



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Sixth periodic reports of States parties due in 2015

Ecuador*


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Acronyms and abbreviations

| | |
|---------|-------------------------------------------------------------------------------------|
| CNE | National Electoral Council |
| CONADIS | National Council on Disability |
| CONEPIA | National Statistics Commission for Indigenous, Afro-Ecuadorian and Montubio Peoples |
| ICRC | International Committee of the Red Cross |
| ILO | International Labour Organization |
| INEC | National Statistics and Census Institute |
| INEN | Ecuadorian Standards Institute |

I. Introduction

1. The Republic of Ecuador hereby submits this report to the Human Rights Committee pursuant to the obligation arising from article 40 of the International Covenant on Civil and Political Rights.

2. In fulfilment of that obligation and in accordance with Executive Decree No. 1317,¹ the Ministry of Justice, Human Rights and Worship and the Ministry of Foreign Affairs and Human Mobility worked together on the preparation and approval of this report. In so doing, they took into account the guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.6), as well as the protocol for periodic reporting to the international human rights treaty bodies.²

3. Accordingly, workshops³ were held both with staff of the relevant public institutions and with representatives of civil society organizations and national and international academics, the aim being to open up the reporting process and request participants' cooperation in providing information on the issue.

II. Legislative framework

4. The international legislative framework governing civil and political rights comprises, in addition to the Covenant,⁴ the following instruments: the International Covenant on Economic, Social and Cultural Rights; the First and Second Optional Protocols to the International Covenant on Civil and Political Rights; and the American Convention on Human Rights.⁵

5. With regard to Ecuador's national legislative framework, the principal domestic laws in this area are: the Constitution of the Republic of Ecuador;⁶ the Judicial Safeguards and Constitutional Oversight Act; the National Equality Councils Act; the Communication Act; the Public Participation Act; the Elections and Political Organizations Act; the Labour Code; and the Comprehensive Criminal Code.⁷

¹ *Registro Oficial* No. 428 of 18 November 2008.

² The Protocol was introduced formally in Ecuador on 30 May 2013.

³ The workshop with public institutions took place on 16 July 2014 at the Ministry of Foreign Affairs and Human Mobility.

⁴ *Registro Oficial* No. 101 of 24 January 1969.

⁵ *Registro Oficial* No. 801 of 6 August 1984.

⁶ *Registro Oficial* No. 449 of 20 October 2008.

⁷ Supplement to *Registro Oficial* No. 180 of 10 February 2014.

III. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

Reply to paragraph 1 of the list of issues (CCPR/C/ECU/QPR/6)

6. The National Equality Councils Act of 2014⁸ established the institutional and legislative framework for Ecuador's National Equality Councils. These Councils have public policymaking powers.

7. Articles 61, 62 and 63 of the Communication Act⁹ prohibit the dissemination of discriminatory content in the mass media and establish administrative measures for cases of non-compliance.

8. With regard to measures to disseminate the Covenant among judges, lawyers and prosecutors, the Judicial Training School of the National Council of the Judiciary has included the subject of human rights in its academic programmes since 2013. The curriculum also includes two relevant modules: Constitutional Law and Gender.

9. The Judicial Training School also provides in-service training and specialized training with a human rights approach.

Reply to paragraph 2 of the list of issues

10. Ecuador received a total of 12 recommendations from the Committee.

11. With regard to discrimination against women, the National Assembly has adopted 80 laws, 43 of which contain provisions for implementing the principle of equality.

12. In the area of labour law, new provisions have been drafted recognizing unpaid housework.¹⁰

13. With regard to violence against women and effective access to justice for victims of gender violence, the Comprehensive Criminal Code contains a number of articles criminalizing gender violence. In the same context, the Council of the Judiciary, by Resolution No. 77,¹¹ approved the creation of judicial units for dealing with violence against women and families (see annex 1).

14. In addition, police commissioners in places where there are no judicial units have been given the power to guarantee access to justice for victims of violence. The commissioners receive victims' complaints, order measures of protection and refer cases to the nearest judge so that legal proceedings can be pursued.

15. With regard to the guarantee of care for victims of violence, the Ministry of Public Health reports that between 2012 and 2013 there was a 7-per-cent increase in the number of cases handled by clinics providing initial care and support for victims of gender violence. These clinics are staffed by specialized doctors, who treat victims and work with the Prosecutor-General's Office to ensure the investigation of cases of gender violence.

16. In 2014, 111 emergency and HIV clinical health workers were trained to ensure that anyone who has been a victim of gender violence has access to comprehensive health care.

⁸ Supplement 2 to *Registro Oficial* No. 283 of 7 July 2014.

⁹ *Registro Oficial* No. 22, Supplement 3, 25 June 2013.

¹⁰ Articles 34 and 49 of the Constitution, *Registro Oficial* No. 483 of 20 April 2015. Act on employment law and recognition of housework.

¹¹ Resolution No. 77-2013 of 15 July 2013.

Teams are trained to advise on pre- and post-exposure HIV prevention and emergency oral contraception in cases of sexual violence.

17. By Ministerial Agreement No. 5198 of 2014, inter-institutional cooperation was established between the Ministry of Health and the Prosecutor-General's Office with a view to the design and implementation of joint measures to safeguard the rights of victims of gender violence.

18. For the declaration of states of emergency, article 164 of the Constitution imposes requirements of form and substance based on the provisions of the Covenant and on the recommendations of the Human Rights Committee concerning the use and content of such declarations. Article 166 stipulates the principle of territoriality and the procedure to be followed in declaring a state of emergency. States of emergency apply for 60 days and may be extended only for a further 30 days.

19. With regard to the principle of inviolability, article 165 of the Constitution expands the list of rights that, under international human rights law, may not be derogated from in a state of emergency.

20. Lastly, the Constitution stipulates that these requirements must be set out in the executive decree declaring a state of emergency in order for the declaration to be constitutionally valid. The decree must also state what measures are to be taken and what rights are to be restricted.

21. The issuance of decrees declaring states of emergency is limited by means of both political and legal oversight. The National Assembly provides political oversight, in that the Constitution allows it to revoke such decrees at any time, while the Constitutional Court, pursuant to article 436 (8) of the Constitution, exercises immediate official constitutional oversight of declarations of states of emergency.

22. With the exception of the five-day state of emergency declared on 30 September 2010, no states of emergency have been declared in Ecuador in recent years, these years having been characterized by economic, political, social and cultural stability.

23. With regard to the Committee's recommendations on cases of ill-treatment by law enforcement officers and the need to allocate a sufficient budget and resources to permit the Office of the Ombudsman to operate effectively as the national mechanism for the prevention of torture, the Organic Act¹² governing the Office's proceedings created the National Directorate of the Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

24. The national preventive mechanism makes periodic visits to social rehabilitation centres in order to verify their compliance with national and international norms and to implement solutions to any problems that have been detected. It also publicizes the document collating information obtained nationwide from its detailed monitoring visits.

25. With respect to the State party's efforts to improve conditions for all detainees, article 51 (4) of the Constitution states that prisoners have a right to health. In this context, a state of emergency¹³ was declared in the prison system and nearly US\$ 300 million were allocated for building, extending and refurbishing the country's prisons.

26. The Ministry of Justice and the Ministry of Public Health have also promoted, as one of their public policies, the creation and implementation of a prison management model that ensures an orderly lifestyle for persons detained in social rehabilitation centres.¹⁴

¹² Supplement to *Registro Oficial* No. 396 of 26 November 2012.

¹³ Declaration of emergency No. DE-002-2010-DT of 31 August 2010.

¹⁴ Prison management model mission, Ministry of Justice, Human Rights and Worship, May 2014.

