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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Ecuador**

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## Introduction

1. The Republic of Ecuador hereby submits its second national report to the Human Rights Council, for the second cycle of the universal periodic review, in accordance with General Assembly resolution 60/251 and Council resolutions 5/1 and 16/21, as well as Council decision 17/119.
2. Human rights considerations have guided the main social, economic and political changes under way in Ecuador since 2007. The country today is enjoying peace, stability and economic growth, which has brought about major improvements in the population's living standards. As a result of the social and political turbulence in the country's recent past, Ecuador had nine different Governments between 1996 and 2006. The country went through a period of great uncertainty and instability.
3. The winner of the presidential elections in 2006 was Rafael Correa Delgado. He competed against the traditional political parties on a broad democratic platform whose policies and discourse were, and still are, firmly rooted in human rights and what is defined as "good living" (*buen vivir*), the loftiest notion of meeting people's needs, in other words, achieving the full realization of their fundamental rights.
4. The first major change introduced at the beginning of this new period in the country's history was the approval by referendum of the new Constitution, which ushered in a new model for the State and for development that focuses on people and the environment. Since then a number of structural changes have been made to the State apparatus, public services and the country's economic, environmental, social and cultural policies. These have succeeded in mobilizing the population and achieving levels of popular support never seen before in the country's recent history. According to the latest polls, the Government enjoys an 80 per cent approval rating without being in the middle of an election campaign. In other words, the people have regained their belief and trust in the political system and, hence, in their civil and political rights as well.
5. Ecuador has been a responsible member of the Human Rights Council, upholding the fundamental principles of international human rights law and arguing that the fundamental mission of the body is the promotion of peace and multilateralism. Ecuador has adopted positions of principle during the recent international crises, denouncing attempts to manipulate the Council politically for economic or geopolitical ends or to use it to legitimize military intervention.

## I. Methodology and consultation process

6. An inter-agency team, comprising the Ministry of Foreign Affairs, the Ministry of Justice, Human Rights and Religion, and the National Secretariat of Planning and Development, was set up to prepare this report. The team met according to a road map drawn up in accordance with the Council's reporting guidelines.
7. With the support of the Office of the United Nations High Commissioner for Human Rights in Ecuador, workshops and meetings were held with public bodies and non-governmental organizations in October, November and December 2011 in the cities of Quito, Cuenca and Guayaquil to gather input for the report. The work done during those three months also helped establish the link between public policies and the human rights agenda.
8. Government agencies reported on their implementation of the recommendations made to Ecuador in the country's first periodic review in 2008 and the commitments it had

made then. They also submitted information on the projects, programmes and activities carried out to promote and protect human rights in the period 2008–2011. Interviews were held with stakeholders, and citizens were able to participate throughout the process by submitting their recommendations and observations to the Government in hard copy or via a special link on the Ministry of Justice’s web page.

## II. The new Constitution and framework for public policy

9. The new Constitution adopted in 2008 recognizes Ecuador as a constitutionally established State governed by the rule of law and justice, whose primary obligation is the direct and immediate protection and guarantee of human rights. The Constitution establishes advanced mechanisms for safeguarding human rights and is structured around priority issues.

10. To safeguard the rights set forth in the Constitution and international human rights instruments, the State promotes the rights to equality and good living as cross-cutting themes of State action and stresses the need to uphold the rights of communities, peoples and nationalities. The State also promotes citizens’ right to participate in all public affairs through direct, community-based, representative democracy, guarantees the protection of groups that require priority attention and, in a truly progressive move, recognizes and promotes the rights of nature.

11. The Constitution has created a decentralized State. There is now an electoral branch and a transparency and social control branch, which together with the executive, the legislature and the judiciary, guarantee the introduction and development of democratic mechanisms that guarantee the participation of the people in public life and monitor the exercise of public power. This has ensured the participation of the citizenry in the election of the authorities in charge of the oversight bodies and in the processes undertaken to tackle corruption in the public and private sectors.

12. As mandated under the Constitution and in order to safeguard the rights to life, liberty and integrity of the person, efforts have been made to strengthen institutions such as the Public Defender Service (*Defensoría Pública*), which is responsible for providing legal counsel and representation to people who cannot afford them, and the Prosecutor-General’s Office (*Fiscalía General del Estado*). These efforts include programmes such as the witness and victim protection scheme, whose objective is to make sure people are not victimized twice and to avoid situations in which their physical or psychological welfare is in danger.

13. To protect the constitution-based democratic system, the Constitution provides for the establishment of a constitutional court as the highest body for the interpretation and observance of the Constitution. The court is responsible for upholding the supremacy of the Constitution and safeguarding human rights.

14. Since the human rights agenda received a boost under the new Constitution, the Ombudsman’s Office (*Defensoría del Pueblo*), as the institution responsible for protecting and promoting human rights and the rights of nature, has been strengthened. Its powers include: verifying, on its own initiative or as requested, the effectiveness of legal safeguards and rights-protection mechanisms; investigating facts or incidents that involve human rights violations; ensuring that the right to due process is upheld; and preventing all kinds of cruel, inhuman or degrading treatment.

15. The 2009–2013 National Plan for Good Living guides all State policies, programmes, projects and investments, as well as the State’s allocation of public resources and the coordination of the exclusive powers of the central State and the autonomous decentralized local governments. This public policy instrument ensures that public policies

are in line with the Constitution. Each of the plan's objectives are linked to the human rights agenda and to the following themes: equality, cohesion, and social and territorial integration in diversity; quality of life; the rights of nature and the rights to a healthy and sustainable environment; sovereignty, peace and integration with Latin America and the Caribbean; stable, fair and decent employment; interculturality, national identity, diverse identities and plurinationality; rights and justice; public and political participation; a social, solidarity-based and sustainable economic system; and democracy for good living.

