law, namely: (a) to exercise control over the public policies for which they are responsible; and (b) to present to the National Assembly reports due in areas for which they are responsible.

197. With regard to the national equality councils, article 156 establishes that they are responsible for the full application and exercise of the rights enshrined in the Constitution and in international human rights instruments and for the formulation, mainstreaming, implementation, monitoring and evaluation of public policies dealing with gender, ethnic, generational, intercultural, disability and human mobility issues, in accordance with the law and in coordination with supervisory and implementing agencies and with rights-protection bodies at all levels of government. In accordance with article 157, membership of the councils shall be divided equally between representatives of civil society and the State and shall be chaired by the President of the Republic. It should be noted that the national equality councils have not yet been established. The design of the bill to establish the councils is currently being debated in the National Assembly.

198. Chapter 4 of Title IV regulates the judicial and indigenous justice branch of government. Articles 167 to 170 contain provisions on the principles of the administration of justice, including:

- (a) Internal and external independence;
- (b) Administrative, economic and financial independence of the judiciary;
- (c) Jurisdictional unity;
- (d) Access to justice free of charge;
- (e) Public trial;
- (f) Orality, concentration, adversarial procedure and the principle of the initiative of the parties;
- (g) Procedural simplicity, uniformity, effectiveness, immediacy, promptness and economy;
- (h) Due process;
- (i) Judicial appointments made on the basis of equality, equity, integrity, open, competitive and merit-based selection processes, right of challenge and citizen participation.

199. Article 171 deals with indigenous justice and establishes that the authorities of indigenous communities, peoples and nationalities shall exercise judicial functions on the basis of their ancestral traditions and their own law, within their territory and with guarantees concerning the participation of women and their involvement in decision-making. In addition, it establishes that indigenous authorities shall apply their own rules and procedures for the resolution of internal conflicts, provided that they do not run counter to the Constitution or the human rights recognized in international instruments. Lastly, it provides that the State shall guarantee that the rulings of indigenous courts are respected by public institutions and authorities, although such rulings shall be subject to review for constitutionality.

200. Articles 172 to 176 establish the principles of the judiciary, which include:

- (a) The administration of justice in accordance with the Constitution, international human rights instruments and the law;
- (b) Due diligence;
- (c) The responsibility of judges for delays, negligence, miscarriages of justice or violations of the law;
- (d) Legal challenges to administrative acts;
- (e) Ineligibility of members of the judiciary to engage in private legal practice;

- (f) Specialized administration of justice for children and adolescents;
- (g) Competitive and merit-based selection of judicial staff.

201. Article 177 provides that the judiciary shall consist of judicial, administrative, auxiliary and independent bodies. Article 178 establishes that the following are judicial bodies: (a) the National Court of Justice; (b) provincial courts of justice; (c) tribunals and courts established by law; and (d) magistrates' courts. The Council of the Judiciary is the body responsible for administration, monitoring and discipline; the notarial service, judicial auctioneers and sequestrators are auxiliary bodies; and the Public Defender Service and Attorney General's Office are independent bodies.

202. Article 181 vests the Council of the Judiciary with the following powers:

- (a) To formulate and implement policies to improve and modernize the judicial system;
- (b) To review and approve the draft budget of the judiciary;
- (c) To direct the selection process for judges and other judicial staff, and to handle appraisals, promotion and disciplinary matters through public procedures and reasoned decisions;
- (d) To administer and professionalize the judiciary by establishing and running training colleges;
- (e) To ensure transparency and efficiency in the judiciary.

203. Article 182 establishes that the National Court of Justice shall have national jurisdiction, be based in Quito and consist of 21 judges organized in specialized divisions and serving a non-renewable, nine-year term of office, with one third of its membership being renewed every three years. The President of the Court, who shall represent the judiciary, shall be elected from among the judges of the National Court and shall serve for three years. The article also provides for alternate judges subject to the same rules as full members.

204. Article 183 establishes that, in order to serve as a judge on the National Court, a person must be of Ecuadorian nationality, be in possession of their political rights, hold a law degree that is legally recognized in Ecuador and have a minimum of 10 years' experience as a lawyer, judge or law teacher, and a good reputation and record of conduct. The Council of the Judiciary shall appoint judges on the basis of a competitive examination, merit, right of challenge and social control, while working towards gender parity.

205. Article 184 vests the National Court with the following powers, independently of those assigned to it by law: (a) to hear appeals in cassation, appeals for review and other remedies established by law; (b) to develop a system of case law based on precedent established in three rulings; (c) to try cases brought against public officials who enjoy immunity; and (d) to submit bills on the administration of justice. With regard to (b), article 185 establishes that rulings issued by the Court's specialized divisions that restate on three occasions the same opinion on the same point shall be referred to the Court in plenary session for its consideration and agreement within 60 days. If the view is validated, the opinion shall constitute a binding precedent.

206. With regard to the provincial courts, article 186 provides that they shall be established in each province and shall consist of the number of judges deemed to be necessary for the dispatch of the business of the court. Judges shall be drawn from the judicial service, practising lawyers or university teachers and shall be divided among specialized divisions that correspond to those of the National Court. The article also establishes that the Council of the Judiciary shall decide on the number of courts necessary

to meet the needs of the population, taking account of the fact that in each canton there should be at least one judge specializing in family, children's and adolescents' matters or youth offenders, in accordance with the needs of the population, and that in those places where there is a social rehabilitation centre, there should be at least one court upholding prisoners' rights.

207. As a guarantee of jurisdictional unity, article 188 establishes that members of the Armed Forces and National Police shall be tried by the ordinary courts, that disciplinary offences shall be subject to their own rules of procedure and that cases to which special jurisdiction is applicable shall be regulated by law in accordance with administrative responsibility and rank.

208. Articles 191 to 193 deal with matters relating to the Public Defender Service. Its purpose is to ensure 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 rights. Accordingly, the Service provides professional, appropriate, efficient and effective legal services at no charge, counselling people on their rights and upholding those rights, whatever the issue and wherever required. The Service is an administratively and financially independent body with human and material resources and working conditions equivalent to those of the Attorney General's Office. These articles also establish that university faculties of jurisprudence, law and legal studies shall establish and maintain free advice and defence services for persons with low incomes and for priority groups.

209. With regard to the Attorney General's Office, article 194 establishes that it shall operate as a decentralized, administratively and financially independent body, with the Attorney General as its head and legal representative. Article 195 provides that the Office shall direct, ex officio or at the request of the interested party, pretrial and criminal investigations, bringing criminal proceedings in accordance with the principle of discretion to prosecute and minimum penal intervention, paying special attention to the public interest and the rights of victims. Where there are grounds for so doing, it shall bring charges against the presumed offenders before the competent judge and conduct the prosecution in the criminal trial.