27. The Ministry of Justice and the Ministry of Health also signed Interministerial Agreement No. 00004906¹⁵ defining their respective responsibilities for the management and delivery of prison health services and allocating a duly furnished and equipped area for the provision of medical care in Ecuador's prisons. A prison health management model has been developed, under which primary health-care centres operate in coordination with more complex and specialized services. There are also plans to incorporate all the preventive health and health promotion programmes that operate as part of the comprehensive health-care model.

28. The comprehensive health-care model creates mechanisms and strategies for its implementation in all scenarios: individual, family and community. The main strategy is primary health care, based on identification of the population's needs.

29. With regard to de facto discrimination against indigenous and Afro-Ecuadorian peoples and the adoption of appropriate measures to ensure the practical application of the constitutional and legal principles that guarantee the principle of non-discrimination against indigenous populations, the Ombudsman's Office is carrying out a number of activities to comply with such measures.

30. The Committee's six remaining recommendations, on illiteracy, sexual reorientation clinics, corporal punishment in the education system, cases documented by the Truth Commission, deaths of participants in public demonstrations and non-discrimination on grounds of a person's criminal record, will be dealt with throughout this report.

IV. Specific information on the implementation of articles 1 to 17 of the Covenant, including in relation to the Committee's previous concluding observations

A. Constitutional and legal framework within which the Covenant is implemented

Reply to paragraph 3 of the list of issues

31. With respect to the procedures in place for the implementation of the Committee's Views under the Optional Protocol to the Covenant and based on the *Floresmilo Bolaños v. Ecuador* case (communication No. 238/1987), a reparation agreement has been signed with Mr. Bolaños in order to comply with the Committee's recommendations and provide comprehensive redress to both Mr. Bolaños and his family. The procedure includes submission to the Committee of a report on Ecuador's compliance with the reparation measures.

Reply to paragraph 4 of the list of issues

32. In order to protect and safeguard the rights of Ecuador's inhabitants and defend the rights of Ecuadorians abroad, the strategic plan of the Ombudsman's Office sets four goals for the Office, including access to information, reduction of torture and promotion and protection of the rights of users of domestic public utilities and consumer goods.

33. A number of actions have been taken to achieve these goals, including:

¹⁵ Interministerial Agreement No. 00004906 of 26 June 2014.

(a) Support for and the introduction of the Act for the Reparation of Victims and the Prosecution of Grave Human Rights Violations and Crimes against Humanity That Occurred in Ecuador between 4 October 1983 and 31 December 2008,¹⁶ adopted in 2013;

(b) Assistance to and monitoring of the work of the Prosecutor-General's Office on the first cases of grave human rights violations to be prosecuted;

(c) Assistance to discrimination cases (see annex 2);

(d) Periodic visits by the national preventive mechanism to social rehabilitation centres, investigation units and police and military compounds, as well as reporting on such visits, training on issues related to the prevention of torture and research and thematic reports on deprivation of liberty;

(e) Drafting of a protocol for visits by the national preventive mechanism and of guidelines for coordination between the central and provincial Ombudsman's offices.

34. With regard to the allocation of a sufficient budget and resources to permit the Ombudsman's Office to do its work and perform additional functions such as acting as the national preventive mechanism, a new Organic Act¹⁷ was adopted that modified the organizational structure and regulated the functioning and powers of the national preventive mechanism.¹⁸ As a result, the budget allocated to the Office's activities in 2012 was US\$ 11,376,305.67, of which 94 per cent was spent (annex 3). In 2013, the Office received a budgetary allocation of US\$ 12,783,371.25, enabling it to increase its staff and expand its projects.

35. The breakdown of the national preventive mechanism's 2013 budget was: US\$ 20,830 for technical work; US\$ 16,537.59 for holding an international seminar on prevention of torture; and US\$ 97,491.97 for staff salaries. For 2014, the amount of the mechanism's budget spent to date on technical activities is US\$ 13,648.51, while US\$ 87,330.44 has been spent on staff salaries.

B. Equality and non-discrimination (art. 2, para. 1, and arts. 3, 25 and 26)

Reply to paragraph 5 of the list of issues

36. To guarantee the implementation of legislation and policies on gender equality, the National Assembly has embarked on a process of reviewing secondary legislation to ensure that domestic law is fully compatible with article 11 (2) and (3) of the Constitution.

37. Internationally, Ecuador has adopted ILO Convention No. 156 concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, which was published in *Registro Oficial* No. 641 of 15 February 2012. It has also adopted ILO Convention No. 189 concerning decent work for domestic workers, published in *Registro Oficial* No. 924 of 2 April 2013. Nationally, an Act for the Protection of Labour Rights has been adopted.¹⁹

38. Article 23 of the Civil Service Act establishes labour rights for male and female public servants, while article 27 establishes the right to paid maternity and paternity leave.

39. Article 10 of the Civil Service Act bars from public sector jobs, functions or office anyone who has been convicted and punished for crimes of sexual harassment, sexual exploitation, human trafficking, illicit trafficking or rape.

¹⁶ *Registro Oficial* No. 143 of 13 December 2013.

¹⁷ Ombudsman's Office resolution No. 57. *Registro Oficial* No. 74 of 25 November 2009.

¹⁸ Ombudsman's Office resolution No. 111-DPE-2011 of 8 November 2011.

¹⁹ Supplement 2 to *Registro Oficial* No. 797 of 26 September 2012.

40. Ecuador adopted the National Equality Councils Act to guarantee the effective implementation of gender equality legislation and policies.
41. Accordingly, the National Council for Gender Equality is drawing up a national agenda for women and gender equality 2014-2017, which defends subjects of rights and proposes public action to overcome gender gaps.
42. Through the Ministry of Industry and Productivity, the Government has promoted the production of local goods and services with programmes such as *Produce Pyme* and *Renova*, which provide loans to women and associations committed to working in production projects and microbusinesses.
43. Women recipients of the human development bond have access to the production microcredit programme, under which 90 per cent of mothers have received human development loans.
44. The draft decision on equal employment opportunities for women and men in the Andean Community focuses on achieving economic and social development goals and a steady improvement in men's and women's living standards, based on principles of equality, justice and peace.
45. Article 61 (7) of the Constitution guarantees women's participation in different spheres of public life. Articles 65 and 166 of the Constitution establish gender equality in civil service appointments.
46. The Elections and Political Organizations Act, or Democracy Code,²⁰ calls for the implementation of affirmative action to guarantee women's participation.
47. In the 2009 elections, women won 32 per cent of seats in the National Assembly.
48. In November 2012, an Inclusion Commission²¹ was created to generate inputs that would enable it to take the necessary measures to guarantee the integration, on the basis of equal rights and a gender approach, of Ecuadorians who have traditionally suffered discrimination and marginalization.
49. In both the 2013 general elections and the 2014 local elections, the National Electoral Council monitored lists of candidates for election to multi-member bodies to ensure gender parity and the alternation of male and female candidates. As a result, in the most recent elections, 11,863 women were registered as main candidates and 15,245 as alternates, representing 43.8 per cent and 41 per cent respectively of the total number of candidates for election. Of these, 1,444 women were elected.
50. The 2012 Rules governing the registration and qualification of candidates for popular election also establish that multi-person lists, whether of main candidates or alternates, must observe gender parity and gender alternation. The Rules governing the registration of political parties and movements and their leadership bodies,²² for their part, stipulate that in order for political organizations to be registered, their leadership and decision-making bodies must comprise equal numbers of men and women. The 2013-2014 Rules on election campaigning stipulate that campaign publicity must pay special attention to gender parity and equality, popular participation and ideological pluralism.
51. With regard to the promotion of women's political participation and leadership, since 2013 the Council for Public Participation and Oversight has been organizing schools for civic education and exchanges of knowledge and expertise in an effort to empower the mechanisms envisaged in the Public Participation Act.

²⁰ Supplement to *Registro Oficial* No. 578 of 27 April 2009.

²¹ Resolution of the plenary National Electoral Council.

