



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

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Sixteenth periodic reports of States parties due in 2001**

**Addendum**

**ECUADOR\***

[9 July 2002]

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\* This document contains the thirteenth, fourteenth, fifteenth and sixteenth periodic reports of Ecuador, due on 4 January 1994, 1996, 1998 and 2000, respectively, submitted in one document. For the twelfth periodic report of Ecuador and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/226/Add.1 and CERD/C/SR.971, 972 and 983.

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## Introduction

1. As a State party to the International Convention on the Elimination of All Forms of Racial Discrimination and in accordance with article 9, paragraph 1, of the Convention, Ecuador hereby submits a consolidated report for the period 1992 to 2000, comprising its thirteenth, fourteenth, fifteenth and sixteenth periodic reports on the legislative, judicial, administrative and other measures it has adopted in implementation of the provisions of the Convention.

2. This report also attempts to provide answers to some of the questions put by the Committee on the Elimination of Racial Discrimination in 1993 during its consideration of Ecuador's last report. Among the most important of these are: the development of the indigenous peoples' movement in Ecuadorian society and its political participation; land distribution; progress and difficulties with regard to the indigenous education system; statistical data on population, by nationality and ethnic origin; and, perhaps one of the most significant points, a summary of the agreements reached as part of the dialogue between the Government and the indigenous peoples during their negotiations.

### I. GENERAL

3. Ecuador is a social, sovereign, unitary, independent, democratic, multicultural and multi-ethnic State based on the rule of law. Its Government is republican, presidential, elective, representative, accountable, alternating and participatory, with a decentralized administration.

4. The State respects and promotes the development of all the languages spoken by Ecuadorians. Spanish is the official language; Quechua, Shuar and the other ancestral tongues are official languages of the indigenous peoples. The State guarantees bilingual intercultural education, in which the main language is that of the culture being taught and Spanish is the language used for intercultural relations.

5. The capital of Ecuador is Quito. There are 22 provinces and, according to the National Institute of Statistics and Censuses (INEC), there were 12,090,804 registered inhabitants as at 25 November 2001. Population growth accelerated between 1950 and 1962, increasing from an average annual rate of 2.95 per cent to reach 3.09 per cent between 1962 and 1974; since 1974, there has been a steady decline in annual population growth and the average annual rate in the intercensal period 1990-2001 was 2 per cent. Intercensal growth for the urban population was 2.92 per cent and for the rural population 0.73 per cent. The population density in 2000 was estimated at 46.5 inhabitants per square kilometre.

6. The trend towards urbanization has continued in the last 50 years. Thus, while 28 per cent of the population lived in urban areas and 72 per cent in rural areas in 1950, the 2001 census showed 61 per cent of the total population living in urban areas as a result of urbanization.

7. The female population exceeds the male population, accounting for 50.4 per cent of the total, as compared with 49.6 per cent for men. According to 2001 data, there were 6,094,245 women and 5,996,559 men in Ecuador.

8. Administratively, Ecuador is divided into four geographical areas: Coastal, the Highland or Andean region, Amazonia and the Galápagos Archipelago, each of which has its own structure of provinces, cantons and parish councils.

9. Intercensal growth in the Highland, Coastal, Amazonian and Galápagos regions was greatest in Galápagos, where the rate was 5.82 per cent. Amazonia was second, with 3.2 per cent, then the Coastal region with 2 per cent and the Highland region with 1.89 per cent.

10. The population's age distribution shows that Ecuador is a very young country, with nearly half the population aged under 19 (46.85 per cent).

## **II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION**

11. Ecuador rejects all forms of discrimination and segregation, as confirmed in the votes on apartheid held in 2002.

12. As a democratic country that respects the fundamental rights of human beings, Ecuador has made it clear, both in its domestic legal order and in various international forums, that it totally rejects all forms of discrimination, whether on grounds of race, ethnic origin, economic status, nationality, religion or any other grounds. In accordance with this policy, Ecuadorian law prohibits and punishes racial discrimination and promotes and protects individual human rights and fundamental freedoms.<sup>1</sup>

13. Ecuador's Constitution establishes that all persons are equal and recognizes the same rights, freedoms and opportunities to everyone.<sup>2</sup>

14. According to the Constitution, the main duty of the State is to respect and ensure respect for human rights. The State guarantees to all its inhabitants, without discrimination of any kind, the free and effective exercise and enjoyment of the human rights established in the Constitution and the international declarations, covenants, conventions and other instruments currently in force.

15. The rights and guarantees established in the Constitution and the international instruments currently in force are directly and immediately applicable by and before any judge, court or authority.

16. In respect of constitutional rights and guarantees, the interpretation most favourable to their effective enjoyment shall prevail. No authority may impose conditions or requirements not established in the Constitution or in law for the exercise of citizens' rights. The absence of legislation may not be invoked to justify the violation or disregard of the rights established in the Constitution, to dismiss actions arising from such violation or disregard or to deny recognition of such rights. The law may not restrict the exercise of constitutional rights and guarantees.<sup>3</sup>

17. The rights and guarantees established in the Constitution and international instruments do not exclude others deriving from the nature of the individual and necessary to his or her full moral and material development.

18. According to article 27 of the Constitution, “Suffrage is universal, equal, direct and secret; voting is compulsory for those who can read and write and optional for those who cannot and those aged over 65. All Ecuadorians who have reached the age of 18 and who are in possession of their political rights are entitled to vote.”

19. The right to social security is one of the main guarantees established in the human rights declarations and the International Covenant on Economic, Social and Cultural Rights. This right applies to all individuals regardless of their social, employment, ethnic, sexual or any other status. Accordingly, a rural social security scheme has been introduced: a special regime within the compulsory general social security system, it provides effective protection for Ecuador’s rural population and small fishermen.

20. Rural social security encourages management by local associations, in the form of groupings of family units established as partners in the administration of the system. During the period covered by this report, these local associations grew at an average annual rate of 2.1 per cent, increasing in number from 2,531 in 1995 to 2,775 in 2000. By contrast, growth in the number of members, i.e. heads of families and family members, has not always been positive: membership in 1996 and 1999 was down on the preceding years and, in absolute terms, the overall growth rate between 1996 and 2000 was 1.7 per cent, with membership figures rising from 873,382 to 954,663 during that period.<sup>4</sup>

21. The national education system includes curricula that reflect the country’s diversity. Management strategies include the decentralization and devolution of administration, finance and educational methodology. Parents, communities, teachers and students are expected to participate in the development of the education process.

22. To that end, the bilingual intercultural education system was established in 1988 in order to meet the needs and aspirations of the various indigenous nationalities and peoples, in recognition of their status as a group with particular characteristics and world views.

23. Bilingual intercultural education has not yet attained the objectives established at the outset, but the State continues to support the programme despite the lack of fully bilingual teachers who understand, speak, read and write indigenous languages, and the shortage of budgetary resources.

24. In other areas such as the Amazonian region, bilingual education is still at the developmental stage.<sup>5</sup>

25. Historically, indigenous peoples and Blacks have had a somewhat distant relationship with Ecuadorian society and the State. Since the restoration of democracy in Ecuador in the late 1970s, however, a number of developments have helped improve that relationship. The State and social movements within the country have promoted progress towards equality regardless of gender, race, religion, ethnic origin or age. One of the most important developments has been the progress made in respect of the rights of indigenous peoples and Blacks or Afro-Ecuadorians.