210. To enable it to perform these functions, article 195 provides that the Office shall organize and oversee a specialized system combining investigations, forensic medicine and forensic science that is staffed by civilian and police investigators, as well as a scheme to protect and assist victims and witnesses participating in criminal proceedings, and shall fulfil other obligations established by law. With regard to the victim and witness protection scheme, article 198 provides that the Office shall work together with the public bodies that have an interest in the concerns and objectives of the scheme and coordinate the participation of civil society organizations. The article also provides that the scheme shall be governed by the principles of accessibility, responsibility, complementarity, opportuneness, effectiveness and efficiency.

211. With regard to the transparency and social control branch of government, provided for in chapter 5 of Title IV, article 204 establishes that this branch shall promote and encourage monitoring of public-sector entities and bodies and natural and legal persons in the private sector performing services or activities in the public interest in order to ensure that they conduct their activities responsibly, transparently and fairly. To that end, the transparency and social control branch shall encourage citizen participation, protect the exercise and enforcement of rights and prevent and fight corruption. In this regard, the article provides that the branch shall consist of the Council for Citizen Participation and Social Control, the Ombudsman's Office, the Office of the Comptroller General and the offices of superintendents; these bodies shall have legal personality and administrative, financial, budgetary and organizational independence.

212. Article 205 provides that representatives of institutions in the transparency and social control branch shall serve for five years, enjoy immunity from proceedings before the National Court and be subject to impeachment by the National Assembly. In addition, it establishes that senior officials shall be Ecuadorian nationals, in possession of their political rights and recruited through merit-based, public competitive examination and an application process that is subject to citizen oversight and right of challenge.

213. Article 206 provides that members of the transparency and social control branch institutions shall establish a coordinating body and elect a chairperson annually. The powers of the coordinating body are:

(a) To formulate public policies on transparency, monitoring, accountability, the promotion of citizen participation and preventing and combating corruption;

(b) To coordinate the institutions' action plans, without undermining their independence;

(c) To coordinate the formulation of the national anti-corruption plan;

(d) To submit to the National Assembly proposals for legal reforms in its areas of competence;

(e) To report annually to the National Assembly on activities relating to the performance of its functions.

214. Under article 207, the purpose of the Council for Citizen Participation and Social Control is to promote and encourage the exercise of participation rights by driving the process of establishing social control mechanisms in matters of public interest and appointing the relevant authorities in accordance with the Constitution and the law. The article also provides that the Council shall consist of seven full members and seven alternate members, who shall elect from among the full members a chairperson, who shall be its legal representative and serve for two and a half years. Under the article, members shall be elected from among candidates put forward by social organizations and the public, following a procedure to be organized by the National Electoral Council that involves a merit-based, public competitive examination and an application process subject to citizen oversight and right of challenge. The seven full members of the Council for Citizen Participation and Social Control and their alternates are selected from a list in order of preference.

215. Under article 208, the powers and duties of the Council are, inter alia:

(a) To promote citizen participation, encourage public consultation processes and foster training in citizenship, values, transparency and the fight against corruption;

(b) To establish accountability mechanisms for public-sector institutions and entities;

(c) To investigate complaints about acts or omissions affecting citizen participation or resulting in corruption;

(d) To publish reports that determine whether there is evidence of liability, make the necessary recommendations and initiate the corresponding legal proceedings;

(e) To act as a party to proceedings in cases which are brought as a result of its investigations;

(f) To request from any State body or official the information necessary for investigations or trials;

(g) To appoint the heads of the Counsel General's Office and the offices of superintendents from a shortlist put forward by the President of the Republic;

(h) To appoint the heads of the Ombudsman's Office, the Public Defender Service, the Attorney General's Office and the Comptroller General's Office, on completion of the corresponding challenge and monitoring process;

(i) To appoint the members of the National Electoral Council, Electoral Court and Council of the Judiciary, on completion of the corresponding recruitment process.

216. With regard to the Comptroller General's Office, article 211 defines the Office as the technical body responsible for overseeing the use of State resources and the performance of State institutions and private corporations receiving public funding. Its functions, provided for in article 212, are: (a) to direct the administrative oversight system, with internal and external audit controls and internal monitoring of public-sector bodies or private bodies receiving public funding; (b) to determine culpable administrative and civil liability and evidence of criminal liability relating to areas and activities subject to its control; (c) to establish rules relating to the performance of its functions; and (d) to advise State bodies and entities when requested.

217. Under article 213, the offices of superintendents are technical bodies with powers of oversight, audit, intervention and scrutiny in respect of economic, social and environmental activities and services performed by public and private entities to ensure compliance with legislation and respect for the general interest; they may therefore act *ex officio* or at the request of the public.

218. Articles 214 to 216 contain provisions relating to the Ombudsman's Office. The Office is a statutory body with national jurisdiction, legal personality and administrative and financial independence. It has a decentralized structure, with delegates in each province and abroad. It is required to protect and safeguard the rights of the inhabitants of Ecuador and to defend the rights of Ecuadorians abroad.

219. Its responsibilities include:

(a) To present, *ex officio* or at the petition of the party concerned, applications for protective remedies, habeas corpus, access to public information and habeas data, bring actions for non-compliance and citizens' actions, and file complaints about the poor quality or improper provision of public or private services;

(b) To order rights protection measures that shall be of immediate and compulsory application, and seek legal remedies and sanctions from the appropriate authority in cases of non-compliance;

(c) To investigate and adjudicate on actions or omissions by natural or legal persons providing public services, within its sphere of competence;

(d) To oversee and encourage respect for due process and prevent or immediately halt any form of torture or cruel, inhuman or degrading treatment.

220. Since 2012, the Ombudsman's Office has served as the national mechanism for the prevention of torture and is recognized as such by the United Nations. The Office is therefore required to have a standing procedure for monitoring and visiting all places of detention and is responsible for checking how they are run, verifying their inmate records and identifying possible irregularities, a procedure recommended under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

221. The electoral branch of government is dealt with in chapter 6. Article 217 establishes that it shall guarantee the exercise of political voting rights and those rights relating to the political organization of society. It consists of the National Electoral Council and the Electoral Court, which are based in Quito and have their own legal personality, national jurisdiction and administrative, financial and organizational independence. The

article also provides that the Council and the Court shall be governed by the principles of autonomy, independence, openness, transparency, equity, interculturalism, gender parity and integrity.

222. Articles 218 and 219 contain provisions relating to the National Electoral Council. They establish that the Council shall consist of five full members and five alternate members, who shall serve for six years, and that its membership shall be partially renewed every three years; the Chairperson shall be elected from among the members, shall be the legal representative of the electoral branch and shall serve for three years. Council members must be Ecuadorian nationals and in possession of their political rights.