### **III. Promotion and protection of human rights**

#### **Rights related to good living**

16. *Sumak kawsay* or “good living” is enshrined in the Constitution in order to reinstate the notion of the common good that forms part of the world view of the indigenous peoples of the Americas, especially in the Andean region. Chapter II of the Constitution establishes the rights related to good living, whose implementation and protection are fundamental to Ecuador and whose precepts must be obeyed for people to be able to lead a dignified life. These are the rights associated with water and food and the rights to a healthy environment, communication and information, culture and science, education, habitat and housing, health, and work and social security. Their classification as “good living” rights endows them with a different status from other constitutional rights, which has implications for public policymaking and legislation on development matters.

#### **The fight against poverty**

17. In recent years, Ecuador has made unprecedented efforts to combat poverty through the comprehensive social policies set out in the Sectoral Agenda for Social Development. Economic growth was needed to ensure their success, and in fact reached 8 per cent in 2011; public-sector investments were increased from 5.3 per cent of GDP in 2006 to 13.8 per cent in 2010, the highest level in Latin America.

18. The increase in public investment was achieved largely by reasserting State control over crude oil production and increasing the State's share in petroleum sales, which has brought in additional revenues of US\$ 46 million for each one-dollar rise in the price per barrel. Meanwhile efforts to improve tax collection and reduce tax evasion and the introduction of a more progressive tax system (those who have more pay more) enabled Ecuador to double its tax revenue, from US\$ 4,673 million in 2006 to US\$ 9,561 million in 2011, and to increase the proportion of direct taxes in total tax income from 38 per cent to 43 per cent.

19. Ecuador has also managed to reduce external debt service payments, as a proportion of the State budget, from 40 per cent to 22 per cent, thanks to a debt audit undertaken by the Government jointly with civil society in 2007–2008. The audit uncovered the illegitimacy of large tranches of the external debt, especially the commercial debt, which made it possible to extinguish approximately US\$ 3 billion of the principal and eliminate annual debt service payments of US\$ 331.2 million.

20. As a result, social investment has soared in the past five years, from US\$ 1,980 million in 2006 to US\$ 5,197 million in 2011.

21. During the Government's first five years in power, i.e. from 2006 to 2011, the national poverty rate dropped from 37.6 per cent to 28.6 per cent; the rural poverty rate fell from 60.6 per cent to 50.9 per cent; and the urban poverty rate from 25.9 per cent to 17.4

per cent. The extreme poverty rate, meanwhile, fell from 15.7 per cent in 2008 to 13.1 per cent in 2010.

22. Between 2006 and 2011, the income ratio between the richest and poorest deciles in urban areas dropped by 10 points. The income of the poor rose by 56 per cent in relation to the income of the rich.

23. A breakdown by ethnic group shows that the poverty rate of Afro-Ecuadorians, in terms of income, fell from 44.7 per cent to 38.8 per cent and, in terms of unsatisfied basic needs (UBN), from 64.1 per cent to 47.4 per cent. Poverty among the indigenous population also declined, albeit less notably, by slightly over 1 per cent in income terms and almost 2 per cent in UBN terms. The poverty rate of the mestizo population, meanwhile, dropped from 32.4 per cent to 28.8 per cent in income terms and from 43.2 per cent to 36.3 per cent in UBN terms.

24. The value of the “human development voucher” rose from US\$ 15 per month in 2006 to US\$ 35 per month in 2010. Of the 1.8 million beneficiaries, 67 per cent are mothers, 28 per cent are older people and 4 per cent are persons with disabilities. The vouchers are now based on recipients meeting certain conditions, unlike the welfare handouts of the past. The present Government has also issued over 700,000 “human development loans” to people who previously had no access to credit and now own their own businesses.

25. A child development programme has been introduced to ensure the comprehensive protection of the rights of children under 5 who live in poverty or extreme poverty. The goal is for the children to be able to develop to their full potential in harmony with their sociocultural background and their environment, by involving the State, society and the family as partners in their day-to-day care, with shared responsibility for their health, nutrition, recreation and upbringing.

26. These tremendous efforts have received international recognition. In the report of the Economic Commission for Latin America and the Caribbean (ECLAC), *Social Panorama of Latin America 2011*, Ecuador was ranked second in the region in terms of poverty reduction.

27. With regard to the distribution of wealth in the country, the ratio between the income of the richest and the poorest deciles shrank from 34.8:1 to 27.14:1 between 2008 and 2010. The Gini coefficient for Ecuador fell from 0.551 in 2007 to 0.473 in 2011.

## **Right to water**

28. The Constitution of 2008 recognizes access to water as a fundamental, inalienable right and water as a strategic national asset that is for public use and immune to seizure or withdrawal. Any form of privatization of this vital element is therefore prohibited, and the Constitution stresses the link between the right to water and other rights. The State is solely responsible for supplying water to all of society on a non-commercial basis and for doing so in keeping with the principles of environmental sustainability, safety, contingency planning and efficiency.

29. Between 2006 and 2011, the proportion of Ecuadorian homes connected to the water mains rose by 10 percentage points, from 68 per cent to 78 per cent, a landmark achievement for national public policy in the area of access to a public good that facilitates the exercise of a number of other rights, such as the right to health.

30. The water authority in Ecuador is the National Water Secretariat (SENAGUA), which promotes the application of international human rights standards in its strategic

projects so as to ensure that the right to water, as a public good, is fully enjoyed by all the people of Ecuador.

### **Food sovereignty**

31. The principle of food sovereignty and the right of all individuals and communities to secure and permanent access to healthy, sufficient and nutritious food are enshrined in the Constitution.

32. In order to realize this right, the Government has implemented a number of programmes since 2008, including the nutrition action programme, the “Alimentate Ecuador” food programme, which covers various healthy-eating projects, school meals programmes and production programmes designed to promote economic inclusion. The State also subsidizes certain food staples to mitigate the impact of price rises since 2008, and over half a million children have received food and nutrition supplements through child welfare services.

33. Thanks to the action taken by the Government to combat poverty, the average family income now covers 85.3 per cent of the basic food basket, as compared with barely 64 per cent in 2006.

### **Right to a healthy environment**

34. The State recognizes the people’s right to live in a healthy and ecologically balanced environment that guarantees sustainability and good living. The conservation of the environment, of ecosystems, biodiversity and the integrity of the country’s genetic heritage is declared to be in the public interest. The State therefore promotes the use of alternative, non-polluting or low-impact technologies.