26. These peoples have been a growing political presence since the 1980s and they have gradually stepped up their level of participation in order to press their political and cultural claims and their demands for respect for their identity, *inter alia*.<sup>6</sup>

27. President Gustavo Noboa Bejarano established a wide-ranging dialogue with the indigenous movement in order to put an end to a major uprising. Round tables were set up to bring both sides together in 2001 and a series of negotiations were held on seven subjects: Plan Colombia, migrants, household gas, credit, irrigation, land and transport.

### **Ecuador's indigenous nationalities and peoples**

28. Ecuador's population includes indigenous and Black peoples (ethnic groups), who are distributed throughout the Coastal, Highland and Amazon natural regions.<sup>7</sup> Each people has its own characteristics as regards, for example, language, way of life and social structure.

29. The diversity of racial and cultural groups is recognized by the current Constitution, which proclaims the Ecuadorian State "multicultural and multi-ethnic" (art. 1).

30. In 1996, the Confederation of Indigenous Nationalities of Ecuador (CONAIE) established definitions of "indigenous peoples"<sup>8</sup> and "indigenous nationality".<sup>9</sup> CONAIE was established in 1986 and represents the majority of Ecuador's indigenous peoples.<sup>10</sup>

31. Ecuador does not have up-to-date information on the indigenous and Afro-Ecuadorian population, owing to the complexity of the technical criteria used to establish precise parameters for determining membership of ethnic groups.

32. According to the National Institute of Statistics and Censuses (INEC), the State agency responsible for organizing and conducting censuses in Ecuador, the indigenous population accounted for 4 per cent of the total population on completion of the 1990 census. INEC notes that, in that census, language was used as the sole criterion of ethnic identity and errors could arise if that figure was taken as an indicator of Ecuador's indigenous population. It acknowledges that the question on the language used in the home was put to households rather than individuals, and that would, for example, have excluded entire households who consider themselves indigenous, but who no longer speak Quechua. The accepted recommended criteria are: self-identification or self-perception; language spoken; geographical location or community membership; and other characteristics.

33. According to CONAIE, indigenous peoples account for around 40 per cent of Ecuador's total population.

34. According to a survey carried out by the Development Project for Indigenous and Black Peoples of Ecuador, of the Council for the Development of Ecuadorian Nationalities and Peoples (PRODEPINE-CODENPE 1998), the indigenous population represents around 13.9 per cent of the total population.<sup>11</sup> The provinces with the highest percentages of indigenous inhabitants are located in the Highlands and Amazonia: Chimborazo, Pastaza, Imbabura, Morona Santiago, Cotopaxi, Napo, Bolívar and Tungurahua.

35. A recent population survey carried out by PRODEPINE in 2002 on the various indigenous communities divides them into a pyramid structure, starting from the community base and moving up through second- and third-level organizations to the regional organizations CONFENAIE, ECUARUNARI and CONISEC, which in turn make up CONAIE. This latest figure is based on studies and development plans prepared by PRODEPINE and gives a final estimate of 1,525,421 indigenous people, divided into 13 aboriginal nationalities and peoples.

36. PRODEPINE-CODENPE also estimates the Black population at 3.1 per cent. The provinces with the largest numbers of Blacks are Esmeraldas, Guayas, Pichincha, Imbabura, Carchi and El Oro. In fact Blacks are to be found, albeit in smaller numbers, in all provinces of the country; they now call themselves “Afro-Ecuadorians”.

37. Despite the fact that they are represented on all bodies and are beneficiaries of projects for indigenous peoples, the Afro-Ecuadorian population has felt it necessary to create its own space for development and, in 1998, the Government therefore established the Council for Afro-Ecuadorian Development (CODAE), which is managed and administered by Afro-Ecuadorians’ own representatives; the Council is in the process of being established and organized.

38. The Government seeks to involve the indigenous and Afro-Ecuadorian populations in development processes. The Inter-American Development Bank (IDB) organized various information workshops with Afro-Ecuadorian non-governmental organizations (NGOs) and CODAE in early 2002 on the design of a programme to support the preparation of a development plan for Afro-Ecuadorian communities, comprising US\$ 150,000 of non-refundable technical cooperation.

### **Structure and political participation**

39. The State has not stood in the way of indigenous and Afro-Ecuadorian peoples’ self-identification as separate peoples or their establishment as social actors with a right to participate in mainstream society and, on the basis of their own world view, to submit proposals affecting the life of the country as a whole.

40. The level of political participation by the indigenous and Afro-Ecuadorian peoples started to increase in 1979, with Ecuador’s return to democracy, and their involvement in political processes has intensified since then.

41. In 1992, CONAIE proposed that Ecuador should establish a National Assembly to reform the Constitution so as to recognize the existence of a diversity of peoples and proclaim Ecuador a “plurinational” State, with direct participation by indigenous and Afro-Ecuadorian peoples.

42. August 1995 saw the emergence, in the Amazon region, of the Pachakutik group, later to become the Pachakutik New Country Plurinational Unity Movement, a political organization facilitating the preparation of proposals. In the 1996 elections, in alliance with other like-minded political movements and parties, the indigenous population presented its own candidates for the

first time, obtaining the following results for the indigenous movement: 1 indigenous Congressional deputy, out of the then total of 12; as well as 6 provincial deputies, 3 mayors, 8 presidents of municipal councils, 12 provincial councillors and 44 municipal councillors.<sup>12</sup>

43. The first indigenous member of the Supreme Electoral Tribunal was elected in 1998.

44. In the 1997-1998 elections, seven members of the Pachakutik movement were elected to the National Constituent Assembly.

45. In the 1998 elections, the Pachakutik movement obtained the following local positions: 29 mayors, 35 provincial councillors and 85 seats on local councils, in addition to 462 seats on parish councils, in accordance with the Act of 17 October 2000, promulgated in pursuance of the constitutional mandate on autonomous regional government. A very small percentage of seats were obtained by the evangelical indigenous group Amauta Jatari.

46. In 2001, the current Government appointed an indigenous leader Minister of State for Social Welfare.

47. The indigenous movement in Ecuador is now an established political presence and a significant number of its demands and political rights have been recognized.

48. The State of Ecuador recognizes that indigenous and Black or Afro-Ecuadorian peoples are part of the State and guarantees their collective rights to maintain, develop and reinforce their spiritual, cultural, linguistic, social, political and economic identity and traditions. It also recognizes the right to imprescriptible ownership of community lands, which are inalienable, non-attachable and indivisible, although the State has the power to declare them to be of public interest. These lands are exempt from property tax.

49. The State recognizes the right to “continuance of traditional ownership of community lands and allocation of those lands free of charge, in accordance with the law” (Constitution, art. 84, para. 3). It also establishes the right to “participate in the use, usufruct, administration and conservation of the renewable natural resources to be found in those lands” (ibid., para. 4).

50. Indigenous peoples have a right to be consulted on plans and programmes for prospecting for or exploiting non-renewable resources to be found in their lands, which might impact upon their environment or culture; to share in the benefits deriving from such projects, to the extent possible; and to receive compensation for any resulting social or environmental damage. They may maintain and promote their own biodiversity and environmental management practices and also maintain and develop their traditional societies, social structures and methods of establishing and exercising authority.