223. In addition to its statutory functions, the Electoral Council's powers include the following:

- (a) To organize, conduct, monitor and guarantee elections in a transparent manner;
- (b) To call elections, count the votes, declare the results and swear the winners into office;
- (c) To appoint the members of decentralized electoral bodies;
- (d) To monitor election advertising and expenditure and to review and verify the accounts presented by political organizations and candidates;
- (e) To guarantee the transparency and legality of the internal elections of political organizations;
- (f) To propose bills within its areas of competence;
- (g) To maintain a permanent register of political organizations and their boards and check registration procedures;
- (h) To ensure that political organizations comply with the law and with their rules and statutes;
- (i) To implement, administer and monitor State funding of election campaigns and the fund for political organizations;
- (j) To hear and rule on administrative appeals or complaints relating to the decisions of decentralized bodies during elections and to impose appropriate penalties;
- (k) To organize and establish the electoral register in Ecuador and abroad.

224. The Electoral Court, under article 220 of the Constitution, consists of five full members and five alternates, who shall serve for six-year terms, with membership being partially renewed every three years. Eligibility requirements for members are the same as those for judges in the National Court; the President of the Electoral Court is elected from among its members to serve for three years. Article 221 establishes the following powers, in addition to those provided for by law: (a) to hear and rule on electoral appeals against acts of the National Electoral Council and decentralized bodies, and contentious issues concerning political organizations; (b) to impose penalties for non-compliance with rules on funding, advertising, electoral spending and other breaches of electoral rules; and (c) to decide on its own organizational arrangements and to set and implement its budget. The Court's judgements and decisions are final and immediately enforceable, and constitute electoral case law.

225. Articles 222 to 224 provide for common standards of political and social control, including, in particular, the possibility of impeaching members of the Council and the Court for failure to fulfil their duties and responsibilities; monitoring of electoral bodies, guaranteeing political organizations and candidates the power to oversee and monitor

electoral work and advertising; and the appointment of members of the Council and the Court by the Council for Citizen Participation and Social Control, under the terms previously referred to.

226. With regard to decentralized, autonomous administrations and special regimes, and the rules on jurisdiction, as defined in Title V of the Constitution, it should be pointed out that, under articles 238 to 240, decentralized autonomous administrations enjoy political, administrative and financial independence and are governed by the principles of solidarity, subsidiarity, territorial equity, integration and citizen participation. The Constitution also provides that the relevant law should establish the national system of jurisdictions, which shall be mandatory and progressive and should define compensation policies and mechanisms relating to territorial disparities in the development process. The above-mentioned articles define the following decentralized autonomous administrations: (a) rural parish councils; (b) municipal councils; (c) metropolitan councils; (d) provincial councils; and (e) regional councils. In addition, the articles provide that the decentralized autonomous regional administrations of metropolitan districts, provinces and cantons shall have legislative powers within their spheres of competence and territorial jurisdictions. (See annex, table 26, which shows the jurisdiction, organization, institutional structure and powers of the different administrations.)

227. Political system indicators have been obtained from public information provided by the National Electoral Council, which shows that, in the elections held on 17 February 2013 for President and Vice-President of the Republic, 5,848,128 of the 11,675,441 voters were women.

#### Electoral register 2013

<i>Voters</i>	<i>Male voters</i>	<i>Female voters</i>	<i>Polling boards</i>	<i>Polling boards for male voters</i>	<i>Polling boards for female voters</i>
11 675 441	5 827 313	5 848 128	40 451	20 200	20 251

*Source:* National Electoral Council.

## V. General framework for the protection and promotion of human rights

228. The Quito Declaration of Independence, which laid the foundation for the development of a national strategy for independence, held that the purpose of the State is to guarantee the freedom of its inhabitants. On this premise — particularly since the Constitution of 1979 — the priority of constitutional lawmakers and of the provisions of the supreme law has been to establish a list of rights that serve to underpin the actions of the State and orient the formulation of laws and public policy. Accordingly, the Constitution of 2008 declares, among other founding declarations in its preamble, that, given their heritage of social struggle for liberation from domination, the people of Ecuador resolve to establish: (a) a new form of living in community with others in diversity and in harmony with nature, the aim of which is to attain good living; (b) a society that respects, in all its dimensions, the dignity of individuals and groups; and (c) a democratic country that is committed to Latin American integration, to peace and to solidarity with all the peoples of the world.

229. In recognition of these resolutions, article 3 of the Constitution stipulates that the primary duties of the State are:

(a) To guarantee the effective enjoyment of the rights recognized in the Constitution and in international instruments, especially the rights to health, education, food, social security and water;

(b) To strengthen national unity in diversity;

(c) To plan for national development with a view to eliminating poverty and to promoting sustainable development and the equitable redistribution of the resources and wealth needed to attain good living;

(d) To promote the equitable and solidarity-oriented development of the entire territory by strengthening the processes of self-governance and decentralization;

(e) To protect the country's cultural and natural heritage; and

(f) To guarantee inhabitants the right to a culture of peace and overall security and the right to live in a democratic society free from corruption.

230. Articles 10 and 11 subsequently establish the principles for giving effect to these rights, providing that individuals, communities, peoples, nationalities and groups are entitled to enjoy the rights guaranteed in the Constitution and in international instruments, while also providing that the exercise of these rights is governed, inter alia, by the following principles:

- The exercise, promotion and enforceability, individually and collectively, of rights before the authorities charged with their realization; equality of the rights, duties and opportunities of all inhabitants, and prohibition of discrimination on the basis of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, criminal record, socioeconomic status, migratory status, sexual orientation, health status, HIV status, disability, physical difference or any other personal or collective, temporary or permanent distinguishing feature;
- Affirmative action to promote genuine equality for rights-holders in a situation of inequality;
- Direct and immediate implementation of the rights recognized in the Constitution and in international human rights instruments by the competent authorities, without requirements or conditions;
- Full justiciability of rights: the absence of a rule may not be invoked to justify the infringement or repudiation of rights, to dismiss judicial proceedings or to deny their recognition;
- Development of the content of rights through laws and regulations, judicial rulings and public policy. Any law that has the effect of restricting rights is incompatible;
- Implementation and interpretation of the law or regulation in the manner most conducive to the realization of rights;
- The inalienable, inviolable, indivisible and interdependent nature and equal rank of principles and rights;
- Non-exclusion of the rights derived from the dignity of individuals, communities, peoples and nationalities that are necessary for their full development, independently of those already recognized in the Constitution or in international human rights instruments.