35. By 2010, 29.2 per cent of national territory was under an environmental conservation or management scheme. This is very close to the 30 per cent target set under the Conservation Plan for 2013. At the end of 2011, 812,000 hectares were protected under the Forest Partners Programme, in which people or associations receive a financial incentive for voluntarily agreeing to protect their native forests.

36. To reduce negative impacts on the environment, the Government plans to have over 90 per cent of electricity generated by hydropower by 2020. Since 2008, several hydroelectric power stations have been opened, and a number of large hydroelectric facilities are currently under construction.

### **Freedom of expression**

37. The State of Ecuador guarantees all its inhabitants the right to free, intercultural, inclusive, diverse and participative communication in all areas of social interaction, by any form or means and in their own language or symbols, as well as the right to information that is uncensored and conveyed in a responsible fashion via good-quality transmitters and receivers.

38. Universal access to information and communications technologies is another established right since it is essential for the realization of other fundamental rights and for creating and expanding the opportunities for personal development and material prosperity of individuals and collectives alike. The Constitution also protects the right to seek, receive, exchange, produce and disseminate truthful, verified, opportune, contextualized information obtained from multiple sources.

39. The right to have access to, and use of, public, private and community radio and television frequencies is also guaranteed in the Constitution, and monopolistic or oligopolistic ownership of the airwaves is prohibited. In that regard, since May 2011, the Government has assigned radio frequencies and radio equipment to 14 indigenous communities.

40. Citizens' rights are still being violated by certain private media enterprises. Insults and libellous statements continue to be broadcast by the media, which are being exploited by economic and political groups for purposes that subvert their role as information providers and communication channels. Ecuador will continue working to ensure that the right of the population to receive truthful and timely information is respected and that the integrity and honour of those who are insulted on a daily basis by certain media outlets is protected.

### **Right to decent work**

41. Policies to support the production sector and boost job creation have succeeded in lowering the unemployment rate from 7.93 per cent in 2009 to 5.07 per cent in 2011, and the underemployment rate from 51.07 per cent to 44.20 per cent over the same period. In 2011, the percentage of workers registered with the social security system stood at 59.7 per cent, up from 42 per cent in 2008.

42. The State has engaged in affirmative action by establishing minimum quotas in the public and private sectors for the employment of members of priority groups or persons who are in particularly vulnerable situations, such as persons with disabilities, indigenous persons, people of African descent, Montubio people and pregnant women, in order to give them stable and decent work.

43. Outsourcing, employment on an hourly basis, hiring agencies and any form of employment that increases job insecurity have been prohibited. These forms of exploitation were common in the country until 2006.

### **Right to education**

44. The Constitution of 2008 states that persons have a right to lifelong education and that the provision of education is a mandatory duty of the State. Education is a priority of both public policy and social investment. It is also a guarantor of equality and social inclusion and an essential condition for good living.

45. The Government has made major efforts to reform the education system at all levels, adopting a humanistic and holistic approach that pursues inclusion, effectiveness and excellence at the highest level. To that end, the State increased investment in education from 2.5 per cent of GDP in 2006 to 5.5 per cent at the close of 2011.

46. Education is now obligatory up to the end of high school and free up to tertiary level. To improve performance in school, children from poor areas receive free meals, free textbooks and free uniforms. Between 2008 and 2011, the enrolment of young people in education grew by 3.3 per cent. The net enrolment rates in basic education (first 10 years, usually up to the age of 14 or 15) over the same period rose from 93 per cent to 95.4 per cent. The net enrolment rate for high-school education rose from 53.2 per cent to 62.5 per cent, also over the same period.

47. In the last five years, the proportion of people receiving a university education increased as follows: from 7.1 per cent to 17.2 per cent among the low-income population; from 9.5 per cent to 17.8 per cent among the Afro-Ecuadorian community; and from 6.5 per

cent to 14 per cent among the indigenous population. The net enrolment rate in higher education in 2011 was 33.6 per cent for women and 28.3 per cent for men.

48. Spending on research and development rose from 0.20 per cent of GDP in 2006 to 0.48 per cent of GDP at the end of 2010. The goal is to increase such spending to 1.5 per cent of GDP by 2013.

### **Right to habitat and housing**

49. The new Constitution guarantees the right to a safe and healthy habitat and to adequate and decent housing. To protect this right, the Ministry of Urban Development and Housing issued 203,365 housing vouchers between 2006 and 2010. Through the involvement of the decentralized autonomous municipalities, the proportion of people living in housing that has water and sewage facilities reached 65.5 per cent in June 2011. In rural areas, the housing supply increased by 9.2 per cent between 2002 and 2011, twice the rate recorded in the urban sector. For its part, the Bank of the Ecuadorian Social Security Institute has issued 8,968 mortgages totalling over US\$ 200 million.

50. The percentage of homes connected to basic services increased by 10.4 per cent in the Afro-Ecuadorian population and by 0.9 per cent among the indigenous population. The number of people living in overcrowded conditions fell from 17.8 per cent in 2008 to 13.3 per cent in 2011. The number of homes that do not meet minimum standards for human habitation fell from 21.2 per cent in 2009 to 17.9 per cent in 2011.

51. In June 2011, 70.4 per cent of Ecuadorian homes were owner-occupied, compared with 65.7 per cent in 2006, when 46.9 per cent of those homes were of poor quality or unfit for human occupation. The proportion of people living in a decent home that they own has therefore increased.

### **Right to health**

52. Health is a State-guaranteed right, the fulfilment of which is linked to the exercise of other rights, including the rights to water, food, education, physical exercise, work, social security, a healthy environment and other rights that contribute to good living. The current Government invested US\$ 3,539 million in health between 2007 and 2010, over twice the amount invested by the three previous Governments.

53. Ecuador is working to eradicate chronic malnutrition and anaemia in children under the age of 5. In 2006, the malnutrition rate from all causes nationwide stood at 26 per cent; by 2010, it had dropped to 22 per cent.