51. Indigenous and Afro-Ecuadorian peoples have the right not to be displaced, as peoples, from their lands and the right to collective intellectual ownership of ancestral knowledge and to its recognition, use and development. The State recognizes their right to maintain, develop and administer their cultural and historical heritage; and to access to quality education and the bilingual intercultural education system.



52. Ecuador recognizes the tenets, systems and practices of traditional medicine among these peoples and their right to protection for their ritual and sacred places and for the plants, animals, minerals and ecosystems of key significance to them.

53. The Ecuadorian State has introduced bilingual intercultural education in order to ensure the development and reinforcement of the cultural values - language, knowledge, world view and way of life - of each indigenous community or population. The Department of Bilingual Intercultural Education (DINEIB) was created in 1988: this body, which specializes in indigenous cultures, is a decentralized technical, administrative and financial agency whose task is to develop education among the indigenous populations on the basis of their own world view. Thus, indigenous peoples now have their own education system, administered and staffed from within their own communities.

54. The Institute for Indigenous Sciences and Cultures (IISC) is engaged in developing a practical model and analysing the needs, interests and aspirations of the various nationalities and peoples. It bases its work on the inalienable right to be recognized as groups possessing particular characteristics depending on their respective views of the world. It examines individual groups' ways of life, promotes esteem for and the critical rehabilitation of the culture of their ancestors and helps reinforce the social structure of the various ethnic groups and the country as a whole through mechanisms such as socialization, decentralization and autonomy.

55. The Department of Indigenous Affairs and Ethnic Minorities (SENAIME), established within the President's Office in 1992, is responsible for planning, coordinating and advising on the implementation of government plans, programmes and projects for the development of indigenous peoples and ethnic minorities.

56. Ecuador's ratification of International Labour Organization (ILO) Convention No. 169, concerning Indigenous and Tribal Peoples in Independent Countries, is a positive development, for in this way the Convention has become part of the country's domestic legal order.

57. Ecuador encouraged the establishment of PRODEPINE in 1998, with financial assistance from the World Bank.

### **Land distribution and irrigation**

58. Irrigated agricultural production is an essential part of Ecuador's agriculture. An estimated 568,000 hectares are currently irrigated, i.e. 30 per cent of the cultivated surface of the country (1,850,000 hectares).

59. Of the total irrigated area, approximately 81 per cent, or 460,000 hectares, is privately irrigated (communal or individual) and 19 per cent, or 108,000 hectares, is served by public-sector systems. A comparison of the two figures would seem to indicate that irrigation in Ecuador has hitherto been carried out chiefly by private enterprise. However, that conclusion by no means reflects the amounts invested by the State. According to IDEA,<sup>13</sup> 11 per cent of the external debt in 1993 (US\$ 1,455 million) was attributable to investments in and commitments to public-sector irrigation systems.

60. In 1996, public-sector irrigation was delivered through 65 systems, 49 of which were located in the Highlands and 16 in the Coastal region. The majority of the systems are only partially operational and are still under construction. According to estimates by the implementation unit of the Ecuador Irrigation Technical Assistance Project, the irrigable area covered by these systems is on the order of 147,000 hectares and the irrigated area on the order of 108,000 hectares.<sup>14</sup>

61. This, together with the issue of landownership, was one of the points dealt with in the round tables mentioned above. As a result of the discussions, it was decided to complete the unfinished projects and a standing irrigation fund with legal, administrative, financial and operational status was established for feasibility initiatives and investments. Initial capital will be US\$ 5 million.<sup>15</sup>

62. As to the allocation of land titles, the National Institute for Agrarian Development (INDA) has handed over 69,986.73 hectares to 38 traditional communities, with 56 per cent going to Black communities, 28 per cent to Chachi communities and 16 per cent to the Amazonian Quechua peoples.

63. Another point on which agreement was reached during the negotiations was the settlement of land disputes. The indigenous organizations submitted a file containing 142 unresolved disputes. More than 60 have now been resolved, but, in nearly 50 cases, no documentation has been submitted. A commission is studying the remainder of the outstanding cases.<sup>16</sup>

64. Initially, the Ombudsman dealt with migration issues, violations of individual rights and society's role in this regard. His area of responsibility has expanded and he now deals with indigenous issues. A special unit was set up in 1999 to deal with indigenous affairs and other social groups such as Afro-Ecuadorians, women and older people. The special unit began operations in January 2001 and is responsible for reviewing cases and reports of violations.

### **Legislative, judicial and administrative measures relating to articles 2 to 7 of the Convention**

#### **Article 2**

##### **A. Constitutional measures**

65. As a matter of fundamental principle, the current Constitution recognizes the equality of all persons before the law and establishes that they enjoy the same rights, freedoms and opportunities. No one may suffer discrimination on grounds of birth, age, sex, ethnic origin, colour, social background, language, religion, political affiliation, economic status, sexual orientation, health, disability or difference of any other kind. Foreigners enjoy the same rights and opportunities as Ecuadorians, subject to the restrictions applicable to such cases, as established in the Constitution and the law.

66. Priority, preferential, specialist attention will be given to children and adolescents, pregnant women, persons with disabilities, persons with highly complicated terminal illnesses and older persons.

### **B. Legislative measures**

67. In line with the policy of eliminating racial discrimination by all possible means, Ecuador's Penal Code was amended by Supreme Decree No. 3194, published in *Official Gazette* No. 769 (February 1979), which inserted in title III an unnumbered chapter, "Offences against constitutional guarantees and racial equality", which, for the first time, defines and prohibits discrimination on racial grounds as an offence and makes natural and legal persons and organizations of any kind committing such acts liable to prison sentences and fines.

68. The following secondary legislation is to be reformed in the very near future in order to take account of the aspirations of the indigenous peoples and nationalities: the Education and Culture Act, the Teaching Profession and Pay Act, the Health Code, the Municipalities Act, the Mining Act and other legislation on intellectual property, biodiversity and other subjects that has fallen into disuse. Efforts are also under way to draft new legislation, such as the Nationalities and Administrative Districts Act.

69. By way of illustration, mention may be made of two laws that are currently being considered for amendment, since they violate the constitutional principles of multiculturalism and multi-ethnicity: the Municipalities (Organization and Regulation) Act, which provides that the assemblies to elect local councils are to be chaired by the Parish Commissioner, an authority alien to the communities; and the Health Code, which contains no regulations concerning medical practice based on traditional knowledge.

### **C. Other measures**

70. Over the last 10 years, the Ecuadorian State has forged new links with the indigenous and Afro-Ecuadorian peoples and nationalities in order to promote their effective participation in integrated sustainable development while respecting and reinforcing their cultural identity. The following measures have been taken in that regard.

71. In 1988, the Department of Bilingual Intercultural Education (DINEIB) was created: this is a decentralized technical, administrative and financial agency with responsibility for planning, implementing, administering and evaluating the bilingual education system for each of the country's indigenous nationalities and peoples.<sup>17</sup>

72. DINEIB's main achievements are the establishment and organization of the Department's head office in Quito and provincial offices in 16 provinces; and the recruitment of indigenous personnel, male and female, as administrative and technical staff at headquarters and in the provincial offices and as teachers in community education centres ("*planteles educativos*").

73. In the 1996/97 school year, 80,067 pupils were enrolled in bilingual intercultural education at the primary level and 67,092 of these moved on to the next grade; 6,545 did not move up and 6,430 dropped out. In the same year, 7,968 students were enrolled at the intermediate level: 6,524 of these moved up, 833 did not and 611 dropped out.

