



## **Universal Periodic Review Human Rights Council**

Submission on Internet-related Human Rights Issues in  
Ecuador by the Association for Progressive  
Communications

21 November 2011

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## SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW OF ECUADOR, 21 November 2011

### Executive Summary

1. This submission has been prepared by the Association for Progressive Communications. APC has general ECOSOC consultative status and is concerned with human rights and their recognition with regard to the internet from the perspective of the critical role we believe the internet can play to enhance social and economic development.
2. This submission was made in consultation with CIESPAL (Centro Internacional de Estudios Superiores de Comunicación para América Latina)<sup>1</sup> and Radialistas Apasionadas y Apasionados<sup>2</sup> and focuses on the right to freedom of expression in relation to access to the internet in Ecuador. It highlights areas where Ecuador is doing well and specific areas of concern. Four recommendations are made for follow-up and implementation in the UPR process.

### The Internet and Human Rights

3. The first UPR of Ecuador did not include reference to internet related human rights issues, although access to information was discussed.<sup>3</sup> Human rights and the internet are referred to in the founding documents on the United Nations World Summit of the Information Society,<sup>4</sup> the Geneva Declaration of Principles<sup>5</sup> and the Internet Governance Forum.<sup>6</sup> But during 2011 did it become clear that the UPR **must** include the promotion and protection of human rights and fundamental freedoms on the internet, particularly freedom of expression and freedom of association.<sup>7</sup> In 2011 the Human Rights Committee noted that freedom of expression (including the right to information and access to information) includes internet based expression.<sup>8</sup> Member States existing human rights obligations<sup>9</sup> extend to taking steps to ensure access to the internet and that limitations or restrictions on freedom of expression comply with agreed international standards, including women's human rights.<sup>10</sup> This submission focuses on access to the internet in Ecuador.

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1 <http://www.ciespal.net/ciespal/>

2 <http://www.radialistas.net/>

3 Report of the Working Group on the Universal Periodic Review, Ecuador A/HRC/8/20 (previously issued as A/HRC/WG.6/1/ECU/4) at pages 6, 7 and 9.

4 World Summit on the Information Society, United Nations, and International Telecommunication Union "WSIS Outcome Documents" (December 2005).

5 Article 19 of the UDHR is cited in paragraph 4 of the Geneva Declaration of Principles (2003).

6 <http://www.intgovforum.org>

7 Human Rights Committee, General Comment 34, Freedoms of Opinion and Expression, (21 July 2011, CCPR/C/GC/34).

8 Ibid, para 12.

9 The UPR monitors existing human rights obligations: Human Rights Council, Institution-building of the United Nations Human Rights Council (18 July 2007, A/HRC/RES/5/1, affirmed in Resolution A/HRC/RES/16/21).

10 Frank La Rue "Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression" (26 April 2011, A/HRC/17/27).

## Areas Where Ecuador is Doing Well

4. Ecuador has adopted a national development plan based on clear strategies. The Government's National Plan for Good Living for the 2009-2013 period includes at least three strategies related to access to the internet:<sup>11</sup>
  - The transformation of higher education and the transfer of knowledge in science, technology and innovation; and
  - Connectivity and telecommunications for the information and knowledge society, and
  - Mechanisms for inclusion, social protection, and guarantee of rights in light of the new agreement for coexistence to strengthen social and economic capacities.
1. We commend the government for specifically including the transfer of knowledge, connectivity and mechanisms for inclusion and guarantee of human rights within these broad strategies.
2. Further, the specific Objectives for Good Living,<sup>12</sup> and plans for implementation of the National Plan for Good Living , Objective 2 "To Improve Citizens' Capacities and Potentialities" sets a specific goal in relation to internet access: 2.7.2 To multiply by three the percentage of homes with access to Internet by 2013.
3. This goal is to be commended as are the positive steps taken by the Government in its efforts to develop and implement this goal, such as the Ecuador Digital 2.0 Strategy and the Infocentres initiative.

## Areas of Concern

4. In 2011 the Special Rapporteur on Freedom of Expression said:<sup>13</sup> **Given that the Internet has become an indispensable tool to realize a range of human rights, combat inequality, and accelerate development and human progress, ensuring universal access to the Internet should be a priority for all States. Each State should thus develop a concrete and effective policy, in consultation with individuals from all sections of society, including the private sector and relevant Government ministries, to make the Internet widely available, accessible and affordable to all segments of population.**
5. We are therefore concerned that while the Government has taken some steps to develop concrete policies, that its efforts could be strengthened and developed further. In 2010, for example, it was estimated that only 29% of the population had access to the internet in Ecuador.<sup>14</sup>
6. During this period, the government is also taking steps to enhance access to government services, particularly by offering more services online and via the internet, with the result that citizens' access to the internet becomes more critical. At the same

11 The Republic of Ecuador, "National Plan for Good Living 2009-2013"  
<http://www.senplades.gob.ec/web/18607/plan-nacional-para-el-buen-vivir-2009-2013>

12 Republic of Ecuador "Objectives for Good Living"

13 Frank La Rue "Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression" (26 April 2011, A/HRC/17/27) at page 21.

14 <http://www.inec.gov.ec/estadisticas/>

time, Ecuador's laws on access to information from public institutions must also keep up to date with technological developments and access to information online; and communication and telecommunications laws should ensure conditions for application of the communication rights enshrined in the Constitution.

7. To address this concern we recommend that during the development of the updated National Plan for Good Living for 2014-2018, that Goal 2.7.2 be reviewed in consultation with diverse groups. We recommend this consultation and any future policy and legislation development take into account the recommendations of the Special Rapporteur on Freedom of Expression:<sup>15</sup> **Where the infrastructure for Internet access is present, the Special Rapporteur encourages States to support initiatives to ensure that online information can be accessed in a meaningful way by all sectors of the population, including persons with disabilities and persons belonging to linguistic minorities. States should include Internet literacy skills in school curricula, and support similar learning modules outside of schools. In addition to basic skills training, modules should clarify the benefits of accessing information online, and of responsibly contributing information. Training can also help individuals learn how to protect themselves against harmful content, and explain the potential consequences of revealing private information on the Internet.**
8. Finally, we note that Ecuador is taking steps towards implementing the constitution approved in 2008. Application of the new constitution must uphold and affirm international human rights obligations, including evolving standards in relation to the internet. We recommend that the constitutional implementation make it clear that freedom of expression in Ecuador includes internet related expression, in accordance with General Comment 34 of the Human Rights Council.<sup>16</sup>

## Recommendations

9. Review Goal 2.7.2 of the National Plan for Good Living in consultation with diverse stakeholders.
10. Consider developing further a goal of universal internet access for all.
11. Take into account the recommendations of the 2011 annual report of the Special Rapporteur on Freedom of Expression on freedom of expression and the internet when developing national strategies, objectives and goals, particularly the legislative discussion of the communication and telecommunication laws. Approval of such laws should be speeded up.
12. Ensure that constitutional protections for freedom of expression include internet related expression, in accordance with General Comment 34 of the Human Rights Committee.

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<sup>15</sup> Frank La Rue "Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression" (26 April 2011, A/HRC/17/27) at page 21.

<sup>16</sup> Above note 3.