54. By 2010, a total of 497 hospitals and health centres had been refurbished and 155 ambulances, 6 operating theatres and 2 mobile cancer units had been put into service around the country. Consultations in public health facilities tripled from 95 per 100 inhabitants in 2006 to 243 per 100 inhabitants in 2010, reflecting the improvement in health-care coverage. A total of US\$ 184 million has been spent each year on the provision of free medicines on the understanding that medicines are social, and not commercial, goods. The country has an extensive vaccination programme that benefits 4 million people.

55. Life expectancy at birth rose from 75.2 years in 2008 to 75.6 years in 2011. The percentage of neonatal deaths recorded in 21 hospitals fell from 7.3 per cent in 2008 to 5.6 per cent in 2010. The mortality rates for tuberculosis and for intestinal illnesses and diarrhoea fell from 4.8 per cent and 2.5 per cent, respectively, in 2008, to 3.9 per cent and 1.8 per cent in 2010.

56. In the area of preventive medicine, laws have been passed to promote sport, physical education and recreation and to regulate and control tobacco.

57. The Ministry of Health has also launched a programme under the national nutrition strategy, called “Zero Malnutrition”, which aims to eliminate malnutrition among infants during the first year of life in 303 selected parishes.

### **Civil and political rights**

58. The Constitution guarantees free access to justice and effective, impartial and prompt legal remedies in all human rights proceedings, in keeping with the principles of immediacy and celerity, and sanctions both public and private authorities that fail to comply with judicial decisions.

59. The application for a protective remedy provided for in the 2008 Constitution, in addition to complying with international standards as a fair, appropriate and effective remedy, seeks to provide comprehensive and informal redress that is directly and immediately applicable and that is not of a subsidiary nature. The application for a special protective remedy provided for in the Constitution guarantees the protection of rights that might be violated in sentences handed down by the ordinary courts, provided that all ordinary and extraordinary remedies have been exhausted. The Constitution thus acts as a double safeguard, of judicial independence and of the rights to due process, liberty and protection, among others. This safeguard enables people to take action when their rights to due process or other constitutional rights are violated.

60. In May 2007, the Truth Commission was established by presidential decree to investigate and shed light on the serious human rights violations allegedly committed in 1984–2008. In June 2010, the Commission submitted a report on 118 cases of human rights violations to the Prosecutor-General’s Office. The cases were grouped according to the type of violation involved: deprivation of liberty, torture, sexual violence, extrajudicial execution, violation of the right to life and enforced disappearance. The Commission also issued recommendations on mechanisms for ensuring reparation, restitution and rehabilitation and for ensuring that such violations never occur again.

61. For the first time, Ecuadorians living abroad, members of the Armed Forces and the police, persons deprived of their liberty and young people over the age of 16 have been granted the right to vote, which they exercised in the most recent elections.

## **IV. Follow-up to the recommendations made to Ecuador during its first review in 2008**

### **Prison reform, improvement of the conditions of detainees and follow-up mechanisms (recommendations 1, 4 and 5)**

62. The new Constitution promotes a comprehensive rights-based approach to social rehabilitation that aims to develop the skills of convicts so that when they regain their freedom they can exercise their rights and fulfil their duties. Persons deprived of their liberty are also considered to be a priority group for State action.

63. A new social rehabilitation system has been introduced that goes beyond the former punitive vision of imprisonment. In 2010, the Government built new detention centres and refurbished, repaired, expanded and equipped existing prison facilities.

64. The shortfall in capacity of the country's detention centres fell from 116 per cent in 2008 to 64 per cent in 2011. Public investment in the sector rose by a factor of 15, from US\$ 10 million in 2007 to US\$ 150 million in 2011, which has reduced prison overcrowding from 170 per cent in 2007 to less than 70 per cent in 2011.

65. Detention centres now have psychology, education, labour and social departments, and prison meals have improved considerably. Libraries and workshops for developing various skills have also been set up to train inmates and direct them towards productive activities. The right of detainees to receive visits from relatives and for their children to be looked after is also respected. Health services have been improved, and psychological and emotional counselling is provided to detainees and their relatives, as well as information on how to prevent the spread of infectious and contagious diseases.

66. The Public Defender's Office is the autonomous judicial body responsible for safeguarding the right of all persons to free access to justice and the effective, impartial and prompt protection of their rights and interests and for ensuring that a proper defence is mounted in every case.

67. A training academy was opened in 2011 to prepare administrative and technical staff, as well as prison officers and security guards, for work in the prison system. The academy provides human rights training, as well as courses in science, technology and methodology. Agreements have been signed with the Office of the Human Rights Advocate-General (*Procuraduría General de Derechos*) of the Dominican Republic and the French National School of Prison Administration on cooperation in this area. There were 492 students at the academy in December 2011.

68. In compliance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in November 2011 the Ombudsman's Office was designated the national mechanism for the prevention of the aforementioned crimes in the country's prisons.

## **Human rights training for the police (recommendation 2)**

69. Human rights training for the police force is mandatory under the Constitution. Theoretical and practical training is now given by instructors specializing in human rights, citizens' security and the progressive use of force to all provincial police units as part of the new comprehensive continuing professional development programme.

70. Various training activities on the following topics have been arranged: migration, non-discrimination, domestic violence, childhood and adolescence, the fight against human trafficking, citizens' security and the rights of persons with different sexual orientations or gender identities. Police working in the northern border area have followed courses for human rights instructors and courses to upgrade their skills and knowledge. The police have emergency protocols for handling domestic and sexual violence cases, as well as for dealing with the victims of gender-based violence, and a rights-based approach is applied in police procedures.

71. With the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), regulations have been issued to regulate arrest and detention procedures, the progressive use of force and lethal and non-lethal weapons, as well as the use of firearms and psychological support.

### **Eradication of child labour (recommendation 3)**

72. The Constitution provides for the implementation of policies to progressively eradicate child labour and establishes special protection against any form of labour or economic exploitation. Several measures, in addition to the removal of financial barriers to education, have been introduced: incentives for enrolling in the education system; fast-track education programmes; occupational training; after-school support; improved primary health care; and awareness-raising about child labour for employers, parents, teachers and local institutions.