74. Between 1997 and 1998, 1,730 primary-level community education centres (“*planteles educativas*”) were registered, with 4,231 teachers; 103 intermediate-level institutions, with 1,170 teachers; and 8 bilingual intercultural teaching institutions, with 223 teachers.<sup>18</sup>

75. With the official adoption of the bilingual intercultural education model by the Ministry of Education and Culture (Ministerial Decision No. 112 of 31 August 1993), the indigenous populations and nationalities now have their own official education system.

76. The State is using every means possible to resolve the myriad problems the bilingual intercultural education system is experiencing in implementing its policies and corrective measures needed.

77. Executive Decree No. 1679, of 22 April 1994, defined the responsibilities of the Department of Indigenous Affairs and Ethnic Minorities (SENAIME - see paragraph 55 above).

78. The establishment of the SENAIME administration established a new kind of relationship between the State and indigenous peoples, insofar as it promoted community involvement in the formulation, management, implementation and administration of integrated self-development projects and in training in the formulation and administration of projects and concluded funding agreements with national and international bodies for productive and infrastructure projects for the indigenous and Afro-Ecuadorian communities.

79. In 1996, the Government created a Ministry of Ethnic Culture and appointed an Amazonian indigenous leader as Minister. The Ministry was firmly rejected by indigenous organizations, however, and was therefore abolished by the Government.

80. In 1998, the National Council for Planning and Development of Indigenous Peoples and Afro-Ecuadorians (CONPLADEIN), a body with legal capacity, was established within the President’s Office. It replaced SENAIME (established in 1992) and the Ministry of Ethnic Culture (1996). The new Council’s board of directors was made up of representatives of each of the legally recognized indigenous and Black national organizations.

81. The task of the newly-created CONPLADEIN was to devise State policies for the development of the indigenous and Afro-Ecuadorian peoples, to propose and implement development programmes and projects in accordance with indigenous and Black peoples’ own world views and to ensure their participation.<sup>19</sup>

82. One of the most important advances has undoubtedly been the establishment of PRODEPINE, with financial assistance from the World Bank (US\$ 50 million). The project’s basic objectives are to reduce poverty levels, reinforce community self-administration and ensure the democratic integration of Ecuador’s indigenous and Black peoples on the basis of their own vision of development and the most effective use of their resources.

83. During the lifetime of CONPLADEIN, the PRODEPINE project was reinforced through the establishment of seven regional offices; indigenous and Black staff were recruited as technicians and project consultants; and support was provided for the implementation of integrated development projects.<sup>20</sup> PRODEPINE is an implementation unit for the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE). It is a four-year project that aims to help some 815,000 people from the indigenous and Black populations in 288 parishes around the country.

84. The project focuses on four main areas: (a) strengthening of indigenous and Black nationalities and organizations; (b) support for the regularization of landownership and water rights; (c) rural investment; and (d) strengthening of CODENPE itself.<sup>21</sup>

85. PRODEPINE is to run for four years as a pilot project, until September 2002. It is currently being evaluated by the financial institutions with a view to moving on to the second phase, to begin in 2003.

86. At the request of the indigenous populations themselves and in order to ensure consistency with the principles of the new 1998 Constitution, the Ecuadorian Government has now abolished CONPLADEIN, replacing it with CODENPE. CODENPE's board of directors is composed of one representative of each of the peoples and nationalities recognized by the Constitution.<sup>22</sup>

87. CODENPE's main task is "To promote and facilitate the sustainable integrated development of the nationalities and peoples of Ecuador and the preservation of their own identities through policy formulation, joint management, participation, coordination, equality and the supply of resources, thereby contributing to enhancement of their quality of life."<sup>23</sup>

88. The following strategic lines of action have been adopted: (a) sustainable integrated development and preservation of identity; (b) strengthening of the nationalities and peoples; (c) strengthening of institutions; (d) promotion of State policies and legislative reform, on the basis of consensus with the nationalities and peoples and the application of valid methodologies; and (e) consolidation of community government and organizational structures, ensuring respect for identity and culture.<sup>24</sup>

89. The PRODEPINE project is an implementing unit of CODENPE. It is a four-year project, but may be extended if the Government, through CODENPE in its current form, avails itself of the new World Bank adjustable programme lending mechanism. The project aims to assist some 815,000 people from the indigenous and Black populations in 288 parishes around the country.

90. CODENPE's most significant achievement is the creation of two units using international funding: the alternative local government project, which seeks to provide indigenous-administered municipalities with resources to improve local administration, is classified as non-reimbursable cooperation by the Spanish Agency for International Cooperation; and the Cotopaxi project, which deals rather with rural and peasant development, is funded by the European Union. Funding for this project amounts to US\$ 7 million.

91. Despite the fact that it is represented on all bodies and benefits from projects for indigenous peoples, the Afro-Ecuadorian population has felt it necessary to create its own space for development and, in 1998, the Government deferred to its wishes, establishing the Council for Afro-Ecuadorian Development (CODAE - see above, paragraph 37).

92. CODAE's main objective is to promote State policies for the development of the Afro-Ecuadorian people, publicize Afro-Ecuadorian rights, values, culture and history and encourage ethnic education. Various projects are in the pipeline and the Government has obtained a US\$ 150,000 credit from the Inter-American Development Bank.

93. Through INDA, the State has handed over 69,986.73 hectares of land to 38 traditional communities (see above, paragraph 62). Between 1997 and 1999, INDA drew up 7,682 land titles in favour of 25,688 individuals; it is currently dealing with 390 expropriation cases.<sup>25</sup>

94. As the lead agency in defining national health policy, the Ministry of Health is currently working in the following areas: health promotion, integrated health systems, management of prevalent diseases and priority problems, and institutional development. The Strengthening and Extension of Basic Health Services in Ecuador project (FASBASE) is developing integrated health care, basic sanitation and the extension and strengthening of health services. Through these actions, the Ministry of Health has helped 11,067 indigenous families and 4,816 Afro-Ecuadorian families.<sup>26</sup>

95. In 1992, the Ecuadorian Institute for Eco-Development in the Amazon Region (ECORAE),<sup>27</sup> was established by Act No. 10. A statutory body with administrative and financial autonomy, the Institute has supported the implementation of 342 projects targeting around 15,000 families.

96. The Ministry of Agriculture and Stockbreeding has assisted 3,000 indigenous and Black families through the implementation of programmes in the areas of mixed farming, industrial and small-scale farming and environmental conservation, taking account of their customs and cultural values.