²² *Registro Oficial* No. 105 of 21 October 2013.

52. The Beijing Platform for Action and the Quito Consensus, in addition to recognizing the value of women's domestic work, called for a debate on and a commitment to improving information and eliminating gender gaps, including those resulting from the sexual division of labour, by means of labour, welfare and care policies (transition commission, 2009, 5).

53. Women's overall employment rate in Ecuador has increased steadily in recent years, with 47 per cent of women currently in the workforce, compared with 58.9 per cent of men. Unemployment among women declined from 11.6 per cent in 2010 to 6.4 per cent in 2014, while underemployment among women declined from 54.9 per cent in 2010 to 47 per cent in 2014.²³

54. Of the total number of women employed as domestic workers (213,121), 48 per cent have social security coverage, while 43.7 per cent of the total female economically active population are covered by social security. The wage for a female domestic worker in 2015 is US\$ 354.²⁴

55. In 2014, 40.94 per cent (1 million) of all workers covered by social security (2,532,060) were women.²⁵

Reply to paragraph 6 of the list of issues

56. The Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion has been publicized consistently throughout the country, through public bodies and social organizations, and information has been published about the services, plans and programmes available to indigenous, Afro-Ecuadorian and Montubio peoples, such as scholarships and intercultural health services. In November 2011, a week of education against racial discrimination was held nationwide.²⁶

57. For the 2010 census, the Government, through the National Statistics Commission for Indigenous, Afro-Ecuadorian and Montubio Peoples (CONEPIA) of the National Statistics and Census Institute (INEC), included ethnic identity in the census form. Support was also provided to CONEPIA in designing and implementing the 2011 campaign to promote self-identification in the census.²⁷

58. With regard to the administration of justice, there has been a campaign to disseminate information on the collective rights of indigenous, Montubio and Afro-Ecuadorian peoples and nationalities, as detailed in annex 4. At the same time, training modules for members of the armed forces, the national police, the Ombudsman's Office and the judiciary on the collective rights of Ecuador's peoples and nationalities have been developed and implemented.

59. Pursuant to Executive Decree No. 748, the Ministry of Justice is the institution responsible for disseminating rights and raising human rights awareness among public servants.

60. In October and November 2014, the Ministry carried out the human rights campaign "Eradication of racial discrimination against the Afro-Ecuadorian people" in order to disseminate the principle of equality and non-discrimination for Afro-Ecuadorians. Six film screenings and discussions were held in military and police training academies, in coordination with the Ministry of National Defence and the Ministry of the Interior

²³ National Survey of Employment, Unemployment and Underemployment (ENEMDU, 2014).

²⁴ Ibid.

²⁵ Data provided by the Ecuadorian Social Security Institute, 2014.

²⁶ CERD/C/ECU/20-22.

²⁷ CERD/C/ECU/20-22.

respectively, aimed at candidates for admission to those academies. Some 1,725 candidates and academy authorities attended the screenings.

61. With respect to anti-racism legislation, articles 176 and 177 of the Comprehensive Criminal Code criminalize discrimination and hatred and punish any crime committed on those grounds.

62. In the area of education, the Intercultural Education Act,²⁸ adopted to guarantee the right to education, lays down the general principles and aims of Ecuadorian education in the framework of *buen vivir* (harmonious coexistence), interculturalism and plurinationalism, as well as the relationship among its stakeholders.²⁹

63. Ecuador has also evaluated the effectiveness of the measures adopted to eradicate discrimination through the National Equality Councils.

64. Accordingly, a national agenda for the equality of nationalities and peoples has been drawn up, focusing on the following areas: lands and territories, collective rights, *buen vivir*, economic rights, plurinationalism and interculturalism, among others. The agenda will be evaluated and observed by the National Equality Council for Nationalities and Peoples, along with the other National Equality Councils.³⁰

65. Measures to strengthen the intercultural approach in comprehensive health-care delivery have included culturally appropriate childbirth to ensure that women are not subjected to invasive activities. In this context, there have been 2,327 childbirths in which the mother was free to choose her birthing position and 8,362 childbirths assisted by a skilled health worker.³¹

66. In 2008, a technical guide to culturally appropriate childbirth was adopted to improve the quality of sexual and reproductive health care. A technical specifications guide for childbirth and recovery units was adopted in 2014.

Reply to paragraph 7 of the list of issues

67. The Organic Act on Disabilities³² has higher legal status than the earlier Disabilities Act since, under article 133 of the Constitution, an organic law cannot be amended or overruled by an ordinary law.

68. To guarantee the full and effective participation and inclusion of persons with disabilities and their families, the Organic Act establishes 10 basic principles that strengthen the application of their rights.

69. The Organic Act places emphasis on the definition of disability, in keeping with the Convention on the Rights of Persons with Disabilities.

70. It also incorporates the definition of a person with a disabling impairment or condition, for instance, a person suffering from a temporary reduction or loss of one of his or her physical, sensory or intellectual capacities.

71. The Organic Act establishes that protection shall be provided not only to Ecuadorians or foreigners with disabilities living in the national territory but also to relatives up to the fourth degree of consanguinity and second degree of affinity, spouses, live-in partners or legal representatives who are responsible for or care for a person with disabilities and/or on whom a person with disabilities is financially dependent, as well as to

²⁸ Supplement to *Registro Oficial* No. 417 of 31 March 2011.

²⁹ Intercultural Education Act, Supplement to *Registro Oficial* No. 417 of 31 March 2011, article 1.

³⁰ National agenda for the equality of nationalities and peoples, 201302917, published in June 2013.

³¹ Source: *Bases ginecológicas, periodo: abril-septiembre 2014*.

³² *Registro Oficial* No. 796 of 25 September 2012.

public institutions and private charities responsible for the care of persons with disabilities and to Ecuadorians with disabilities who are living abroad.

72. The Organic Act states that the only document required to prove eligibility to benefit from its provisions by certifying and registering a person's disability will be the identity or citizenship card. It also states that this requirement will become fully applicable once the Directorate of Civil Registration, Identification and Certification³³ implements the data networking provided for in article 11 of the Act. The new document to be issued by the Directorate will include certification of disability, as well as the type, level and percentage of disability. The Directorate has one year from the Organic Act's promulgation to implement the data networking provided for in article 11. In the meantime, the existing disability card will remain fully valid for five years, namely, up to 25 September 2017, after which the citizenship or identity card will become the sole requirement for access to the Act's benefits.

73. The Organic Act establishes that the State, through its agencies and entities, shall recognize and guarantee for persons with disabilities the full exercise of the rights set forth in the Constitution and in international treaties and instruments. It also establishes that the Act shall be directly applicable.

74. Article 17 of the Organic Act establishes as a basic principle the implementation of affirmative action, defined as any necessary and proportional action that must be taken when a person with disabilities experiences a situation of inequality in the sphere in which he or she enjoys and exercises his or her rights.

75. Persons with disabilities are guaranteed access to health-care rights and services through access to life insurance and/or public and private health insurance. There are penalties for failure to respect these rights.

76. The Organic Act guarantees the right of persons with disabilities to access the public or private formal education, special education and higher education systems to obtain education or training on an equitable, non-discriminatory basis. It establishes that persons with disabilities living in a place where there is no public educational establishment with appropriate services for meeting their special educational needs may receive scholarships and education loans from the Ecuadorian Institute of Educational Loans and Scholarships to enable them to attend a private or grant-aided educational institution that offers the appropriate services.

77. With regard to the right to work, persons with disabilities or a disabling impairment or condition have a right to access paid employment on an equal footing and not to be discriminated against in employment practices, including staff application, selection, recruitment, training and compensation procedures and other conditions established in the public and private sectors.