73. A national plan for the prevention and progressive eradication of child labour has been drawn up to implement these measures. The plan is linked to the National Plan for Good Living, the policies of the national 10-year plan for the comprehensive protection of children and adolescents and the 2007–2010 social agenda for children and adolescents.

74. Thanks to the joint efforts of civil society and the Government, the provision of health and education services and the promotion of peaceful coexistence, Ecuador was able to declare the eradication of child labour in garbage dumps in 2011.

75. Since 2010, a total of 125,280 children, adolescents, older people and persons with disabilities who had been reduced to begging have benefited from the grants and assistance given to their families by the School Support Centre.

76. Child labour has been reduced by more than half as a result of these actions, falling from 3.8 per cent in 2007 to 1.5 per cent in 2011. The percentage of children and adolescents aged between 5 and 17 who are not in school for financial reasons dropped in the last five years from 61 per cent to 49 per cent nationwide, from 52 per cent to 43 per cent among the Afro-Ecuadorian population, and from 61 per cent to 47 per cent among the indigenous population.

### **The gender-perspective in the follow-up to the universal periodic review (recommendation 6)**

77. Ecuador has mainstreamed the gender-perspective in all public policies, programmes and projects. Each year a gender-sensitive budget is drawn up using a technical tool known as the “Equality Catalogue” which registers and monitors the resources allocated by gender with a view to redressing imbalances and narrowing gaps. This enhances transparency and accountability and facilitates decision-making as regards the allocation of State funds.

78. To protect working women, labour legislation prohibits the dismissal of pregnant women, provides for 12 weeks’ paid maternity leave, guarantees women their jobs will be available on their return from maternity leave and shortens the working day to six hours for nursing mothers. For the sake of gender equity and to encourage the sharing of responsibilities in the home, paternity leave is also provided for.

### **Combat discrimination on the grounds of sexual orientation and gender identity (recommendation 7)**

79. Since 2008, Ecuador, in keeping with the Constitution, which states that all persons are equal and have equal rights, duties and opportunities, has taken steps to end the violation of the rights of the gay, lesbian, bisexual, transsexual, transgender and transvestite community.

80. Currently various types of families and same-sex unions are recognized, as well as their associated rights regarding taxation, social security and inheritance. In accordance

with the Constitution, the Civil Registry was instructed by the judiciary in 2009 to change the records of persons whose gender identity is different from that indicated by their biological characteristics at birth.

### **Eradication of gender-based violence and domestic violence (recommendation 8)**

81. The Constitution recognizes the right to live a life free from violence in both the public and private realms. To protect that right, the Government is setting up a specialized body of judges to tackle violence against women and domestic violence. This body will replace the offices of commissioners for women and the family.

82. Ecuador is carrying out a national plan to eradicate gender-based violence against children, adolescents and women. The plan involves various activities and services, including: a survey of gender-based violence; the transformation of sociocultural patterns; a campaign entitled "React, Ecuador: Machismo is Violence"; special care units in public hospitals; comprehensive care centres; rights-protection centres; and shelters for victims of sexual exploitation and violence.

### **Reform of the judicial system (recommendation 9)**

83. Ecuador has begun to carry out major judicial reforms. The Ecuadorian people have been able to express their opinion on the process through the consultation and the referendum held in May 2011. The Transition Council of the Judiciary is already implementing a strategically targeted restructuring programme.

84. The programme includes the provision of continuing professional development training for judiciary staff, the introduction of a new salary scheme in which promotions and job stability are based on merit, and the creation of a new judicial training institution. The process to select the judges who will serve on the National Court has started. The process will be a public and transparent one in which candidates compete on merit and gender parity is taken into account. A new model for the management of the judiciary has been designed to guarantee access to justice and the provision of timely, efficient, effective and high-quality services.

85. The judicial reform process also includes an ambitious building and refurbishing programme and the installation of new information systems and equipment.

86. These improvements mark the end of a slow, antiquated and corrupt justice system in which human rights were repeatedly violated and court cases were for decades the subject of complaints to international human rights bodies.

### **Combating trafficking in persons (recommendation 10)**

87. In December 2010, the Government updated the national plan, adopted in 2006, to combat human trafficking, smuggling of migrants, sexual, labour and other forms of exploitation, and prostitution of women, children and adolescents, child pornography and corruption of minors. The update focuses on four areas: prevention, punishment, reparation and international cooperation.

88. In September 2011, the Ministry of the Interior assumed responsibility for the coordination of the national plan for the prevention and punishment of trafficking in persons and the full compensation of victims, and a unit was set up to combat trafficking in

persons and the smuggling of migrants. The judicial police also created a special anti-trafficking unit in August 2011.

89. Road maps and single protocols are being drawn up with a view to establishing a common policy for handling complaints and the care of victims so as to avoid overlaps in investigations and the duplication of efforts to combat and prevent trafficking. Government agencies and civil society are to participate in the process.

90. The National Council for Children and Adolescents works to eliminate all forms of violence and cruel or degrading treatment, including trafficking. It monitors and processes complaints and organizes training for communities, educational institutions, justice personnel and other agencies. In 2011, several training and technical assistance activities were arranged nationwide.

91. Continuing training for the military and the police in the northern border area is coordinated with the International Organization for Migration, and provincial workshops on access to basic services are given to refugees and migrants. Action is being taken to prevent, monitor and control the forced recruitment of people into military organizations, and to restore the rights of victims of this crime.

92. The Ministry of Tourism raises awareness of sexual exploitation among the country's tourism and business sectors and regulates their activities in this area. It coordinates efforts to identify ways to restore victims' rights and holds events to sensitize tourism operators to the issue.

93. With civil society support, a manual was drawn up on procedures to control and monitor the commercial sexual exploitation of children and adolescents and a briefing document was published on the use of indicators in legal proceedings to determine the situation of children and adolescents, with a special emphasis on trafficking.