97. The Department of Peasant Development is assisting 2,317 municipalities with social and organizational issues. Through the Ecuadorian Food Security Programme (PESA) and with the support of the United Nations Food and Agriculture Organization (FAO), the Ministry of Agriculture has provided assistance to some 750 families.<sup>28</sup>

98. The Ministry of the Environment's objective is to promote sustainable development with the participation of the various social sectors. It works on the basis of respect for the right to life in a context of human and biological diversity, through the following development and technical assistance projects: (a) the mangrove ecosystem, traditionally the habitat of Afro-Ecuadorians; (b) the Andean ecosystem, habitat of the indigenous communities; (c) the Amazonian tropical rainforest, livelihood of the indigenous peoples (joint projects); and (d) local management, Amazonian ecosystem, renewable natural resource management programme for Amazonian municipalities.<sup>29</sup>

99. As the President's representative in the area of domestic policy, the Ministry of the Interior is required to promote interaction and communication between the State and its citizens and guarantee and maintain individual and collective security. In this context, one of its most important actions has been to sign a cooperation agreement with the Ecuadorian Federation of Evangelical Indians (FEINE) setting up negotiating forums that will enable decisions to be taken on a basis of consensus on subjects directly or immediately affecting those peoples.<sup>30</sup>

100. These negotiating forums have achieved very concrete results with regard to Plan Colombia. The Government agreed that, in all actions on the northern border, its priority would be to guarantee and develop human rights and ensure villagers' safety. In the area of migration, it undertook to establish a State policy and to propose constitutional amendments guaranteeing migrants' children the right to a nationality, and creating an assistance fund.<sup>31</sup> The fund has been incorporated in the 2002 budget and the Government has provided an initial allocation of US\$ 5 million.

### **Article 3**

101. The Ecuadorian State considers the practices of apartheid and racial discrimination to be violations of basic human rights and of the provisions of international law and, in particular, of the major principles and purposes of the Charter of the United Nations. Such acts constitute a threat to national and international peace and security.

102. Acts involving apartheid, segregation or racial discrimination, committed by one racial group against another, are inhuman acts and, in accordance with its policy of respect for human rights, the Ecuadorian State condemns and rejects the practices of segregation and discrimination on racial or any other grounds.

103. All legislation and measures adopted by the State are aimed at preventing, prohibiting and punishing all forms of discrimination on racial or any other grounds.

104. The Government of Ecuador has taken special note of General Recommendation No. XIX of the Committee on the Elimination of Racial Discrimination, establishing priorities in resource allocation, while safeguarding its citizens' civil and political rights. It is determined to eradicate the great economic and social inequalities created by the spread of poverty, which in turn results from the inequitable relations arising from the globalization process.

### **Article 4**

#### **A. Constitutional measures**

105. The Ecuadorian State has taken constitutional and legislative steps to prevent any attempt to engage in actions and/or practices that might result in racial discrimination.

106. In accordance with its undertaking to guarantee individuals' enjoyment of basic human rights on an equal footing and without distinction or discrimination on any grounds on the part either of natural or legal persons or of other organizations, Ecuador has defined racial discrimination as a punishable offence.

## **B. Legislative measures**

107. Ecuador's Penal Code conforms strictly to the provisions of article 4 of the Convention, providing for "imprisonment for anyone who disseminates, by any means, ideas based on racial superiority or racial hatred; in any way incites racial discrimination; commits, or causes to be committed, acts of violence against any race, person or group of persons of any colour or ethnic origin; or finances, aids or abets any kind of racist activity".

108. Organizations using propaganda to spread or promote racial discrimination, or inciting racial discrimination, are declared illegal; their activities are also declared illegal; and anyone participating in such organizations or their activities will be punished.

109. If acts of this kind, which are defined as offences under criminal law, are encouraged or incited by national, regional or local authorities or institutions, those responsible will be removed from their post and stripped of their political rights. If such acts are encouraged by officials or employees, the special regulations set forth in the Constitution, governing the violation of constitutional guarantees, will apply.<sup>32</sup>

110. This chapter was inserted in the 1979 Penal Code in strict accordance with the provisions of article 4 of the Convention.

## **Article 5**

### **A. Constitutional measures**

111. Right to equality of treatment: in Ecuador, as a matter of constitutional principle, all persons are equal before the law and enjoy the same rights, obligations, freedoms and opportunities. Anyone who considers that his rights or guarantees have been violated may apply directly and immediately to any judge, court or authority for protection and defence. No authority may dismiss or deny such a request or such defence, even in the absence of specific legislation. Nor may any requirements or conditions not established in the Constitution or the law be imposed.

112. The current Constitution establishes the right to due process. In accordance with that principle, no one may be tried for an action or omission that is not duly defined as an offence. Anyone who is detained has the right to know exactly why he has been detained and the name of the authority ordering the detention. Detainees belonging to an indigenous people or nationality shall be informed in their own mother tongue. In addition, they have the right to remain silent and not to be questioned, even as part of an investigation, without the presence and assistance of defence counsel.

113. In order to ensure the prompt and efficient administration of justice, oral hearings have been introduced. Legislation awaiting approval by Congress will make provision for justices of the peace to settle individual, community or neighbourhood disputes equitably, as well as for arbitration, mediation and other alternative conflict-resolution procedures.



114. One of the most significant innovations in the Constitution as regards equality of justice for all is the recognition of the right of the authorities of the indigenous peoples and nationalities to administer justice among their peoples and within their territories in accordance with the particular legal system of each people or nationality.

115. There are two concrete examples of such indigenous mediation systems: the Federation of Indigenous Organizations of the Napo (FOIN) and the Federation of Indigenous Organizations of Chimborazo (FICH) have both set up arbitration centres for civil matters, where the parties can conclude agreements. The system has been in operation since 1997, thanks to advice from the Centre for Research in Law and Social Studies (CIDES) and international assistance.<sup>33</sup>

116. Ecuadorians' personal safety: in Ecuador, in accordance with the universal principles of human rights, everyone is born free and equal, their personal integrity is guaranteed and slavery, servitude, human trafficking, imprisonment for debt, cruel punishment, torture and any inhuman or degrading act are all prohibited. The Constitution states that everyone has the right to freely develop his own personality, to live in a healthy, ecologically balanced and pollution-free environment and to have access to public and private goods and services of the highest quality. The honour and good name of individuals are also guaranteed.

117. Living in a healthy, pollution-free environment is an aspect of individual security and a collective right. The State has regulated prospecting for and the exploitation of renewable resources, in particular in the territories of indigenous peoples and nationalities. Interested companies must submit an environmental impact management or mitigation plan before they can be granted a concession or authorization for prospecting or exploitation.

118. This action is reinforced by the provisions of the Constitution and ILO Convention No. 169, which now forms part of Ecuador's legal order and establishes the right of "[*indigenous and Afro-Ecuadorian peoples*] to be consulted on plans and programmes for prospecting for or exploiting non-renewable resources located on their lands, which might impact upon their environment or culture; to share in the benefits deriving from such projects [...] and to receive compensation for any resulting social or environmental damage".<sup>34</sup> This policy draws on the Committee's General Recommendation No. XXIII on the rights of indigenous peoples.

119. An ongoing concern of the Ecuadorian State is to ensure that all citizens have access to quality goods and services. In order to safeguard this right, the Consumer Protection Act has been adopted, establishing quality control mechanisms and consumer protection procedures. In addition, the Constitution states that "those who provide public services or produce [...] consumer goods shall be responsible under civil and criminal law for the provision of such service and the quality of the product provided".<sup>35</sup>

120. As to political rights, all Ecuadorians are recognized as citizens and, as such, enjoy all the rights established in the Constitution. Citizens who have reached the age of 18 may vote and stand for election for any post subject to universal suffrage.

121. Candidates may stand for election either with the sponsorship of a legally recognized political party or as independent candidates. Anyone may form or join political parties or movements, subject to the relevant legal requirements. Women must comprise at least 20 per cent of the list of candidates of political parties or movements wishing to participate in multi-seat elections.

122. The Pachakutik political movement was formed by indigenous peoples and nationalities in exercise of this right. Following the 1998 elections, they had 7 Congressional deputies, 29 municipal mayors, 35 provincial councillors and 85 seats on municipal councils; one of their most important gains was the second Vice-Presidency of the Congress, which was won by their Quechua representative.