231. The above-mentioned articles also establish the obligation of the State to create and maintain the necessary conditions for the full recognition and exercise of rights, in addition to the obligation of the State, its representatives, agents and any person exercising public

authority to make reparation for violations of the rights of individuals, peoples, communities and nationalities as a result of the lack of or a deficiency in the provision of public services, or of the actions or omissions of its employees and public servants in the discharge of their duties. It is further recognized that the State shall be held liable for instances of arbitrary detention, judicial error, unjustified judicial delays or miscarriages of justice, violation of the right to the protection of the court and infringement of the principles and rules of due process, including the revision or quashing of a sentence.

### **A. Acceptance of international human rights norms**

232. The State has an obligation towards individuals, peoples, nationalities, communities and groups to guarantee the rights recognized in international human rights instruments, in accordance with the principles for their interpretation. In addition, paragraphs 7 and 9 of article 416, in Title VIII on international relations, stipulate that, in its relations with the international community, Ecuador shall respect human rights and, accordingly, shall promote their full exercise through the fulfilment of the obligations it has undertaken in signing the international human rights instruments. They also stipulate that international law shall be recognized as a standard of conduct. Furthermore, article 417 stipulates that, in respect of human rights treaties and other international human rights instruments, the principles of human-centredness, non-restriction of rights, direct applicability and the open-ended clause, which are included in the provisions of articles 10 and 11 mentioned previously, shall apply. Lastly, article 424, paragraph 2, of Title XI, on the supremacy of the Constitution, stipulates that “the Constitution and the international human rights treaties ratified by Ecuador that recognize rights that are more favourable than those recognized in the Constitution shall take precedence over any other rule of law or decision by a public authority”.

233. Ecuador is a signatory<sup>60</sup> to most of the United Nations international human rights instruments, ILO conventions and the Geneva Conventions on international humanitarian law. It is also a signatory to the convention of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Organization of American States (OAS), MERCOSUR and Decision No. 586 of the Andean Community. In the context of the Hague Conference on Private International Law Ecuador has signed four instruments.<sup>61</sup>

### **B. Legal framework for the protection of human rights at the national level**

234. As stated in the foregoing section, in addition to the rights envisaged in the Constitution, Ecuador recognizes those envisaged in international human rights treaties, and goes so far as to guarantee their direct application by any public authority or public servant, their justiciability and their unrestricted exercise. However, Title II of the Constitution recognizes an advanced list of new rights that are not found in international treaties, including the right to water; the right to safe and permanent access to healthy food, consistent with the population’s diverse cultural identities and traditions; the right to live in

<sup>60</sup> See annex 2.

<sup>61</sup> Convention Abolishing the Requirement of Legalisation for Foreign Public Documents; Convention on the Civil Aspects of International Child Abduction; Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption; Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children.

a healthy and ecologically balanced environment that guarantees sustainability and good living (*sumak kawsay*); the right to enjoy free, intercultural, inclusive, diverse and participatory communication in all areas of social interaction, through any medium or form, using one's own language or symbols; the right to a human-centred education that guarantees the holistic development of the person within a framework of respect for human rights, a sustainable environment and democracy; the right to culture and science; and the right to habitat and housing, health, work and social security.

235. Moreover, special rights have been accorded to groups considered to warrant priority attention, such as older persons, young people, individuals or groups who are in a situation of mobility, pregnant women, children and adolescents, persons with disabilities, persons with catastrophic illnesses, persons deprived of their liberty, users and consumers, and communities, peoples and nationalities.

236. As has been mentioned, all public authorities and public servants have a duty to guarantee these and all other rights to individuals. Nonetheless, the Constitution has set out a number of specific steps to be taken by the authorities in relation to rights. Thus, article 120, paragraph 6, and article 133, paragraph 2, stipulate that the National Assembly shall progressively develop the content of rights through the enactment, codification and reform of organic and ordinary laws or the repeal of laws that are counterproductive to the effective enjoyment of rights. Furthermore, paragraphs 1 and 3 of article 147 stipulate that the President of the Republic has a duty to comply with and enforce the Constitution, international treaties, laws, and any other rule or principle that falls within his or her sphere of competence, and is consequently responsible for the design and orientation of public policies that give effect to recognized rights. Further, article 172 stipulates that judges shall administer justice subject to the provisions of the Constitution, international human rights instruments and the law. In addition, throughout the provisions on principles relating to the administration of justice and the judiciary, which have already been discussed, reference is made to the right of access to justice and the right to protection.

237. Likewise, article 204 stipulates that the transparency and social control branch of government shall be responsible for promoting and encouraging citizen participation and for protecting the exercise and realization of rights. The same applies to the electoral branch, which, under article 217, is responsible for guaranteeing the exercise of political voting rights and those rights relating to the political organization of society. However, perhaps the most important institution — and the one directly entrusted with adjudicating on, interpreting and protecting the human rights recognized in the Constitution and international instruments — is the Constitutional Court, which is described in chapter 2 of Title IX, on the supremacy of the Constitution. Article 429 establishes that the Court is the highest authority for oversight, constitutional interpretation and the administration of justice in this area. In addition, article 436 stipulates that the powers of the Constitutional Court shall include the following:

(a) To act as the highest instance for the interpretation of the Constitution and the international human rights treaties ratified by the State, by means of rulings and judgements;

(b) To hear and rule on public applications for constitutional review of legislative acts issued by organs and authorities of the State, and to declare them unconstitutional if need be, thereby rendering them null and void;

(c) To declare of its own motion the unconstitutionality of a rule of law when, in a case submitted for its consideration, the rule pertaining to the case is found to be contrary to the Constitution;

(d) To hear and rule on applications for constitutional review of administrative acts with general effect issued by public authorities;

(e) To hear and rule on actions for non-compliance lodged in order to enforce compliance with decisions or reports by international human rights bodies when such decisions or reports are not enforceable through judicial channels;

(f) To hear and rule on applications for protective remedies, enforcement, habeas corpus, habeas data, access to public information and any other proceedings or cases selected by the Court for review;

(g) To initiate of its own motion an immediate review of the constitutionality of declarations of a state of emergency that entail the suspension of constitutional rights;

(h) To take cognizance of and punish failure to comply with constitutional rulings and judgements;

(i) To make a declaration of unconstitutionality when State institutions or public authorities fail to comply, either in whole or in part, with constitutional provisions.

238. There are thus a variety of channels through which human rights may be invoked and a ruling issued by the authorities. However, it is difficult to cite specific cases that have set new precedents in respect of the rights recognized in the Constitution, since only 38 decisions and rulings have been issued by the Constitutional Court. These have included decisions on the constitutionality of international instruments, interpretative opinions on the transition period and the backlog of cases from the old Constitutional Tribunal. The same applies to the judgements handed down by the National Court of Justice.