## **V. Successes, best practices, challenges and limitations**

### **Priority groups**

94. The Government has arranged for unprecedented levels of support for persons with disabilities. The scale of the public-sector support surpasses that found in other countries, in Latin America or elsewhere.

95. On 23 May 2007, the Government made the prevention of disabilities and the handling of disability issues a matter of State policy to be addressed by the Office of the Vice-President. In 2008, 21 articles and one transitory provision of the new Constitution reaffirmed the obligation to protect the rights of persons with disabilities, as well as the State's responsibility for discharging that obligation.

96. It was within that legal framework that the Office of the Vice-President signed an inter-agency cooperation agreement on 15 November 2009 with nearly all the agencies of the State for the joint execution of the Manuela Espejo Mission of Solidarity and the Joaquín Gallegos Lara Mission of Solidarity.

97. The Manuela Espejo Mission of Solidarity started out as a scientific-medical research facility seeking to identify the causes of disabilities and implement State policies on the protection and promotion of rights.

98. From July 2009 to November 2011, teams from the Mission visited 1,286,331 Ecuadorian households in 24 provinces and 221 cantons and located and studied the situation of 294,611 persons with disabilities. These persons were provided with a full

range of care services as part of the response phase of the project. Specifically, medical attention was provided to persons with disabilities or to their relatives in 825,576 instances; geneticists held 21,062 consultations and other specialists 35,257; and 26,327 critical cases were identified and emergency treatment promptly provided by the public health network.

99. The Mission also delivered technical aids to those in need, such as special mattresses and cushions, wheelchairs and other devices. For its part, the Ministry of Housing provided 2,500 homes in 2010 for persons with disabilities and a further 1,900 in 2011.

100. The Labour Code and the Organic Act on the Public Service provide that, as of 2008, persons with disabilities must account for at least 4 per cent of workers employed on a permanent basis in public bodies and private corporations.

101. To promote the access of persons with disabilities to jobs and the labour market, the Ministry of Labour Relations has set up a labour exchange, which persons with disabilities can register with via the Ministry's web page or through one of its branch offices. Free advisory services and training are also provided. Between 2008 and 2011, approximately 10,000 jobs were created for persons with disabilities.

102. Persons with disabilities also receive 50 per cent discounts on fares on public transport and admission to public events and can import vehicles, medicines and prostheses for personal use tax-free.

103. The Joaquín Gallegos Lara Mission of Solidarity was set up to address the needs of the most vulnerable persons with disabilities, whether these be mental, physical or multiple, who live in extreme poverty. This welfare programme provides financial assistance equivalent to the minimum wage to relatives or other persons who care for persons with severe physical or mental disabilities, as well as medicines, life insurance, funeral insurance and training in health, hygiene, rehabilitation, nutrition, rights and self-esteem. To date, the Mission has attended the needs of 14,479 persons. The Office of the Vice-President has also signed bilateral agreements with Colombia, Guatemala and Peru on disability issues.

104. With regard to the rights of older persons, who represent around 6.5 per cent of the country's population, the Constitution guarantees them free specialized health care, free access to medicine, paid work, universal retirement coverage, reduced fares on public and private transport, reduced admission to public and private events, tax exemptions and access to decent housing.

105. The Government's Project for Older People aims to improve their quality of life, health and integration into society and the family. It targets people over the age of 65 who are living below the poverty line and are registered with the Social Registry.

106. The project is currently operating in 792 rural parishes across the country and has several components, which involve different types of activities: social interaction, to raise awareness and encourage discussion of the situation of older people and to promote their participation in community life, with a view to improving their quality of life; dietary advice, to encourage healthy eating and various recreational activities; research and project monitoring, which includes a six-monthly assessment of the project's impact; counselling services; and arrangements to encourage the inclusion of older people in society. To complement these activities, a survey on health, well-being and ageing was conducted to obtain demographic data on the characteristics, health and morale of older people.

107. The Constitution of 2008 is a landmark achievement in the recognition and protection of the rights of migrants and their families. First, it recognizes the principle of universal citizenship as a new paradigm in human rights which promotes the free movement of people, unhindered by borders. The principle of non-discrimination against migrants is upheld, and migrants are identified as a priority group. The right to migrate is protected, and considering persons illegal on account of their migratory status is prohibited.

The State's responsibilities regarding the protection of the rights of Ecuadorians abroad have been expanded.

108. The provisions on the principle of free movement state that all human beings have the right to migrate in search of the conditions they need in order to find fulfilment and call for the creation of mechanisms to protect and safeguard the rights of migrants. The application of that principle has resulted in less restrictive migration policies; since June 2008, foreigners can enter and stay in Ecuador for up to 90 days without a visa, and their rights are guaranteed for the duration of their stay.

109. The protection of Ecuadorian nationals in Ecuador and the protection of those who migrate and take up residence in other countries to improve their financial situation has been a fundamental priority of the Citizens' Revolution. Policies to protect and safeguard rights have been implemented, and all the agencies involved, such as consulates, migration bureaux and welfare offices that provide services to migrants and their families, have been strengthened. The voluntary return programmes seek to reintegrate returnees into the national development process. A number of citizens are returning to Ecuador under the favourable conditions that these policies offer, such as tax exemptions, production projects and access to housing and social security.

110. The National Secretariat for Migrants is the agency responsible for implementing the policies to protect the rights of migrants. Its mission is to promote and safeguard migrants' rights and boost their capacity for good living.

111. The most important programmes that are undertaken by the Secretariat are as follows: the *Vínculos* (links) programme, which promotes communication between migrants and their families, communities, organizations and country; the programme to support voluntary returns; the programme to disseminate Ecuadorian migration policy as a regional and global reference for a humanistic and rights-based approach; and the welfare programme for migrant families, which provides information, advice and comprehensive assistance to migrants and their families.

112. The Constitution of 2008 establishes the right of asylum and refuge and introduces key principles in the protection of asylum-seekers and refugees, such as the principle of non-refoulement, the non-punishment of irregular entry or stay in the country, humanitarian assistance and the possibility of granting refugee status to a group in certain circumstances. For the first time, the arbitrary displacement of persons is prohibited and the right to receive protection and emergency humanitarian assistance and to return to one's place of origin voluntarily, safely and with dignity is established.