78. Likewise, in cases where persons are prevented by a severe disability from accessing the labour market, a family member up to the fourth degree of consanguinity and the second degree of affinity, a spouse or a live-in partner who is responsible for their care may cover up to 50 per cent of their employment-related contribution. Parents of a disabled minor may also substitute for their child in this manner, regardless of the child's degree of disability.

³³ The Directorate of Civil Registration, Identification and Certification is the institution responsible for identifying all inhabitants of Ecuador, registering their civil acts and issuing secure and trustworthy documents while guaranteeing the protection and appropriate handling of information. <http://www.registrocivil.gob.ec/?p=1356>.

79. By law, public and private sector workers with disabilities may take time off for medically certified treatment and rehabilitation.

80. The Organic Act on Disabilities also recommends that public credit agencies maintain a preferential credit line for individual or family businesses run by disabled persons and/or businesses run by associations of disabled persons. The Bank of the Ecuadorian Social Security Institute, for instance, will grant unsecured loans and mortgages after half the requisite contributory period and will not, in such cases, require that social security contributions be continuous.

81. At the same time, the Act stipulates that, before being granted operating and transport licences, the competent traffic, land transport and road safety bodies must monitor, verify and oversee mandatory compliance with the regulations for the transport of persons with disabilities issued by the Ecuadorian Standards Institute (INEN).³⁴ Likewise, under article 13 of the Act's implementing regulations, the licensing of taxi organizations is subject to the requirement that at least 2 per cent of vehicles or one vehicle per taxi cooperative or company, depending on population density, must have been technically adapted to transport persons with disabilities.

82. With regard to preferential rates and customs and tax exemptions for vehicles intended for the use and transportation of persons with disabilities, a special reduction of US\$ 8,000 on the taxable base for the corresponding tax must be considered. If the taxable base is greater than this amount, the remaining balance is subject to a special reduction of 50 per cent. Such vehicles are also exempt from payment of the vehicle emissions tax.

83. Imports and sales of vehicles, including vehicles manufactured in Ecuador, intended for the use or personal or collective benefit of persons with disabilities or, at their request, of individuals and legal entities legally responsible for the protection or care of a disabled person are exempt from the payment of import duties, value added tax and excise taxes.

84. Persons with disabilities and/or individuals and legal entities legally responsible for their protection or care enjoy a 50-per-cent exemption on the payment of property tax. This exemption applies to one property with a maximum value of 500 times the basic standard private sector wage, or the equivalent of US\$ 177,000.

85. The incomes of persons with disabilities are exempt from income tax up to an amount equivalent to twice the basic income (US\$ 20,820 for 2014) taxed at 0 per cent. Substitutes also benefit from this exemption.

86. Persons with disabilities are exempt from the payment of charges and/or fees for notarial, consular and civil registration, identification and certification services and for obtaining a passport.

87. Persons with disabilities are entitled to reimbursement of the value added tax that they pay on purchases of goods and services for their personal use and consumption, up to a maximum of US\$ 3,744 per year.

88. Persons with disabilities or individuals or charities acting as their legal representatives pay reduced rates for utilities such as electricity, drinking water and sanitation, as well as Internet, telephone landline and mobile telephone services.

89. For instance, they are entitled to a 50-per-cent reduction on their monthly drinking water and sanitation bill for the first 10 cubic metres used and to a 50-per-cent reduction on

³⁴ The Ecuadorian Standards Institute is the national technical body central to the Ecuadorian quality control system, with competence in the areas of standardization, technical regulation and metrology. <http://www.normalizacion.gob.ec/>.

their monthly electricity bill up to an amount equivalent to half the basic standard private sector wage.

90. Telephone landline services are charged at cheap rates according to current regulations. Mobile telephone services are charged at 50 per cent of the monthly rate for up to 300 minutes or the equivalent in text messages. The value added tax payable on Internet broadband services is also reduced by 50 per cent.

91. With regard to copyright, disabled persons are not required to obtain the authorization of the holder of copyright or related rights or to make any payments to that person in order to adapt, translate and distribute the copyrighted works and materials, to communicate them and make them available to public persons or bodies by interactive means, whether wired or wireless, digital or analog, or to produce and supply them in accessible formats.

92. In terms of the measures taken, the National Council on Disability (CONADIS) has developed a nationwide campaign to publicize all the affirmative action, rights and guarantees provided for in the Organic Act. This campaign, entitled "Mainstreaming and implementing public policies on disability", has received an investment of US\$ 4,692,000 for the period 2014-2017 and will involve publicity activities in the country's 221 cantons.

93. Ecuador has also achieved universal access to health services for families. In 2013, US\$ 450 million were allocated to infrastructure, including the construction of hospitals and health centres and the creation of mobile units. The improvement of the country's hospital infrastructure is a health-care landmark not just for Ecuador but for Latin America.

94. Ecuador's Ministry of Public Health guarantees the provision of orthotics and prosthetics to all disabled persons who require this type of technical aid.

95. With regard to the right to education, the Government plans to ensure that persons with disabilities can begin, continue and complete their education within the national education system and the higher education system.

96. The Secretariat of Higher Education, Science, Technology and Innovation³⁵ is required to provide grants for full-time, part-time and distance courses at undergraduate and postgraduate level. Higher education institutions are also required to mainstream knowledge of disability issues in the curriculum for the various degree courses and academic programmes.

97. Pursuant to articles 48 (1) and (4), 69 (7) and 62 (2) of the Constitution, the National Electoral Council (CNE) has created an inclusion mechanism for persons with disabilities. The disabled persons inclusion project for the 2014 local elections was designed to promote the political participation of persons with disabilities through legislation and public policy.

98. To implement the project, a national coordinating team was set up, comprising four individuals and one CNE official for each of the Council's 24 provincial offices. The Council adopted rules on the political participation of persons with disabilities, as well as instructions for polling station help desks and home voting instructions. To meet the real needs of persons with disabilities, planning, publicity and evaluation meetings were held with 1,331 organizations of young people, older persons and persons with disabilities. Moreover, to overcome accessibility problems, the Council selected around 3,402 polling stations that met minimum accessibility standards and designed its signage according to

³⁵ The Secretariat of Higher Education, Science, Technology and Innovation is in charge of public policy on higher education, science, technology and ancestral knowledge, and its implementation, with a focus on the country's strategic development. <http://www.educacionsuperior.gob.ec/la-secretaria/>.

INEN standards. It also selected some 33,000 polling teams and distributed them according to minimum accessibility standards within polling stations.

99. To overcome difficulties with the registration and change of domicile of persons with disabilities and older persons, the Council asked CONADIS and the Ministry of Health for an official database of disabled persons. It conducted a “Change of Domicile” campaign, creating 48 outreach teams who assisted 6,612 disabled and older persons.

100. With regard to the steps taken to inform persons with disabilities of their rights in accordance with article 156 of the Constitution, the National Equality Council for Disability was set up as an autonomous institution under public law, with its own legal personality and assets, responsible for designing public policies for persons with disabilities.

Reply to paragraph 8 of the list of issues

101. With regard to the complaints of lesbian, gay, bisexual and transgender (LGBT) persons being held in clinics or rehabilitation centres to undergo “sexual reorientation treatment”, the National Council for Gender Equality has, since its transition phase, promoted gender mainstreaming in public policies and macro-planning instruments, in partnership with women’s and LGBT organizations.

102. In December 2012 and January 2013, the Government carried out the first research project into living conditions, social inclusion and respect for the rights of Ecuador’s LGBT population. The project’s findings on the discrimination faced by the LGBT population led to the establishment of a panel on comprehensive policies for LGBT groups.³⁶ As part of the coordinating team for unannounced inspections of “dehomosexualization” clinics, the Ministry of Health raided four clinics in 2013, rescuing approximately 349 persons. Five centres have been closed temporarily, 19 have been closed permanently and one case has been prosecuted.