239. As far as guarantees for the recognition, enjoyment, exercise, protection and restoration of rights are concerned, Title III of the Constitution establishes normative, public policy and procedural safeguards considered suitable for that purpose. With particular reference to normative safeguards, article 84 stipulates that the National Assembly and anybody with law-making powers has an obligation to bring laws and other legal norms formally and substantively into line with the rights recognized in the Constitution and international treaties and with the rights necessary for ensuring the dignity of the individual or of communities, peoples and nationalities. It further stipulates that in no circumstances shall the reform of the Constitution, laws, regulations or administrative acts jeopardize recognized rights.

240. With regard to safeguards relating to public policy, public services and citizen participation, article 85 stipulates that the design, implementation, evaluation and monitoring of public policy and public services that guarantee the rights recognized in the Constitution shall be governed by the following provisions: (i) the implementation of public policy and the provision of public goods and services shall be aimed at achieving good living and giving effect to all rights, and shall be formulated in keeping with the principle of solidarity; (ii) without prejudice to the primacy of collective over individual interests, when the effects of the implementation of public policy or the provision of public goods and services violate or threaten to violate constitutional rights, the policy or provision in question shall be reformulated or alternative measures adopted so as to reconcile the conflicting rights; (iii) the State shall ensure that the budget for the implementation of public policy and the provision of public goods and services is allocated equitably and in keeping with the principle of solidarity; and (iv) the participation of individuals, nationalities, peoples and communities in the design, implementation, evaluation and monitoring of public policy and public services shall be guaranteed.

241. With regard to procedural safeguards, articles 86 and 87 share a number of provisions, including the following:

(a) Any person, group of persons, community, people or nationality may bring an action provided for in the Constitution;

- (b) Jurisdiction shall be determined by the place where the act or omission originates, or where it produces its effects;
- (c) Proceedings shall be straightforward, expeditious, efficient and oral;
- (d) Actions may be introduced in writing or orally, without the need to cite the rule that has been infringed or to secure legal representation;
- (e) Procedural rules that delay the expeditious processing of the proposed action shall be invalid;
- (f) The allegations made by the petitioner shall be presumed to be true if the public agency that has been summoned does not provide evidence to the contrary or does not supply information;
- (g) The matter shall be determined by judicial decision; if the judge finds a violation of rights, he or she shall make a declaration to this effect and shall order full material and non-material reparation, specifying in detail the positive and negative obligations to be met by the person against whom the court decision has been handed down and the circumstances in which such obligations must be met;
- (h) Appeals against judgements at first instance may be lodged before the provincial court concerned;
- (i) Judicial proceedings shall not be concluded until the judgement has been fully enforced;
- (j) Failure by a public servant to comply with a judgement shall entail dismissal from office or employment, without prejudice to any civil or criminal liability incurred; and
- (k) Protective measures may be ordered either together with or independently of constitutional remedies for the protection of rights, with the aim of avoiding or putting an end to the violation or threat of violation of a right.

242. Based on the foregoing, articles 88 to 94 provide for the following remedies: (a) application for a protective remedy; (b) action for a writ of habeas corpus; (c) application for access to public information; (d) action for a writ of habeas data; (e) action for non-compliance; and (f) application for a special protective remedy. Applications for a protective remedy, envisaged in article 88, are intended to provide direct and effective protection for the rights recognized in the Constitution and may be filed when these rights have been breached by action or omission on the part of any non-judicial public authority, by public policies that deny the enjoyment or exercise of constitutional rights, by the actions of private individuals that cause serious prejudice, or where delegated or licensed public services are not properly provided or the injured party is in a subordinate position, lacks protection under the law or is subjected to discrimination.

243. Action for a writ of habeas corpus, which is provided for in articles 89 and 90, is aimed at restoring the freedom of persons being held illegally, arbitrarily or unlawfully, as well as protecting the life and physical integrity of persons deprived of their liberty. To that end, article 89 stipulates that, within 24 hours of the time an action is brought, the judge shall convene a hearing to be attended by the detained person, the official in charge of that person, the public defender and the person who ordered or was responsible for the detention, and at which the arrest warrant must be presented. Provision is also made for the hearing to be held in the place of detention. The article further stipulates that the matter shall be decided within 24 hours of the hearing and, in the event of a finding of unlawful or arbitrary deprivation of liberty, the detained person shall be released immediately. In addition, it stipulates that where there is confirmed evidence of any form of torture or inhuman, cruel or degrading treatment, an order shall be made to release the victim, provide comprehensive and specialized care and adopt, where possible, alternative measures to

detention. Lastly, article 90 stipulates that when the place of detention is unknown and there is evidence of the involvement of any public official or any government employee or person acting with their authorization, support or consent, the chief of the National Police and the relevant minister shall be summoned to a hearing, the purpose of which shall be to ensure that the necessary measures are taken to locate the detained person and those responsible for the deprivation of liberty.

244. Applications for access to public information, provided for in article 91, are aimed at guaranteeing access to public information in cases in which such access has been expressly or tacitly denied, or when the information provided is incomplete or unreliable. Such applications may be made even if the refusal to provide information is based on the fact that it is classified as secret, restricted or confidential or in some other category. The article also stipulates that the information must have been declared to be restricted by the relevant authority, in accordance with the law, prior to the application for access to the information.

245. Article 92 concerns action for a writ of habeas data, the purpose of which is to allow individuals or their authorized representatives to be aware of the existence of, and have access to, documents, genetic data, personal data banks or files and reports about themselves or their assets that are stored by public or private entities on physical or electronic media. The article also provides for the right of the individual to know the origin, use, purpose, destination and period of validity of the data file or databank containing their personal information. Lastly, it provides that the person to whom the data refer may request permission from the relevant authority to access the file free of charge and to update, correct, delete or invalidate the data, as well as claim for any injury suffered.

246. Action for non-compliance is provided for in article 93, which states that its purpose is to ensure enforcement of the laws and regulations that make up the legal system, as well as compliance with the decisions or reports of international human rights bodies, provided that the law, regulation or decision to be enforced contains a clear, express and enforceable positive or negative obligation. The distinguishing feature of this action is that it must be brought before the Constitutional Court.

247. Lastly, article 94 provides for applications for a special protective remedy in the case of rulings or final judgements which, by action or omission, infringe the rights recognized in the Constitution. They are distinguished by the fact that they must be lodged before the Constitutional Court and are applicable in cases where ordinary and special remedies have been exhausted within the time limits fixed by law, unless failure to apply for such remedies is not attributable to negligence on the part of the person whose constitutional right has been infringed.

248. Another issue concerning rights has to do with the institutions that monitor the observance of rights, especially those relating to gender, age group, peoples, communities, nationalities, etc. As has been indicated, all State institutions at all levels are called on to respect and guarantee people's rights. However, there are some institutions whose functions are more closely related to guaranteeing rights. For example, the institutions attached to the executive branch include the national equality councils, which are responsible for ensuring the full application and exercise of the rights recognized in the Constitution and in international human rights instruments. Accordingly, in carrying out their mandate, they promote the mainstreaming, implementation, monitoring and evaluation of public policies on gender, ethnic, generational, intercultural, disability and human mobility issues. In order to meet their objectives, the councils are expected to coordinate with supervisory and implementing agencies and with rights-protection bodies at all levels of government.