113. Ecuador has been recognized by the Office of the United Nations High Commissioner for Refugees (UNHCR) as the Latin American country that accepts the highest proportion of refugees. This is reflected in the figures. Ecuador has received over 151,000 applications for refugee status. In 1999 there were only 828 refugees in Ecuador; as at 31 January 2012 there were 55,330 registered refugees, of whom 98.47 per cent were Colombian nationals. All of these refugees are free to move around the country. Refugees are not housed in camps, and efforts are made to integrate them into national social and economic life. Ecuador has granted refugee status to citizens from over 70 different countries.

### **The rights of communities, peoples and nationalities**

114. Ecuador sees itself as a plurinational and intercultural State and therefore promotes unity in diversity by giving due consideration to its 14 nationalities and 18 indigenous peoples and recognizing its Afro-descendent and Montubio peoples.

115. The Government has a plurinational plan for the elimination of racial discrimination and ethnic and cultural exclusion for 2009–2012, which covers five thematic areas: justice and legislation; the fundamental nature of rights; education, communication and information; citizens' participation and institution building; and international relations.

116. Since 2008, Spanish, Quechua and Shuar have been recognized as official languages for the purposes of intercultural relations. The preservation, dissemination and use of all the languages of the country's indigenous peoples and nationalities are guaranteed. A bilingual intercultural education system has been introduced as a means of mainstreaming intercultural policy throughout the education system.

117. The Ministry of Education has a duty to mainstream the intercultural approach and ensure that the Afro-Ecuadorian and Montubio peoples and the indigenous peoples and nationalities receive education that is suitably oriented towards them in linguistic and cultural terms. By 2010, about 2,000 education centres, employing 6,000 teachers from the aforementioned ethnic groups, had been set up under the bilingual intercultural education system in 16 of the country's 24 provinces. The system also promotes the right of the different peoples and nationalities to conserve, protect and develop their ancestral knowledge, specifically their medicinal knowledge, and health centres in several provinces have been adapted accordingly.

118. The Constitution establishes that ancestral lands and territories are imprescriptible, inalienable and indivisible. It provides for the creation of indigenous, Afro-Ecuadorian or Montubio territorial units, in which autonomous territorial governments can operate under a special regime with political, administrative and financial autonomy. Between 2010 and 2011, about 400,000 hectares of land were allocated to indigenous communities belonging to the Shuar, Achuar and Quechua groups and the Afro-Ecuadorian people, and land titles were issued for 300,000 hectares of ancestral lands of the Quechua, Shuar and Zápara nationalities in the Amazon region.

119. The right to be consulted, including before legislation is passed, is recognized, without this in any respect limiting the State's sovereignty over those lands. In March 2010, the Constitutional Court issued a binding ruling on pre-legislative consultation by establishing principles and procedures that the National Assembly must adhere to when considering laws and statutes that could affect the rights of communities, peoples and nationalities. The National Assembly has therefore taken steps to phase in a pre-legislative consultation process, which will be fully operational in 2012.

120. In 2007, the Government adopted a plan that included a set of precautionary measures to protect the special, inviolable Tagaeri-Taromenane zone. The plan is currently being coordinated by the Ministry of Justice, Human Rights and Religion. Since March 2011, a team of 13 rangers and 10 territorial monitors of the Waorani nationality of Ecuador has been implementing the plan, which aims to protect the interests of peoples living in voluntary isolation (the Tagaeri-Taromenane).

121. The role of the rangers is to help patrol the zone and, through their ancestral knowledge, to alert the authorities of possible conflict points in the areas in which the Tagaeri and Taromenane peoples roam. A procedure has been put in place in case there are any emergencies or incidents, and entry into the zone is tightly controlled by the monitoring station set up in the zone itself. Measures are also being taken to prevent the illegal extraction of wood and the trafficking of wild flora and fauna.

## VI. Other initiatives and commitments in the field of human rights

### Rights of nature

122. The Constitution of 2008 is the first in the world to recognize nature as having rights. The establishment of the rights of nature marks a turning point, not only in Ecuador, but in the standards and practices relating to the human and environmental rights recognized by the international community. This is highly significant given the environmental crisis and the pace of climate change that the world is witnessing today. As far as the rights of nature are concerned, fostering harmony between human beings and nature is a priority of the human rights agenda.

123. According to the Constitution of 2008, nature (or *Pacha Mama*, as it is called in Ecuador), is where life is reproduced and lived. As such, it has the right for its existence and for the continuation and regeneration of its life cycles, structure, functions and evolutionary processes to be protected, or restored when serious or permanent environmental damage has been caused, including through the exploitation of non-renewable natural resources.

124. The Government's Social and Environmental Remediation Programme includes a national system of indicators of environmental and social liabilities, which is the first instrument of its kind in Latin America. The system maintains a statistical log of the damage caused by the activities of the hydrocarbon industry and their impact on society. Pilot projects have been prepared for appraising environmental liabilities in the provinces of Esmeraldas and Zamora Chinchipe.

125. Efforts have been made to standardize terminology so that all State agencies use the same terms. At various forums, Ecuador has urged the international community to agree on a universal declaration of the rights of nature that would outline the steps that States should follow to ensure that production is expanded and social development achieved in a way that is not harmful to natural resources.

126. The Yasuní ITT Initiative was launched in 2010 to combat climate change, in keeping with the principle that responsibility for tackling the climate crisis is shared by all. Under the initiative, Ecuador voluntarily waives its right to exploit non-renewable sources of fossil fuels in areas that are highly vulnerable in biological and cultural terms, with a view to avoiding increases in gas emissions that would increase gas concentrations in the atmosphere. In return for this service to the environment, Ecuador is asking for a contribution of US\$ 3.6 billion from the international community. The initiative will make it possible to protect biodiversity and respect the right to self-determination of the Tagaeri and Taromenane people who live in voluntary isolation in the Yasuní National Park.