103. The Comprehensive Criminal Code³⁷ includes the principle of equality and non-discrimination, with special emphasis on persons in vulnerable circumstances, such as LGBT communities. Article 141 of the Code establishes the crime of femicide, while article 20 of the rules governing treatment centres for persons addicted to or dependent on psychotropic substances establishes that, in admitting patients, such centres may not offer, practise or recommend treatments or therapies aimed at infringing their human rights, especially their right freely to develop their own personality, their right to their own gender identity and sexual orientation and their right to be protected from gender violence, among others.

104. Article 176 of the Code establishes that anyone who promotes, practises or incites any distinction, restriction, exclusion or preference on grounds of sex, gender identity or sexual orientation is guilty of the crime of discrimination. Article 177 of the Code establishes that anyone who, motivated by hatred, commits acts of physical or psychological violence against one or more persons on grounds of their sex, gender or sexual orientation is guilty of the crime of hatred.

105. Article 151 of the Code criminalizes torture, which is punishable by 10 to 13 years’ imprisonment when committed with the intention of changing the victim’s gender identity or sexual orientation.

³⁶ Presidential commitment No. 21525, made in December 2012. The panel comprises, in addition to the Office of the United Nations High Commissioner for Human Rights (OHCHR), a number of State institutions.

³⁷ *Registro Oficial*, Supplement No. 180 of 10 February 2014.

106. To prevent discrimination based on sexual orientation or gender identity, the Ombudsman's Office has promoted various actions to guarantee the exercise of LGBT collective rights, including in the following areas: (a) safeguarding of rights; (b) administration of justices; (c) electoral aspects; (d) health; and (e) promotion of rights.

107. Actions to safeguard rights have included: (a) protective action to ensure that the Guayas civil registry entered the same-sex union of a lesbian couple in the (physical or computerized) civil status registry, in case No. 09284-2014-8376; (b) in the latter connection, the Ombudsman's Office filed an action for protection in case No. 17353-2010-0647 of the Pichincha third court; (c) sponsorship of residence for a homosexual couple in a common-law union in Galápagos, on which the Guayas provincial court ruled favourably on 28 March 2013 in case No. 2012-0896; (d) resolutions urging mass media and administrators of public places and shopping centres to ensure that their staff or employees refrain from discriminatory actions against members of the LGBT community (e.g. resolution No. 018-DPE-DINAPROT-58056-2012 of 5 July 2013, resolution No. 028-DPE-DPG-504-2013-MP of 30 July 2013 and resolution No. 0171-DPE-CDGZ8-2014 of 9 July 2014).

108. The Ombudsman's Office periodically monitors due process in judicial or administrative proceedings brought by LGBT communities.

109. With regard to electoral aspects, on 6 December 2012 the Ombudsman's Office signed an open letter challenging homophobic statements made by Nelson Zabala, presidential candidate of the Partido Roldosista Ecuatoriano. On 20 February 2013, it signed an open letter protesting at discrimination against candidate Diane Rodríguez, who, despite having a woman's name and having registered and campaigned for official recognition as a woman, voted in the men's polling booth.

110. In the health area, since 2009 the Ombudsman's Office has been taking part in visits to and inspections of centres alleged to have engaged in torture, in order to safeguard inmates' human rights. Moreover, since 2012 and the creation of the National Inter-institutional Technical Committee and local committees headed by the Ministry of Health, the Office has taken part in unannounced visits to more than 12 centres nationwide with a view to monitoring conditions and safeguarding inmates' rights. It has also filed actions of habeas corpus on behalf of persons unlawfully deprived of their liberty against their will.

111. In the area of promotion of rights, the Ombudsman's Office joined the "Free & Equal" global campaign for LGBT rights in 2013. Its Education Directorate is also developing a training module for public servants on sexual orientation and gender identity issues.

112. The Council of the Judiciary is currently designing plans and activities to improve access to justice for the LGBT population, based on the principles of equality and non-discrimination.

113. At a meeting on 20 August 2014, the plenary Council ordered that notaries throughout Ecuador should be given training on common-law unions, which are recognized in the Constitution. The National Directorate of Access to Justice Services and the Judicial Training School are working on a curriculum module on the equal rights of LGBT populations.

114. An awareness-raising campaign for judicial staff is also being developed and will commence in 2015.

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115. In recent years, Ecuador has made outstanding efforts to take in large numbers of asylum seekers, adhering fully to the principles of non-refoulement and non-discrimination.

At the same time, it has taken steps to expedite the granting of refugee status, bearing in mind the circumstances of asylum seekers, most of whom are Colombians fleeing the armed conflict in their own country.

116. The Regulation governing the application in Ecuador of the right of asylum,³⁸ issued by Executive Decree No. 1182, incorporated new elements on, inter alia, the determination of refugee status and the admissibility procedure (art. 19), the plurality of the commission responsible for determining the status of refugees in Ecuador (art. 15) and the appeal procedures available to applicants (arts. 47 and 50). The Regulation also grants important benefits, such as the right of asylum seekers to work and to social security (art. 35) and the same rights and obligations for refugees as for Ecuadorians (art. 3).

117. With regard to the Committee's concluding observations on the requirement for a criminal record certificate, it should be mentioned that, under the Regulation governing the right of asylum in Ecuador, there is no absolute requirement for an applicant to produce such a certificate. Ecuadorian law has thus determined that asylum seekers cannot be required to produce a criminal record certificate (art. 4 of the Regulation).

C. Violence against women (arts. 3 and 7)

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118. Article 66 (3) of the Constitution recognizes and guarantees the right to physical integrity.

119. In keeping with the Constitution, the Comprehensive Criminal Code criminalizes human trafficking (art. 91), sexual exploitation (art. 100), enforced prostitution (art. 101), femicide (art. 141), violence against women or family members (arts. 155-159), sexual harassment (art. 166), statutory rape (art. 167), sexual abuse (art. 170), rape (art. 171), discrimination (art. 176) and acts of hatred in which one of the motives is sex, gender identity or sexual orientation (art. 177). The Code defines crimes of gender violence against children and adolescents, such as: distribution of pornographic material to children and adolescents (art. 141); corruption of children and adolescents (art. 169); and sexually motivated use of persons for public exhibition (art. 172).

120. To ensure the effectiveness of criminal legislation, the Council of the Judiciary issued resolution No. 069-2012,³⁹ article 1 of which gives top priority to all judicial proceedings brought for crimes against sexual freedom and integrity, especially those committed against children, adolescents and vulnerable persons. Article 2 of the resolution stipulates that in order to ensure prompt justice, as defined in article 20 of the Code of the Judiciary, while observing the stages and time frames of judicial proceedings, judges and judicial officials must push for the existence of the crime to be determined, the perpetrators to be identified and penalties to be imposed in keeping with judicial procedure and the law. Article 3 stipulates that both provincial directorates and the Coordinating Office for Disciplinary Oversight of the Council of the Judiciary should launch and/or give priority to administrative inquiries into alleged disciplinary offences detected in judicial proceedings brought for crimes against sexual freedom and integrity, especially those committed against children and adolescents.

121. The National System of Forensic Medicine and Science has been strengthened in order to improve the specialized investigation of these crimes. The system comprises eight areas, two of which are designed specifically to ensure that the criminal investigation of

³⁸ *Registro Oficial* No. 727 of 19 June 2012.

³⁹ Supplement 2 to *Registro Oficial* No. 746 of 16 June 2012.

gender-related crimes, sex crimes, domestic violence and femicide is conducted more efficiently and makes greater use of forensic technology.

122. The Prosecutor-General's Office has reviewed and is in the process of adapting the Latin American Model Protocol for the investigation of gender-related killings of women, adopted by the Ibero-American Association of Public Prosecutors in November 2013.