249. The national equality councils established under the Constitution are the bodies that are replacing the former thematic councils and are responsible for the full application and exercise of the rights enshrined in the Constitution and the law. They are not yet in place or

in the process of being established because the relevant law has still to be adopted. The bill to establish the councils, as mandated by the Constitution, is awaiting its second reading in the National Assembly. There is therefore no information on the councils' activities or on the set-up process. However, in connection with the councils' obligation to coordinate with supervisory and implementing agencies and with rights-protection bodies, it is worth noting the existence of the Office of the Deputy Minister for Human Mobility, the Ombudsman's Office, the Ministry of Culture and Heritage, the Ministry of Justice, Human Rights and Religion, the Ministry of the Environment, the National Secretariat for Governance, Social Movements and Citizen Participation and the Office of the Commission of Truth and Human Rights.

250. While the Ombudsman's Office was discussed previously in relation to the transparency and social control branch of government, it is important to draw attention to the Organic Act on the Ombudsman's Office, which governs all matters relating to the powers, organization and functioning of this institution. As the Act dates from 1997, the powers of the Ombudsman's Office are mainly governed by the Constitution. Nonetheless, it is worth pointing out that the Ombudsman, inter alia, has unrestricted access to social rehabilitation centres and may observe judicial or administrative proceedings, publicly condemn violations of human rights and intervene as a party in environmental litigation. With regard to organization and functioning, article 1 of the Act states that the Office, which is headed by the Ombudsman, shall be a public agency based in Quito with functional, financial and administrative autonomy and a nationwide mandate. Article 9 states that the Ombudsman shall appoint a first and a second deputy to whom he or she shall delegate functions, duties and powers, and who shall discharge the duties of the Ombudsman in the event of his or her temporary absence or a vacancy in the position. In addition, article 10 provides that a branch of the Ombudsman's Office shall be established in each province and shall be headed by a commissioner who, in the relevant geographical area and acting on behalf of the Ombudsman, shall have the functions, duties and powers attributed to him or her by the Ombudsman.

251. Chapter 2 of the Act governs proceedings before the Ombudsman's Office. It stipulates that any person who has a legitimate claim may, individually or collectively and without restriction, submit a complaint to the Ombudsman, either orally or in writing; the complaint must contain information on the petitioner and a detailed account of the events. Chapter 2 also provides that, in the case of complaints concerning events that affect the person's life, health, or physical, moral or psychological integrity, the Ombudsman may immediately initiate remedies or measures aimed at preventing serious harm or danger, and the competent authorities may not refuse to take cognizance of and rule on the matter. The Act also establishes the obligation of all public or private, legal or natural persons to cooperate with the Ombudsman's Office, including in the application of sanctions against public servants and private individuals who refuse to provide the information requested by the Office.

252. As to the ministries and secretariats mentioned previously, the powers of the Ministry of Justice, Human Rights and Religion, as well as those of the Office of the Deputy Minister for Human Mobility, deserve special mention. Pursuant to Executive Decree No. 748 of November 2007, the President of the Republic established the Ministry of Justice, Human Rights and Religion, granting it, inter alia, the following powers: (a) to support efforts aimed at improving the services provided by institutions in the justice system by expanding the scope of their coverage, imposing quality standards and requiring the coordinated implementation of management efficiency programmes in order to ensure that economic, financial, material and technological resources are used to best effect; (b) to coordinate measures aimed at ensuring effective access to timely and high-quality justice as a fundamental right of all inhabitants of Ecuador; (c) to establish support units to help the judiciary and the Public Prosecution Service (Ministerio Público) to resolve any conflicts in

social rehabilitation centres and any other judicial conflicts that may concern the public administration; (d) to promote the creation of appropriate mechanisms for disseminating human rights and legal and procedural information; (e) to coordinate, implement and monitor the programmes and projects of the various institutions involved in the social rehabilitation system, together with programmes and projects aimed at providing assistance and protection to juvenile offenders; and (f) to work together with the Council on Narcotic and Psychotropic Substances (CONSEP) on behalf of the central Administration to design and implement programmes to prevent and eradicate the use of narcotic and psychotropic substances.

253. Furthermore, by means of Executive Decree No. 1317 of September 2008, the Ministry of Justice, Human Rights and Religion was given responsibility for coordinating the enforcement of judgements, protective measures, provisional measures, friendly settlements, recommendations and decisions emanating from the inter-American and universal human rights systems, and any other obligations arising from international human rights commitments, for which purpose it was assigned the following functions: (a) to transmit decisions to the competent authority, instructing it to initiate investigations and determine individual responsibility for human rights violations; (b) to coordinate with the Ministry of Finance regarding the payment of material and non-material reparation to victims of human rights violations; (c) to coordinate with the relevant State agency on the measures to be taken in order to fully satisfy the obligations; (d) to draft amendments to laws in order to bring the legal framework into line with international human rights standards; (e) to coordinate with the Ministry of Foreign Affairs and Human Mobility on the implementation at the national level of any international instrument that entails international human rights obligations on the part of the State; and (f) to perform follow-up, monitoring and evaluation of compliance with national laws and policies on human rights, in order to incorporate the relevant data on this subject in the reports submitted by Ecuador to the treaty bodies.

254. The Office of the Deputy Minister for Human Mobility<sup>62</sup> has been part of the administrative structure of the Ministry of Foreign Affairs since June 2013. Its establishment as an office of a deputy minister is a recognition of its competence and will deliver greater benefits for Ecuadorians. The Ministry of Foreign Affairs now steers migration policy and is responsible for implementing public policies that include persons in a situation of mobility and for mainstreaming these policies in all State institutions as part of a comprehensive effort. Its purpose is to plan, direct and evaluate the management of policy on human mobility and migration-related, consular and asylum-related matters with a view to protecting and promoting the rights of Ecuadorians abroad and of foreigners in Ecuador through national and international coordination aimed at fulfilling the objectives of national development plans.

255. In March 2012, the Special Unit for the Truth Commission became the Office of the Commission of Truth and Human Rights, with the objective of coordinating and supporting investigations of human rights violations and crimes against humanity. It has the authority to act throughout the national territory. The former Special Unit for the Truth Commission was established on 25 November 2010 and investigated 118 cases for which there was documentation to support a judicial investigation.