127. The contributions received under the initiative will also make it possible to invest in renewable energy projects and transform the energy matrix. The economic benefits of those projects will in turn pave the way for investment in social development in the areas associated with the Yasuní National Park and its bioserve (approximately 2 million hectares) and in nature conservation (reforestation, management systems, etc.) as part of the strategy to establish a new inclusive, solidarity-based, fair and sustainable development model in Ecuador.

128. Also in 2010, Ecuador signed an agreement with the United Nations Development Programme (UNDP) for channelling the international contributions received to support the Yasuní ITT Initiative. The resources are kept in a designated trust fund and released to the Ecuadorian Government solely for use on projects that meet the initiative's stated objectives, thereby ensuring transparency and efficiency in the management of those

resources. The Yasuní ITT Initiative is currently run by a negotiating team that reports to the Office of the President of the Republic and a steering committee that decides on which projects will be funded and carried out by the State in keeping with the National Plan for Good Living. The steering committee is an inclusive and participative body comprising members of the executive branch, representatives of the international donor community and representatives of the civil society organizations working in the area.

129. The ITT oil field in the Yasuní National Park is estimated to hold 846 million barrels of oil, or around 20 per cent of the country's oil reserves. If the aforementioned international contributions are received, the joint efforts of Ecuador and the international community will, by 2023, have prevented the permanent depletion of oil reserves and the emission of 407 million tons of CO<sub>2</sub>, the main gas responsible for climate change. Each year Ecuador sets targets for the financial resources it needs for the initiative. This information is being published in this report with a view to encouraging the international community to participate in the initiative.

### **Progress in the implementation of international humanitarian law**

130. Ecuador has signed and ratified most international instruments in the field of humanitarian law. The most important of these include: the four Geneva Conventions of 1949 and the two protocols of 1977; the Rome Statute of the International Criminal Court, of 1998; the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, of 1954, and its protocols of 1954 and 1999.

131. Ecuador has incorporated the universal principles of international humanitarian law into its domestic laws. Article 80 of the Constitution establishes the imprescriptibility of the crimes of genocide, crimes against humanity, war crimes, enforced disappearances and crimes of aggression against a State.

132. The Constitution also advocates the peaceful settlement of international disputes and conflicts and rejects the threat or use of force for that purpose; it condemns the interference of foreign States in domestic affairs and the use of weapons of mass destruction, and promotes peace and universal disarmament.

133. In 2009, the reforms made to the Criminal Code included the criminalization of genocide as defined by the Rome Statute; the criminalization of ethnocide, defined as violations of the right to self-determination or to remain in isolation of a national, ethnic, racial or religious group; as well as the definition of the responsibilities of superiors and subordinates, as indicated in article 28 of the Rome Statute. The imprescriptibility of these offences was confirmed. The reforms also established that measures to deprive persons of their liberty were to be applied only in the context of trial proceedings, not in response to material aspects of the proceedings or the dangerous nature of the act or the accused, in keeping with the presumption of innocence.

134. As mentioned in the previous report, Ecuador has its own National Commission for the Application of International Humanitarian Law, which is responsible for disseminating the principles of international humanitarian law in all spheres of private and public life nationwide.

135. In August 2011, Ecuador and the International Committee of the Red Cross signed an agreement whereby the Red Cross opened a country office to further the implementation and dissemination of international standards and to strengthen its presence in geographically sensitive areas like the northern border provinces.

136. The Ministry of Defence, the International Committee of the Red Cross and the Ecuadorian Red Cross Society signed a tripartite agreement on the incorporation of

international humanitarian law into the activities of the Armed Forces as of 2008. The law to reform the Criminal Code so that it defines and establishes penalties for offences committed during military service or while serving in the police force represents a major step forward in the establishment of distinctive emblems and protective signs, in accordance with the Geneva Conventions of 1949 and their additional protocols.

137. The Ministry of Defence created a Directorate for Human Rights and International Humanitarian Law in 2009, and the Armed Forces established an International Humanitarian Law Unit in 2010. One sign of progress is that the protection of the cultural assets and heritage of Ecuador has been incorporated into the syllabus of courses given by instructors to the troops and officers of the Armed Forces, together with seminars on international humanitarian law.

138. Ecuador has been providing humanitarian assistance to Haiti by helping with rebuilding work after the earthquake that struck the country in 2010. Ecuador has also provided humanitarian assistance in recent years to Colombia, the Bolivarian Republic of Venezuela, Honduras, El Salvador, Nicaragua and the Plurinational State of Bolivia when they suffered natural disasters.

## **VII. Cooperation and technical assistance**

139. In accordance with the Paris Declaration on Aid Effectiveness of 2005, in handling non-reimbursable funding from international cooperation agencies, Ecuador adheres to the principles of sovereignty, independence, the legal equality of States, the self-determination of peoples, integration, solidarity, transparency, equity and respect for human rights.

140. The Technical Secretariat for International Cooperation is the State agency responsible for managing cooperation in keeping with the objectives, policies and targets of the National Plan for Good Living and the universal principles of human rights.

141. Ecuador receives technical assistance and advisory services from OHCHR, UN-Women, UNDP, UNHCR and other agencies of the United Nations system. The areas covered include a rights-based approach to public policy, training for the Armed Forces and the police, and the mainstreaming of a gender perspective and intercultural approach.

142. OHCHR works with Ecuador on governance, the protection and promotion of human rights, the systematic collection of information, the creation of information systems and the handling of complaints of human rights abuses.

143. Ecuador has also expanded its role as a provider of technical cooperation thanks to the expertise acquired and progress made in areas such as public policymaking, planning, public finances, caring for persons with disabilities and citizens' participation, as well as the other areas listed in the Catalogue of Ecuadorian Technical Assistance.

## **VIII. Final remarks**

144. In this report, Ecuador has presented the most important achievements recorded in human rights in the period 2008–2012. Huge challenges still lie ahead, and Ecuador is tackling the structural barriers inherited from previous regimes and certain cultural practices that clash with human rights principles. Ecuador will continue to contribute to the international protection of human rights on the basis of its national experience and will continue working to further the Human Rights Council's mandate and to promote peace and development.