123. Article 171 of the Constitution recognizes the justice system of indigenous communities, peoples and nationalities.

124. This recognition of indigenous justice must, however, be read in the light of article 57 (10) of the Constitution, which, while recognizing the collective right of indigenous communities, peoples and nationalities to create, develop, apply and practise their own or customary laws, stipulates that such laws may not infringe constitutional rights, particularly those of women, children and adolescents. Likewise, article 8 (2) of ILO Convention No. 169 stipulates that such laws may not be incompatible with nationally and internationally recognized human rights.

125. As regards measures in place to guarantee the prevention, prosecution and punishment of these crimes by indigenous courts, a report is pending for the second debate in the National Assembly on the draft organic act on coordination and cooperation between indigenous courts and ordinary courts.

126. With respect to statistical data on the number of complaints filed concerning different forms of violence against women and the number of convictions handed down, according to the Prosecutor-General's Office there were 605 complaints of domestic violence and 5,969 complaints of sexual crimes in the period from January to June 2014 and 85 complaints of possible femicides between January to May 2014. Annex 5 provides statistical data by province.

127. Concerning the lawsuits filed and settled in these cases by the judicial units for families, women, children and adolescents, 30,867 lawsuits were filed in 2013, of which 10,838 were settled, while 37,905 lawsuits were filed in 2014, of which 2,507 were settled, as can be seen from annex 5.

128. With regard to the reform of judicial bodies specializing in cases of violence against women, the plenary Council of the Judiciary has issued the following resolutions: (a) resolution No. 057-2013⁴⁰ containing operating rules for the judicial units dealing with violence against women and the family and the women's sections of police stations; (b) resolution No. 037-2014⁴¹ creating a special division of Guayas provincial court for families, women, children, adolescents and young offenders, which has been given responsibility for cases of violence against women or family members; (c) resolution No. 042-2014⁴² establishing the order of precedence of jurisdiction in this area pursuant to article 232 of the Code of the Judiciary; (d) resolution No. 154-2014⁴³ issuing protocols for judicial conduct and action and expert evaluation in these cases; and (e) resolution No. 172-2014⁴⁴ on the rules governing judicial action in cases involving acts of violence against women or family members.

129. Concerning the establishment of special units, the Prosecutor-General's Office reports that 27 comprehensive specialized units have been set up in various cantons, staffed

⁴⁰ Supplement to *Registro Oficial* No. 31 of 8 July 2013.

⁴¹ Supplement to *Registro Oficial* No. 218 of 3 April 2014.

⁴² *Ibid.*

⁴³ Supplement 2 to *Registro Oficial* No. 339 of 23 September 2014.

⁴⁴ Supplement to *Registro Oficial* No. 351 of 9 October 2014.

by a total of 127 forensic experts, psychologists and social workers, who must make sure that forensic examinations avoid revictimization and optimize criminal investigation.

130. With regard to the network of shelters and care centres, Executive Decree No. 1522 transferred jurisdiction from the Ministry of the Interior to the Ministry of Justice, Human Rights and Worship.⁴⁵ On this basis, the Ministry of the Interior transferred to the Ministry of Justice on 28 February 2014, by Interministerial Agreement No. 33971-A published in *Registro Oficial* No. 233 of 25 April 2014, responsibility for the management and implementation of a project to strengthen centres for the care and protection of children, adolescents and women victims of domestic and/or sexual violence and sexual exploitation in Ecuador. The project includes 14 care centres and five shelters for victims of gender violence nationwide.

131. The purpose of the care centres is to provide comprehensive, specialized protection to women, children and adolescents who have been victims of domestic and/or sexual violence, as well as free legal assistance in gender-violence-related judicial proceedings. Their teams also provide psychological support to direct and indirect (children and adolescents) victims, and social workers identify opportunities for women to become financially independent. The centres are located in the provinces of Azuay, Bolívar, Cañar, Chimborazo, El Oro, Esmeraldas, Guayas, Loja, Manabí and Santo Domingo de los Tsáchilas and have a total budget of US\$ 1,133,880. The shelters offer victims of violence a refuge, accommodation, food, therapy and legal assistance and are located in Azuay, Guayas, Orellana, Pichincha and Sucumbíos. Their total budget is US\$ 506,000.

132. With regard to exceptions to the criminalization of voluntary termination of pregnancy, article 150 of the Comprehensive Criminal Code states that abortion shall not be punishable where it is carried out to avoid endangering the life or health of the woman and where pregnancy is the result of rape in the case of a mentally disabled woman.

133. According to INEC, up until 2011 unspecified abortion was among the five leading causes of female morbidity. In order to reduce maternal morbidity and mortality in Ecuador, a number of steps have been taken to guarantee access to information, education and advice on sexuality and sexual and reproductive rights.

134. In 2014, under the National Intersectoral Strategy for the Prevention of Teenage Pregnancy, 1,628,215 persons received information on sexual and reproductive health through social networking strategies, while 1,911,896 adolescents and young people received information on sexual rights and reproductive health at public information and outreach events. Seven million people were reached by the *Enchufe TV* video (www.youtube.com/watch?v=OHRXhYZIUBg).

135. The 171 (option 3) telephone hotline offers free information on sexuality, sexual health, reproductive health, prevention and how to find help in cases of gender-based violence. Priority has been given to the publication of eight obstetric guides to clinical practice on the main causes of maternal death, including a clinical practice guide for dealing with cases of therapeutic abortion.

136. Since July 2014, the Ministry of Health has been implementing a strategy for the rapid reduction of maternal deaths.

137. The Ministry of Health also produced a clinical practice guide for the diagnosis and treatment of spontaneous, incomplete, missed or recurrent abortion (2013). As of 2014, 100 comprehensive sexual and reproductive health services had been set up in priority health

⁴⁵ Executive Decree No. 1522, published in the Supplement to *Registro Oficial* No. 13 of 12 June 2013, article 4 (2).

units. Between 2011 and 2014, 256 comprehensive adolescent care services were designed and established.

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138. According to information provided by the Prosecutor-General's Office, in the period from 2012 to June 2013, a total of 270 complaints of sexual offences in educational establishments were filed: 107 complaints of sexual harassment, 105 of indecent assault, 35 of rape, 9 of statutory rape, 4 of sexual abuse, 2 of abduction, 1 of procuring and 1 of producing, distributing and marketing pornographic images.

139. With regard to the investigations and judicial proceedings opened, the Prosecutor-General's Office is monitoring, through the National Directorate for the Conduct of Judicial Proceedings, 321 cases that are being dealt with by a specialized case panel, with the participation of Ministry of Education authorities and the Council of the Judiciary. According to the Office's report, five convictions were secured in 2012, eight in 2013 and four in the period up to March 2014.

140. The Government has taken a number of measures to eradicate abuse and sexual violence in educational establishments. In the legislative sphere, article 3 (m) of the Act on Intercultural Bilingual Education⁴⁶ states that one of the aims of education is to protect and support students in cases of violence, ill-treatment, sexual exploitation and any kind of abuse.

141. Likewise, article 6 (h) of the Act stipulates that one of the State's obligations is to eradicate all forms of violence in the education system and ensure physical, psychological and sexual integrity.

142. Article 11 (1) of the Act orders teachers to promote in educational settings a culture of respect for diversity and eradication of discriminatory and violent behaviour. Article 132 (a) prohibits legal representatives, directors, teachers and parents of pupils of educational institutions from engaging in harassment, abuse, sexual violence or other sexual offences, while article 133 establishes the corresponding penalties.

143. The Ministry of Education has designed strategies for the prevention and eradication of sexual violence in Ecuador's education system:

- Implementation of a comprehensive national plan for the eradication of sexual offences in the education system,⁴⁷ with four strategic areas: (a) human security, social inclusion and prevention; (b) comprehensive priority care; (c) special protection, justice and restoration of rights; and (d) participation;
- Creation of the National Directorate for Democracy and *Buen Vivir*, which designs programmes of preventive and corrective action in cases where the rights of children and adolescents have been violated;
- Definition and drafting of protocols and methodologies for combating acts of violence and/or sexual violence detected or committed in the education system;
- Obligation to register on a national database and to locate the complaint form on the Ministry of Education portal;
- Specialized technical assistance in taking a comprehensive approach to situations of violence and sexual and gender violence, provided by the national team of the

⁴⁶ Supplement to *Registro Oficial* No. 417 of 31 March 2011.