123. For the October 2002 elections, the indigenous peoples and nationalities have presented two candidates for the Presidency.

124. With regard to other civil rights, Ecuador places no restrictions on freedom of movement or freedom to choose to live anywhere in the national territory. Ecuadorian citizens may also leave and return to the country at will, unless they are subject to a court injunction not to leave the country or the provisions of the Migration and Foreigners Act apply.

125. Foreigners entering the country temporarily enjoy the same freedom to move and reside anywhere in Ecuador. Purchase of land or other property by foreigners wishing to settle in the country is restricted to national security zones only (Constitution, art. 15).

126. Ecuadorian nationality may be acquired at birth or through naturalization. Those who live in foreign territory in the border areas, but who belong to the same Ecuadorian traditional people “shall have dual nationality”, subject to international conventions and treaties and provided they state, of their own free will, that they wish to be Ecuadorian. Ecuador has also signed conventions with Spain and the United States of America recognizing the dual nationality of Ecuadorian citizens resident in those countries.

127. Everyone is free to choose a spouse and marry. Marriage is based on the free consent of the parties and equality of rights, obligations and legal capacity. Thus, “a stable and monogamous union between a man and a woman [...] who form a de facto household for [a] period [of two years], shall give rise to the same rights and obligations as those enjoyed by families constituted through marriage” (Constitution, art. 38). Among some indigenous peoples, it is still the custom for the parents or grandparents, rather than the bridegroom, to choose the bride.

128. All Ecuadorian citizens have the right to own property and goods, either individually or collectively, provided such property is the product of lawful activities. The unlawful acquisition of wealth is prohibited. Private and communal property is protected. The ancestral communal lands of the indigenous and Afro-Ecuadorian peoples are inalienable, non-attachable and indivisible. They are allocated free of charge and exempt from property taxes.

129. Foreign citizens' right to own property is guaranteed under the Constitution (arts. 30-34), again provided that such property or goods have been lawfully acquired. The relevant articles of the Constitution are in keeping with the constitutional principle of equality before the law.

130. Everyone has the right to inherit unless prevented by law or by injunction of the judicial authorities: "Everyone the law has not declared incapable or unfit shall be capable and fit to inherit [...]. Guilds, unions and establishments which are not legal persons are not capable of receiving any inheritance or legacy."<sup>36</sup>

131. Ecuador guarantees freedom of thought, conscience and religion, whether individual or collective, in public or in private. This right is exercised in full respect for diversity, plurality, security and the rights of others. The indigenous peoples profess and practice other religions in addition to Catholicism and, at the national level, FEINE unites all the peoples and communities who share such faiths.

132. Freedom of opinion and expression is realized through the communications media. Information may be provided and disseminated in oral or written form. Ecuador has some 10 radio stations which are operated and controlled by indigenous groups and broadcast cultural and educational programmes in their own languages.

133. With regard to economic, social and cultural rights, Ecuador's legislation guarantees the right to work, to the free choice of occupation, to equitable and adequate conditions, to equal pay for equal work and to equitable and adequate remuneration (Constitution, art. 35). The economic crisis currently gripping the country has, however, reduced the purchasing power of wages in all income-earning strata. Even so, poverty has declined since 2001 thanks to the recovery of real wages, falling unemployment and remittances from abroad. The economic policies implemented have been seen as a real instrument for improving the population's standard of living.

134. Ecuador places no restrictions on forming or joining trade unions. The Constitution guarantees freedom of association and assembly for peaceful purposes, the right of workers and employers to organize and freedom to develop themselves. Workers also have a share in companies' net profits. In order to exercise those rights, they need only comply with the requirements and conditions which are established by law and are, naturally, non-discriminatory.

135. In exercise of this right, the indigenous and Afro-Ecuadorian nationalities have well-structured, solid, representative organizations at the local, provincial, regional and national levels.

136. In the last six years, the Ministry of Town Planning and Housing, which is responsible for planning and providing housing in Ecuador, has constructed 21,237 dwellings in rural areas, for indigenous and Afro-Ecuadorian groups: 824 in 1993; 2,275 in 1994; 2,365 in 1996; 5,062 in 1997; 6,105 in 1998; and 4,606 in 1999.<sup>37</sup>

137. The new Constitution recognizes and guarantees the right of the indigenous and Afro-Ecuadorian peoples to exercise "the systems, lore and practices of their traditional medicine and their right to protection for their ritual and sacred places and for the plants, animals, minerals and ecosystems of central significance to [*the indigenous and Black peoples*]" (art. 84, para. 12).

138. Ecuador has made significant progress in reducing infant mortality. The probability of a child surviving its first year of life has increased during the last 50 years. In 1956, around 100 children per 1,000 births died before their first birthday; by 2000, infant mortality had been reduced to one fifth of that rate. This change has come about as a result of mothers' greater access to health services, water and sanitation, and their educational progress, and of the spread of immunization services and medical check-ups for children.

139. Ecuador's armed forces have carried out a number of projects for the indigenous and Afro-Ecuadorian communities in the following areas: education (12,000 children); health (350,000 persons); housing (650 families); irrigation channels (180,000 persons); afforestation (1,570 hectares); social welfare (2,400 persons); training (800 persons).

140. The armed forces have also organized human rights seminars for local military personnel and authorities, through the Latin American Association of Human Rights and the Ecuadorian Red Cross. Training of this kind has been given to 40,000 individuals.

141. The National Police has also amended its curriculum and all police colleges now include a module on human rights protection. Uniformed officers will now attend 40 hours of human rights classes per term, which is six times more than they currently have, and the subject will be compulsory in further courses. As a complement to this work, an NGO, the Ecuadorian Study and Multidisciplinary Research Centre (CEIME), has conducted several training seminars for instructors. In this regard, it is taking steps to obtain a loan from the United Nations in order to prepare a human rights manual.<sup>38</sup>

142. All Ecuadorians have free access to education without discrimination of any kind. The indigenous nationalities have their own education system (intercultural bilingual education), in which the main teaching language is the language of the culture itself and Spanish is used as a language for intercultural communication.

143. The decline in illiteracy is an indicator of the efforts being made to institute universal education in Ecuador. Between 1950 and 2002, the percentage of the population aged over 15 that is unable to read or write fell from 44 per cent to around 9 per cent. Of these, 3 per cent are aged under 24, 10 per cent are between 25 and 64 and 37 per cent are over 65. Ecuador's situation is better than average for Latin America. In recent years, the spread of literacy has slowed owing to the difficulties involved in teaching older people as a result of the recent economic crisis.

144. The Constitution establishes that public education "shall be secular at all levels; compulsory up to primary level and free of charge up to the baccalaureate or equivalent" (art. 67); that it shall be based on "ethical, pluralist, democratic and scientific principles; and shall promote respect for human rights [...] and foster multiculturalism, solidarity and peace" (art. 66).

145. It also establishes that education and the eradication of illiteracy "shall be allocated no less than 30 per cent of total central government current revenues in the State budget" (art. 71). It should be recalled that the economic crisis does not for the moment permit Ecuador to comply with this provision.

146. There is no restriction on access by nationals or foreigners to any public place or service: “the right to obtain the highest quality public or private goods and services and to choose freely among them” is guaranteed (art. 23, para. 7).