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<sup>62</sup> The President of Ecuador, the economist Rafael Correa Delgado, pursuant to Decree No. 20 of 10 June 2013, “declares that the National Secretariat for Migrants shall become the Office of the Deputy Minister for Human Mobility and shall be incorporated in the administrative structure of the Ministry of Foreign Affairs, with all the competences, powers, programmes, projects and resources that it had prior to the implementation of this Executive Decree”.

256. The Special Unit for the Truth Commission was made up of prominent human rights activists from civil society. Its purpose was to carry out independent in-depth investigations based on victim and witness testimony and on State archives, even when these were classified or confidential. During its period of operation it investigated cases of extrajudicial killing, enforced disappearance, torture and arbitrary detention. The final investigation report was presented in June 2010 and documented a total of 118 cases, 17 of which related to enforced disappearances.

257. With regard to accepting the jurisdiction or competence of regional human rights organizations, on 8 December 1977 Ecuador ratified the American Convention on Human Rights, and on 24 July 1984, in conformity with article 62, paragraph 1, of the Convention, recognized as binding, ipso facto, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the Convention. In this connection, and pursuant to article 68, Ecuador undertook to comply with the judgement of the Court in any case to which it was a party and to allow the execution of the Court's judgement regarding compensatory damages in accordance with domestic procedure governing the execution of judgements against the State. Article 41 of the American Convention on Human Rights provides that the Inter-American Commission on Human Rights shall be entrusted with promoting respect for and the defence of human rights in the hemisphere, and shall be empowered, inter alia, to take action on petitions submitted to it by persons who claim their rights have been violated. In conformity with articles 41 (b) and 43, the Commission shall hear petitions and make recommendations to States for the adoption of measures aimed at halting and making reparation for violations and may request that States submit reports on measures they have taken in order to assess their effectiveness.

### **C. Framework within which human rights are promoted at the national level**

258. As has been indicated, the Constitution prescribes a broad framework linking the activity of the public authorities to efforts to ensure respect for human rights and the participation of the individuals, peoples, communities and nationalities who are the subjects of these rights and who set up social organizations to promote and defend them. This is illustrated by the fact that the right to participation, which is governed by article 61 of Title II of the Constitution, entitles Ecuadorian men and women to participate in matters of public interest and to be consulted about or to review acts of the administration. Likewise, the previously mentioned provisions on public policy safeguards envisage the participation of individuals, communities, peoples, nationalities and civil society organizations in formulating, implementing, evaluating and monitoring public policy and public services. Thus, public institutions at various levels of government guarantee the possibility of participating in their activities for the purposes of information, consultation and the joint formulation or reform of policies, projects, plans and so on.

259. In terms of promoting and providing training in human rights, and given the diversity of agencies that implement policies relating to rights, a number of institutional programmes exist at various levels of government. However, the institution mandated to promote human rights, both among the population and within the public sector, is the Ministry of Justice, Human Rights and Religion. The Ministry has a special office to advise individuals, peoples, communities and nationalities on how to exercise and assert their rights, offering face-to-face consultations and documentation, including handbooks and fact sheets on specific rights. The Ministry has also been carrying out media campaigns aimed at empowering citizens to assert their rights. The Human Rights Directorate of the Ministry of Justice, Human Rights and Religion is working to implement the recommendations of

the international human rights treaty-monitoring bodies through its publications (in 2013 chiefly on the subjects of women and children and adolescents) and through campaigns aimed at promoting human rights culture in the public sector and raising public servants' awareness of the need to perform their duties with full knowledge of and respect for human rights. As regards training in the public sector, the Human Rights Directorate trained 2,507 public servants in 2012; from January to August 2013 it trained 2,313 public servants from various State institutions such as the National Police, the Metropolitan Police, the Ministry of Defence, the Ministry of Sport, the Armed Forces, the Prison Service School and the Attorney General's Office. Workshops are based on participatory methods, with a cross-cutting approach to human rights, addressing issues arising from international obligations, the fundamentals of human rights, gender, collective rights, health-related rights, etc. In 2010 the National Education Directorate of the National Police established a comprehensive continuing professional development programme with the general objective of training all police officers on basic issues relating to police work with a human rights approach. The programme provided training for 23,516 police officers nationwide in 2011, 17,554 in 2012 and 5,600 from April to July 2013.

260. The Human Rights Directorate has worked with the programme on providing accreditation and refresher courses for the programme's human rights instructors. The instructors have also received training on issues relating to the rights of children and adolescents, in addition to the issues already mentioned.

261. The Directorate is currently collaborating with other institutions to revise the third human rights handbook for the police. In accordance with the judgement of the Inter-American Court of Human Rights in the case of *The Kichwa Indigenous People of Sarayaku v. Ecuador*, the Ministry of Justice, Human Rights and Religion and other public institutions, with the support of private institutions, have trained 145 police officers and military personnel on the issue of collective rights and prior consultation through the training module for the National Police and the Armed Forces on the collective rights of peoples and nationalities in Ecuador. The Human Rights Directorate, in conjunction with the National Postgraduate Study Institute (IAEN), is teaching the basic module on human rights. The module, which consists of 50 hours of teaching, is to be offered to the entire public service, and it is intended that 100 public servants from around the country will have completed it by the end of 2013.

262. Mention should also be made of the training programmes, media campaigns, specialized training courses, empowerment, guidance and participation in relation to such topics as human trafficking and smuggling and the rights of, inter alia, Afro-Ecuadorian peoples, indigenous peoples, communities and nationalities, children and adolescents, women, persons with disabilities and older persons that are sponsored and promoted at the national and international levels by institutions such as the Counsel General's Office, the Ministry of Foreign Affairs and Human Mobility, the Office of the Vice-President, the Ombudsman's Office, the Ministry of the Environment, the Ministry of Tourism, the Ministry of Economic and Social Inclusion, the National Police, the Office of the Deputy Minister for Human Mobility, the Ministry of Culture, public and private universities and schools, social organizations, neighbourhood boards, foundations, political movements and other public and private institutions.

263. Concerning bodies responsible for human rights, specific mention has already been made of the responsibilities of the National Assembly in this area, and of the duties of the regional, provincial, cantonal, metropolitan and parish councils to promote the enjoyment and exercise of the rights to, inter alia, movement and mobility, habitat and housing, water and food, a healthy environment, public security, and science and culture. In addition, details have been provided on the national bodies concerned with the protection and promotion of rights, including the national equality councils, the Public Defender Service

and the Ombudsman's Office. However, note should be taken of the fundamental role assigned in article 158 of the Constitution to the Armed Forces and the National Police as institutions for the protection of citizens' rights, freedoms and guarantees.