⁴⁷ Supplement to *Registro Oficial* No. 581 of 22 November 2011.

student counselling departments of the National Directorate for Democracy and *Buen Vivir*;

- The “No one ever again; education without sexual violence” national campaign and the political determination to eradicate such violence through joint action at both institutional and intersectoral level;
- Issuance, by means of Ministerial Agreement No. 0332-13, of a guide for the participatory drafting of a code of institutional coexistence;
- The student participation programme (Ministerial Agreement No. 0444-12), which establishes guidelines to ensure that students in the first and second years of upper secondary education complete 200 hours of activities on violence prevention.

144. The Ministry of Education has signed a tripartite agreement with the Prosecutor-General’s Office and the Council of the Judiciary to, inter alia, investigate cases of sexual violence, strengthen procedures, gather information and work intersectorally.

145. A module on the prevention of and initial response to sexual crimes in the educational sphere has been designed and will become part of in-service training at the National University of Education. Two modules, one on gender and education and one on sex education, have also been designed and education and communication materials have been provided.

146. Pursuant to transitional provision 20 of the Comprehensive Criminal Code and by resolution DP-DPG-2014-043 of 1 April 2014, the Ombudsman’s Office has issued regulations governing the Public Defender Service for Victims of Crimes against Sexual Freedom, which will serve victims who cannot afford private defence counsel.

D. Public emergency (art. 4); measures to combat terrorism, observance of the guarantees set forth in the Covenant and the right of peaceful assembly (art. 21)

Reply to paragraph 12 of the list of issues

147. Articles 164 and 166 of the Constitution impose requirements for states of emergency, based on the International Covenant on Civil and Political Rights and the recommendations of the Human Rights Committee.

148. Article 165 of the Constitution stipulates that, during states of emergency, only the exercise of the following rights may be suspended or restricted: inviolability of the home, inviolability of correspondence, freedom of movement, freedom of association and assembly and freedom of information.

149. Article 166 of the Constitution establishes human rights guarantees for such cases: the President must notify the National Assembly, the Constitutional Court and the corresponding international bodies that a state of emergency has been declared, within the 48 hours following the signing of the decree. If circumstances so warrant, the National Assembly may revoke the decree, regardless of whether or not the Constitutional Court has ruled the decree to be constitutional. The decree may remain in force for a maximum of 60 days and, if the reasons that motivated it continue to exist, may be extended for a further 30 days. Notice must be given of such extension. If the President does not renew the decree or does not give notice of its extension, it shall be deemed to have lapsed. If the reasons that motivated the state of emergency cease to exist, the President shall decree its lifting and shall give immediate notice thereof, with the corresponding report. Public servants shall be liable for any abuse that they commit while acting in their official capacity during a state of emergency.

150. A state of emergency was declared by Executive Decree No. 488 of 30 September 2010 after a large group of police seized the Quito regimental barracks. The police uprising caused grave internal unrest, leaving the population unprotected and resulting in economic damage, closure of roads and airports and serious clashes between law enforcement officers and civilians, in which 5 people were killed and 274 injured. The decree ordered the nationwide mobilization of the armed forces to safeguard national sovereignty and law and order, the preparation of a contingency plan and the use of State resources for those purposes. The state of emergency lasted for five days.

151. Constitutional Court ruling No. 0017-10-SEE-CC⁴⁸ found that the declaration of the state of emergency fulfilled all the requirements established in the Covenant, the Constitution and the Judicial Safeguards and Constitutional Oversight Act.

152. Subsequently, Executive Decrees Nos. 493, 500 and 571 were issued to protect public safety in the canton of Quito and the normal functioning of the National Assembly. These decrees were likewise analysed by the Constitutional Court.

153. Judicial proceedings were instituted to provide comprehensive redress to victims and to the families of those who died on 30 September 2010. Various stages have been reached in these proceedings.

Reply to paragraph 13 of the list of issues

154. The wording of the provision (article 345 of the Comprehensive Criminal Code) under which sabotage is defined as a criminal offence and the wording of the provisions (articles 366 to 370 of the Code) under which terrorism and the financing of terrorism are defined as criminal offences are aligned with the relevant provisions of the Covenant, in that the crimes in question have been legally defined as conduct or acts engaged in by an armed individual or group of armed individuals that may cause legal, economic, social and/or political instability in Ecuador. By condemning sabotage and terrorism, the Government is prioritizing the collective interest over individual interests and protecting peace and security.

155. In keeping with article 9 of the Covenant, the Government ensures due compliance with the Constitution in proceedings brought for the punishment of these crimes, respecting the rights enshrined in the Constitution and international human rights treaties, in particular, the rights to effective judicial protection and due process set forth in articles 75 and 76 of the Constitution and article 5 of the Comprehensive Criminal Code.

156. Because the Comprehensive Criminal Code only came into force on 10 August 2014, there are no updated statistics as yet on cases involving these crimes.

E. Right to life and prohibition against torture and cruel, inhuman or degrading treatment or punishment, remedies and administration of justice (arts. 6 and 7, 2, para. 3, and 14)

Reply to paragraph 14 of the list of issues

157. Article 215 (4) of the Constitution states that the powers of the Ombudsman's Office include exercising and promoting oversight of due process and immediately preventing torture and cruel, inhuman or degrading treatment in all its forms. Chapter II (I) of the Act organizing the Ombudsman's Office also states that one of its duties and powers is to make periodic visits to social rehabilitation centres, investigation units and police and military compounds to verify respect for human rights.

⁴⁸ Official Supplement to *Registro Oficial* No. 304 of 20 October 2010.

158. At the initiative of the Ministry of the Interior, a National Directorate for Crimes against Life, Violent Deaths, Disappearances, Extortion and Kidnappings was created by Ministerial Agreement No. 3338 of 19 July 2013, published in *Registro Oficial* No. 58 of 14 August 2013. Under the direction of the Prosecutor-General's Office, the National Directorate investigates, inter alia, crimes against life and the disappearance of persons. When it establishes that a crime against humanity has been committed, the Directorate transmits its report to the Prosecutor-General's Office, which launches a judicial investigation.

159. Pursuant to article 32 of the National Police Act, the Police Inspectorate monitors and oversees administrative, financial, technical and scientific activities and conducts administrative investigations of police disciplinary actions and offences.

160. The Directorate of the Truth and Human Rights Commission in the Prosecutor-General's Office was set up on 23 March 2012 to coordinate, support and investigate cases of human rights violations throughout the national territory, including the 136 cases reported by the executive branch's Truth Commission in its 2010 report "Without truth there can be no justice".⁴⁹ Recently, the Directorate has launched new investigations, for instance into the massacre of workers at the Aztra sugar mill and the death of former President Jaime Roldós Aguilera, and has secured the institution of judicial proceedings in 142 cases, including the first case of a crime of hatred (Michael Arce case).

161. To prevent the police and security forces from committing violations of the rights established in articles 6 and 7 of the Covenant, the Government has carried out a number of training programmes. The Human Rights Department of the National Police Education Directorate took part in the following seminars and workshops in 2013:

- (a) "Human mobility, treatment of detainees, law enforcement and human rights and policing", attended by 60 police officers;
- (b) Leadership seminar on human rights and policing for 67 officers enrolled on the thirty-eighth course for senior officers at the National Police Staff Academy;
- (c) Third international leadership seminar on human rights and policing for senior police commanders of the Americas;
- (d) Fourth course for instructors in human rights and policing and public safety, attended by 26 police officers;
- (e) Third international specialized training course for human rights and policing instructors in the use of force, firearms (shooting to preserve life) and non-lethal techniques and technologies, attended by 37 national and foreign police officers;
- (f) Human rights workshop for police officers;
- (g) Workshop on child and adolescent human rights and policing for 54 police employees;
- (h) Candidates for admission to the different police training academies receive ongoing human rights training.