## Article 6

### A. Constitutional measures

147. As has been shown throughout this report, Ecuador has sufficient constitutional and legal provisions and remedies to safeguard and protect individuals from any act of racial discrimination that violates their human rights and fundamental freedoms. The Ecuadorian State, drawing on its long and ancient history, proclaims its intention to reinforce its unity, based on recognition of the diversity of its regions, peoples, ethnic groups and cultures; accepts that its primordial task is to ensure men’s and women’s enjoyment of their human rights and fundamental freedoms; rejects all forms of discrimination and segregation; and recognizes the right of peoples to self-determination.

### B. Legislative measures

148. The constitutional and legislative measures that have been taken to implement the provisions of article 6 include various articles of the Constitution and title II of the Penal Code, which prohibits the authorities and public and private institutions from promoting or inciting racial discrimination and punishes anyone committing such offences.

149. Under the Cassation Act, the Ecuadorian State guarantees the proper application of the law in sentencing and the equality of all citizens before the law. Cassation is a special remedy that can be tried and adjudged only by the Supreme Court, in cases where the judge, in handing down a sentence, wrongly interprets legal or procedural provisions or applies the law incorrectly or when the sentence does not comply with the conditions required by law.<sup>39</sup>

150. The main institutions with competence to provide protection and guarantees in the event of any act of racial discrimination are the Supreme Court, the high courts, tribunals and ordinary courts; judges; municipalities (habeas corpus), the Office of the Ombudsman, the Consumer Protection Office and the Constitutional Court.

151. The following remedies are available: habeas corpus, habeas data, *amparo*,<sup>40</sup> cassation.

152. According to a CONAIE report, “Despite the existence of these remedies, offences of racial discrimination are not reported to the courts. The indigenous and Afro-Ecuadorian peoples traditionally exhibit a certain lack of confidence in the justice system.”<sup>41</sup>

## Article 7

### A. Constitutional measures

153. Ecuador has clear legislation underpinning the measures adopted in implementation of this article. According to the Constitution, education is based on “ethical, pluralist, democratic

and scientific principles; it shall promote respect for human rights, develop civic virtues, provide skills to ensure efficient labour and production [...] and foster multiculturalism, solidarity and peace” (art. 66). In addition, “it shall reject all forms of discrimination and recognize parents’ right to choose for their children an education that accords with their principles and beliefs” (art. 67).

154. By developing their own educational programmes, the indigenous communities have actively helped to develop awareness of and respect for cultural and linguistic diversity within Ecuadorian society. Their experiences form the basis for the implementation of bilingual education in Ecuador.

155. All their educational programmes implicitly incorporate the purposes and principles enshrined in the Charter of the United Nations and the Convention on the Elimination of All Forms of Racial Discrimination. The fact that Ecuador has many different peoples, all with their own cultures (language, clothing, way of life, social structure, authorities, etc.), explains its main aim of promoting understanding, tolerance and friendship among the various peoples or ethnic groups, with a view to creating a multicultural society.

156. Several social organizations broadcast educational radio programmes, particularly in the Ecuadorian Amazon region, the home of various indigenous peoples and nationalities. This is a means of imparting education and training, particularly at a basic level.

### **B. Legislative measures**

157. In 1988, by an amendment to the Education Act and Regulations, the Department of Intercultural Bilingual Education (DINEIB) of the Ministry of Education and Culture was created to take responsibility for developing education among the nationalities. As a government agency, it promotes education that builds on recognition of, and esteem for, a people’s own culture and gradually and selectively introduces elements of the culture of other peoples.

158. A number of bodies are responsible for cultural development and promotion: the Ministry of Education and Culture itself, which has responsibility for Ecuadorians’ education and cultural development; and the National Council for Culture, the Ecuadorian Cultural Centre (network and provincial centres), DINEIB and CODENPE, which are government bodies with responsibility for the cultural development of the peoples and nationalities. The Afro-Ecuadorians also have their own body, CODAE. All these bodies receive support from the State and from national and/or international NGOs.

159. The majority of the privately-owned mass media do not yet have programmes publicizing the purposes and principles embodied in the human rights instruments. Most information programmes, whether visual or audiovisual, written or oral, are in Spanish.

160. As of 2002, Ecuador has 20 television channels, of which 5 have nationwide coverage and 16 are local; there are also 63 cable television channels. According to the National Telecommunications Board, there are 887 radio stations, most of them local.<sup>42</sup> There

are 8 national and 15 local newspapers, many of the latter being weeklies or monthlies. Print media dominate in the field of social information; 10 radio stations have indigenous management and broadcast in their own languages.

161. Lastly, the Ministry of Foreign Affairs has launched a publicity and training programme in areas related to the international human rights instruments, as part of which it invited all social and government sectors to participate directly in the preparation of Ecuador's National Plan for Human Rights, which was adopted as State policy by Executive Decree No. 1527 of 18 June 1998.

162. The Plan's basic objective is to prevent, eradicate and punish human rights violations in Ecuador, in order to institutionalize, through State agencies and civil society, priority policies that will:

- (a) Identify the obstacles preventing the full exercise of human rights;
- (b) Implement concrete proposals of a legal, political, administrative, economic, social, cultural or environmental nature that further the implementation of the Plan; and
- (c) Using all possible means, promote and publicize human rights principles as universal, indivisible and interdependent.<sup>43</sup>

163. The Plan aims to ensure the effective and full enjoyment of the following rights: civil and political rights; economic, social and cultural rights; the collective rights of the indigenous and Afro-Ecuadorian peoples; human rights and the environment; human rights and the media; as well as the human rights of various population groups - children and young people, women, sexual minorities, persons with disabilities, detainees, public safety and individual security.

164. In order to further this process, the Ministry of Foreign Affairs published the Plan in four Western languages and Quechua. With backing from civil society, the Ministry encouraged the development of operational plans by population sector and conducted training seminars on the preparation of reports on international human rights instruments for workers in State agencies and NGOs.

165. As part of the implementation of the Plan, three regional seminars have been held to publicize the operational plans and television spots have been produced on the rights of certain sectors of the population, including the indigenous and Afro-Ecuadorian peoples. This material has been broadcast on television in Quechua, Shuar and Spanish.

166. Efforts have also been made to guarantee the rights of other social minorities; these include the decriminalization of individual expressions of sexual orientation and moves to eradicate police repression of sexual minorities. These changes have helped strengthen the organization of the various sexual minorities, which contributed to the drafting of the relevant chapter of the Plan.

### Notes

<sup>1</sup> According to article 17 of the Constitution, “The State shall guarantee to all its inhabitants, without discrimination, the free and effective exercise and enjoyment of the human rights established in this Constitution and in any international declarations, covenants, conventions and other instruments currently in force. It shall take steps to ensure the effective enjoyment of those rights, through ongoing and periodic plans and programmes.”

<sup>2</sup> According to article 23 of the Constitution, “Without prejudice to the rights established in this Constitution and the international instruments currently in force, the State shall recognize and guarantee to individuals: [...] 3. Equality before the law. All persons shall be considered equal and shall enjoy the same rights, freedoms and opportunities, without discrimination on grounds of birth, age, sex, ethnic group, colour, social background, language, religion, political affiliation, economic status, sexual orientation, health, disability or difference of any kind.”