264. With regard to national budget expenditure on efforts to ensure the realization of rights, this figure can be determined only for the social rights set out in national policies such as those on social welfare, urban development and housing, education, health and employment. Included below are the available data from the Ministry of Finance on annual budget spending in the social sector in 2008 and 2009.<sup>63</sup>

### National budget

	<i>Initial annual appropriation</i>	<i>Annual adjustment</i>	<i>Annual approved funding</i>	<i>Annual allocation</i>	<i>Annual funds received</i>	<i>Annual expenditure</i>
Annual budget spending/2008 expenditure by sector						
Social welfare	91 059 276.47	42 240 314.07	133 299 590.54	115 354 693.40	115 293 417.45	114 401 731.52
Urban development and housing	362 833 535.25	127 626 274.92	490 459 810.17	451 737 214.67	451 426 969.69	444 140 861.88
Education	213 211 154.37	252 692 546.20	465 903 700.57	304 004 557.31	303 210 502.17	295 240 689.76
Health	180 526 123.05	5 881 714.43	186 407 837.48	152 589 703.47	152 582 953.47	150 604 002.34
Employment	9 280 815.00	4 198 335.12	13 479 150.12	13 071 751.14	13 071 751.14	12 696 374.87
<b>Total</b>	<b>856 910 904.14</b>	<b>432 639 184.74</b>	<b>1 289 550 088.88</b>	<b>1 036 757 919.99</b>	<b>1 035 585 593.92</b>	<b>1 017 083 660.37</b>
Annual budget spending/2009 expenditure by sector						
Social welfare	144 411 428.32	74 219 045.14	218 630 473.46	85 634 579.42	73 717 627.63	68 355 583.45
Urban development and housing	382 648 734.77	-240 808 287.18	141 840 447.59	94 087 162.90	84 012 784.73	81 531 592.28
Education	411 203 312.80	-169 570 501.21	241 632 811.59	107 773 382.04	74 103 905.54	72 188 894.57
Health	243 763 058.63	-131 561 925.26	112 201 133.37	62 389 119.45	49 275 640.07	38 459 873.18
Employment	12 116 236.26	3 747 986.34	15 864 222.60	5 441 002.50	5 290 368.88	5 008 983.97
<b>Total</b>	<b>1 194 142 770.78</b>	<b>-463 973 682.17</b>	<b>730 169 088.61</b>	<b>355 325 246.31</b>	<b>268 400 326.85</b>	<b>265 544 927.45</b>

### D. Reporting on the implementation of international obligations

265. The task of preparing national reports for the international treaty-monitoring bodies is entrusted, pursuant to Executive Decree No. 1317 of September 2008, to the Ministry of Justice, Human Rights and Religion. Article 2.7 of the Decree provides that the Ministry is to participate jointly with the Ministry of Foreign Affairs and Human Mobility in the process of drafting and validating the State's reports to the human rights committees and treaty bodies through a process of public coordination, and that responsibility for presenting the reports before the treaty bodies falls to the Ministry of Foreign Affairs.

<sup>63</sup> Source: the report of the Republic of Ecuador on the rights of young people, as set out in the Ibero-American Convention on the Rights of Youth.

## **E. Follow-up to international conferences**

266. Ecuador participated in the Durban Review Conference, held in Geneva in April 2009, where it reported on the major achievements in its efforts to eliminate racial discrimination.

## **F. Non-discrimination and equality measures**

267. As mentioned previously, the Constitution sets out the principles governing the interpretation of rights, including, in article 11, paragraph 2, the principle of equality and non-discrimination. This article refers to certain innate and other attributes of individuals that form part of their identity and personality, such as nationality, ethnicity, religion, gender identity, sex and criminal record, but also makes an explicit reference to the prohibition of discrimination on the basis of any other personal or collective, temporary or permanent distinguishing feature that has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of the rights recognized in the Constitution or in international instruments. In addition, the article stipulates that all forms of discrimination shall be punishable by law, and that the State shall undertake affirmative action to promote genuine equality for rights-holders in a situation of inequality. In addition, among the freedom rights, it is worth highlighting the right to formal equality, material equality and non-discrimination, which is referred to in article 66, paragraph 4.

268. On this basis, laws, policies, judicial rulings and any other pronouncement by the authorities must promote equality and affirmative action measures for individuals subjected to discrimination or to inequality in the exercise or enjoyment of their rights. At the legislative level, the Constituent Assembly and the Legislation and Oversight Commission — the institution entrusted with exercising the powers of the National Assembly until the establishment of the latter in August 2009 — drew up the basic laws for promoting equality, such as the Reform Act on Tax Equity in Ecuador, the Organic Act on Elections and Political Organizations, the Organic Act reforming the Organic Act on the Civil Service and Public Administration and Standardization and Harmonization of Public Sector Remuneration and the Labour Code, the Organic Act on Food Sovereignty and the Act reforming the Code of Criminal Procedure.

269. These laws are aimed at achieving the following: the equitable distribution of wealth through taxation, in keeping with the principle of proportionality whereby those with higher incomes pay more; access to the means of production by campesinos and others in the farming and fishing sector; the introduction of a system of alternatives to imprisonment and a redefinition of criminal offences to prevent people from being imprisoned because they are poor; and 12 weeks' paid maternity leave for working women and 10 days' paternity leave for men. One of the most important reforms was to include hate crimes in the Criminal Code, in conformity with article 81 of the Constitution, which stipulates that the law shall establish special, expedited procedures for the prosecution and punishment of domestic or sexual violence, hate crimes and offences perpetrated against children, adolescents, young people, persons with disabilities, older persons and persons who for some reason require greater protection, and which mandates the appointment of specialized prosecutors and defence counsel to argue such cases, in accordance with the law.

270. Accordingly, under the current Criminal Code, any person who has been attacked or harassed for belonging to a particular group may lodge a complaint with the prosecution service. Specifically, the Code stipulates that murder accompanied by hatred or contempt on grounds of race, religion, national or ethnic origin, sexual orientation, gender identity, age, civil status or disability shall be punishable by 16 to 25 years' rigorous imprisonment (maximum regime). Another serious offence is public incitement to hatred or contempt, or

any form of mental or physical violence against one or more persons on the basis of their skin colour, race, sex, religion, national or ethnic origin, sexual orientation or identity, age, civil status or disability, which shall be punishable by six months' to three years' imprisonment. Furthermore, anyone who commits hate-based acts of mental or physical violence shall be liable to a penalty of six months' to two years' imprisonment. It is important to draw attention to the definition as a criminal offence of acts committed by persons who, in the exercise of their professional, commercial or business activities, deny a service or benefit to, or exclude, infringe, refuse to recognize or restrict the constitutional rights of, an individual on grounds of his or her skin colour, race, religion, national or ethnic origin, sexual orientation or identity, age, civil status or disability, as well as by public servants who deny or delay a procedure or service to an individual on the same grounds. Such acts shall be punishable by one to three years' imprisonment and, in the case of public servants, ineligibility to perform their duties for the duration of their imprisonment.

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