<sup>3</sup> According to article 24 of the Constitution, “In order to ensure due process, the following basic guarantees shall be observed, without prejudice to others that may be established by the Constitution or international instruments, the law or case law: [...] 2. In case of conflict between two or more laws that establish penalties, the least severe shall apply, even where promulgation occurred after the offence was committed; in case of doubt, a law containing penalties shall be applied in the way that most favours the accused.”

<sup>4</sup> Ecuadorian Social Security Institute, “El régimen especial del Seguro Social Campesino” (“The special rural social security regime”), *Memoria Institucional 2002*, p. 129.

<sup>5</sup> See Organization of American States (OAS), “The human rights situation of the indigenous people in the Americas”, 2000, p. 321.

<sup>6</sup> Ever since its establishment during the 1980s, the Confederation of Indigenous Nationalities of Ecuador (CONAIE) has contrasted the existing forms of organization - chiefly the union type with a top-down, hierarchical structure - with a clear definition of the indigenous perspective, which is the product of long debate. The tendency to establish function-based structures, seen in all unions, left-wing parties and social movements, gave rise to a kind of model organization, on which CONAIE quite naturally based its own structure, at the same time defining itself as a confederation of nationalities, i.e. recognizing the diverse identities that would have to coexist in the new organization. However, CONAIE was also formed from two organizations with distinct but convergent origins: the Highlands-based Federation of Peoples of the Quechua Nationality of Ecuador (ECUARUNARI) and the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENAIE) in Amazonia. The indigenous peoples organized in ECUARUNARI in fact belonged to first-level organizations that had some connections with the hacienda system. The struggle for land, a central element of their world view, was essentially an economic claim of a kind that had formed the basis of union-style organizational structure in the 1970s. “Political construction and historical reconstruction: the new challenges for CONAIE.” *ICCI-RIMAI Bulletin*, Institute for Indigenous Sciences and Cultures (IISC), No. 31, October 2001.



<sup>7</sup> Coastal region: Awa-Kwaiker, Chachi, Tsáchila, Afro-Ecuadorians, Epera; Highland region: Otavalo, Cayambe, Cotopaxi, Salasaca, Chimborazo, Cañar, Saraguro; Amazonia: A'I (Cofán), Siona and Secoya, Amazon Quechua, Huaorani, Shuar, Achuar, Záparo.

<sup>8</sup> Indigenous peoples: “Aboriginal groups composed of communities or centres with cultural identities that are distinct from those of other sectors of Ecuadorian society and their own social, economic and political structures and belonging to one of the indigenous nationalities.”

<sup>9</sup> Indigenous nationality: “Ancient people or group of peoples predating the foundation of the Ecuadorian State, who define themselves as such. They have a common historical identity, a culture and a language, and they live in a specific area and maintain traditional institutions, social, economic, judicial and political structures, and forms of authority.”

<sup>10</sup> Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENAIE); Ecuadorian Federation of Evangelical Indians (FEINE); National Confederation of Rural, Indigenous and Black Organizations (FENOCIN); Indigenous and Peasant Federation of Imbabura (FICI); Institute for Indigenous Sciences and Cultures (IISC); Organization of Indigenous Nationalities of Pastaza (OPIP); and Union of Peasant and Indigenous Organizations of Cotacachi (UNORCAC).

<sup>11</sup> This survey defines ethnic status in terms of colour and membership of a Black community (see V. Ramón, “Los pueblos indígenas y negros del Ecuador” (“Ecuador’s indigenous and Black peoples”), *Boletín informativo del SIISE*, No. 3, Quito, May 1998). Communities may vary in their origin, composition and ancestry; some have a long historical tradition, others are younger; some are organized around legal community control of land, others have a variety of property systems. Classification is based on historical and documentary sources and self-identification by the populations concerned (Ecuadorian Integrated Social Indicator System (SIISE), 1997-2002).

<sup>12</sup> Supreme Electoral Tribunal, 1996 report, 2000.

<sup>13</sup> Umbrella organization for a number of Ecuador’s Chambers of Agriculture.

<sup>14</sup> See “Fondo Nacional de Riego y Recultivación de Tierras Degradadas. Organizaciones Indígenas y Campesinas del Ecuador” (“National Irrigation Fund and rehabilitation of degraded lands. Ecuador’s indigenous and peasant organizations”), *ICCI-RIMAI Bulletin*, No. 28, July 2001, p. 7.

<sup>15</sup> See “El diálogo logró sus resultados” (“Dialogue’s aims achieved”), *El Comercio*, 15 January 2002.

<sup>16</sup> *Ibid.*

<sup>17</sup> Executive Decree No. 203, 15 November 1988.

- <sup>18</sup> Department of Bilingual Intercultural Education (DINEIB), *Anuario Estadístico* (Statistical Yearbook), 1998.
- <sup>19</sup> Executive Decree No. 133, 18 March 1999.
- <sup>20</sup> CONPLADEIN, *Ñucanchicpac*, 1998.
- <sup>21</sup> Report of the Development Project for Indigenous and Black Peoples of Ecuador (PRODEPINE), 1999.
- <sup>22</sup> Executive Decree No. 386, December 1998.
- <sup>23</sup> CODENPE, Strategic Plan 1999-2008.
- <sup>24</sup> Ibid.
- <sup>25</sup> National Institute for Agrarian Development (INDA), 1999 report.
- <sup>26</sup> Ministry of Health report, July 1999.
- <sup>27</sup> Act establishing the Fund for Eco-Development in the Amazon Region and strengthening regional agencies, *Official Gazette* No. 30, 21 September 1992.
- <sup>28</sup> Ministry of Agriculture and Stockbreeding, report to the Ministry of Foreign Affairs, 29 July 1999.
- <sup>29</sup> Ministry of the Environment report, 18 August 1999.
- <sup>30</sup> Ministry of the Interior and Justice report, 13 August 1999.
- <sup>31</sup> *El Comercio*, 15 January 2002.
- <sup>32</sup> Amended Penal Code, 1979, Title II, “Offences against constitutional guarantees and racial equality”, unnumbered chapter, “Offences relating to racial discrimination”.
- <sup>33</sup> Fernando García, *Formas indígenas de administrar justicia* (Indigenous justice systems). Latin American Faculty of Social Sciences and Ibis (Danish cooperation NGO), Quito, 2000.
- <sup>34</sup> Constitution, art. 84, para. 5.
- <sup>35</sup> Constitution, art. 92.
- <sup>36</sup> Civil Code, arts. 1026 and 1028.
- <sup>37</sup> Ministry of Town Planning and Housing report, 23 September 1999.

<sup>38</sup> *El Comercio*, 14 April 2002.

<sup>39</sup> Cassation Act, *Official Gazette* No. 192, 18 May 1993.

<sup>40</sup> According to article 95 of the Constitution, “Anyone may, on his own behalf or as a legitimate representative of a group, bring an action of *amparo* before the judicial body designated by law. Such action, which shall receive preferential and summary treatment, requests that urgent steps should be taken to halt, prevent or remedy with immediate effect the consequences of any unlawful act or omission of a public authority that violates or might violate any right established in the Constitution or an international treaty or convention currently in force and that represents an immediate threat of serious harm.”

<sup>41</sup> CONAIE report, 19 July 1999.

<sup>42</sup> <http://www.supertel.gov.ec>.

<sup>43</sup> Executive Decree No. 1527, art. 1, *Official Gazette* No. 346, 24 June 1998.

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