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162. By resolution No. 001B-FGE-2013 of 18 January 2013, the Prosecutor-General, Mr. Galo Chiriboga Zambrano, set up a joint commission of the Directorate of the Truth and Human Rights Commission and the Directorate of Investigations to investigate the complaints against rural or peasant juntas (*juntas campesinas*) reported by the Special

⁴⁹ http://www.alfonsozambrano.com/comision_verdad/cdv10-informe_final.pdf.

Rapporteur on extrajudicial, summary or arbitrary executions of the United Nations Human Rights Council and to take the corresponding action. The two Directorates coordinated a brief survey of the literature on the peasant defence networks (*juntas de defensa del campesinado*).

163. The Truth Commission Directorate also gathered information, mainly from the Ecumenical Human Rights Commission, on complaints of human rights violations committed by members of these networks.

164. The peasant defence networks⁵⁰ are a non-judicial, informal justice system unrelated to either the indigenous justice system provided for in the Constitution or the rural parish juntas (*juntas parroquiales*). This distinction has been made by academics, members of different indigenous organizations and United Nations special rapporteurs.

165. The criminal proceedings brought in these cases of human rights violations by peasant defence networks are detailed in annex 6. The main accused is Macario Raúl Bayas Villacrés, known as “El Justiciero” (the avenger).

166. Cases have been dismissed in the many judicial proceedings brought against Bayas in Tungurahua, Chimborazo and Bolívar. The same is true of all the proceedings brought against the peasant defence networks. As a result, measures are being taken to improve the investigation of such cases, including: (a) the introduction of indicators to identify peasant defence network cases in the future; (b) the assignment of an additional prosecutor to the Truth Commission Directorate to investigate abuses committed by the networks; (c) the conduct of a study to determine, given the time that has elapsed, which cases of peasant defence network abuse can be reopened as grave human rights violations in order to avoid impunity.

Reply to paragraph 16 of the list of issues

167. Between 2010 and March 2014, the Prosecutor-General’s Office received 86 complaints of torture (see annex 7). From 2013 to February 2015, in an effort to improve the investigation of acts such as torture, the Prosecutor-General’s Office invested in the construction of forensic science research centres, providing histopathology, corpse radiology, biology, chemistry, toxicology and autopsy services, in the cities of Ambato, Manta and Santo Domingo, with further centres planned for Esmeraldas, Cuenca, Machala, Loja and Nueva Loja.

168. On 7 June 2010, the Truth Commission published a report on human rights abuses committed between 1984 and 2008. The report presents evidence of 116 incidents, including 68 extrajudicial executions, and names 458 alleged perpetrators.

169. In early 2014, the Ministry of the Interior inaugurated the Maria Eugenia Carrera Forensic Science Laboratory in Quito, which has modern facilities and high-tech equipment.

170. As part of the plan for strengthening the administration of justice in Ecuador by mainstreaming the human rights approach, the Human Rights Directorate of the National Council of the Judiciary is drawing up two protocols for the exchange of information that will allow monitoring of cases of grave human rights violations in the administration of justice.

171. With respect to the criminalization and punishment of torture in criminal law, the Comprehensive Criminal Code was published in the Supplement to *Registro Oficial* No. 180 of 10 February 2014. Article 119 of the Code imposes a penalty of 13 to 16 years’

⁵⁰ Created by Executive Decree No. 1963 of 1966 to prevent thefts of livestock and crops.

imprisonment on anyone who, in the course of an armed conflict, tortures or inflicts cruel, inhuman or degrading treatment on a protected person. Article 151 defines the crime of torture.

172. Concerning protection and reparation for victims of criminal offences, article 178 of the Constitution establishes that victims shall enjoy special protection and that comprehensive redress mechanisms and a programme of protection and assistance for victims, witnesses and other participants in criminal proceedings shall be adopted. In keeping with this provision, article 11 of the Comprehensive Criminal Code establishes the rights of victims in any criminal proceeding.

173. Article 77 of the Code contains a definition of comprehensive redress in criminal cases and article 78 establishes the mechanisms for applying it.

Reply to paragraph 17 of the list of issues

174. The 138 cases detailed in the Truth Commission's report are under pretrial investigation by the Prosecutor-General's Office. The following paragraphs provide an overview of the stage reached in some of these cases.

175. The *Susana Cajas, Luis Vaca and Javier Jarrín* case, the first crime against humanity to be prosecuted in Ecuador, is at the committal stage. Nine retired soldiers and police are accused of crimes against humanity. On 29 September 2014, the criminal division of the National Court of Justice dismissed an appeal against the committal order and judges upheld the order to commit the nine accused to trial.

176. The *Vicente Grijalva* case is under pretrial investigation. At the same time, the Attorney General's Office is pursuing mediation in the case with a view to reaching an agreement on compensation for the seven victims.

177. The *José Luis Lema et al.* case is the first case of grave human rights violations to be prosecuted in Ecuador. The trial hearing began on 14 May 2014 and a former police officer was sentenced to three year's imprisonment for the crime of torture on 14 July 2014.

178. On 25 November 2014, the Prosecutor-General's Office lodged an appeal against the sentence, requesting guilty verdicts against two former police officers who had initially been acquitted. The Pichincha provincial court upheld the appeal in full. On 2 December 2014, the Prosecutor-General's Office applied for the sentence to be overturned, on the grounds that redress must be comprehensive. A settlement is pending.

179. In the *Damián Peña* case, the 10 March 2014 sentence of the Azuay third criminal guarantee court declared the accused to be innocent. On 6 May 2014, the Prosecutor-General's Office lodged an appeal for the sentence to be overturned. The appeal was dismissed on 7 August 2014. A further appeal by the Prosecutor-General's Office for the sentence to be overturned was upheld on 29 August 2014.

180. In the *Gonzales et al.* case, on 6 November 2014 the criminal division of the National Court of Justice sentenced four serving police officers and one retired police officer to 16 years' imprisonment for murder, as defined by article 450 of the Criminal Code in force at the time of the crime. One of the accused was cleared and five were found guilty of aiding and abetting a murder. However, since the new Comprehensive Criminal Code does not criminalize such participation in a crime, the principle of leniency was applied, meaning that the five perpetrators will not have to serve the sentence imposed under the previous Criminal Code.

Reply to paragraph 18 of the list of issues

181. Article 178 of the Constitution and article 11 of the Comprehensive Criminal Code establish the rights of victims and witnesses in criminal proceedings. Article 443 (2) of the Comprehensive Criminal Code establishes that the Prosecutor-General's Office shall direct a programme of protection and assistance for victims, witnesses and other participants in criminal proceedings.

182. The Directorate of the National Victim and Witness Protection Programme in the Prosecutor-General's Office issued procedural rules⁵¹ that have allowed substantial improvements to be made in care, protection, assistance and restoration of rights for crime victims. The programme's geographical coverage has been expanded through decentralization to provincial offices with multidisciplinary teams, computer equipment and vehicles. Between 2008 and 2014, funding for the programme increased by 1,722 per cent and its operational effectiveness improved accordingly.

183. Rules governing the Programme of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings⁵² and incorporating the Special Rapporteur's recommendations were issued on 4 April 2014. Article 27 of the rules created the post of "civilian police officer", with a specialized professional profile.

184. The Ibero-American Association of Public Prosecutors adopted the Santiago Guidelines on Victim and Witness Protection, which recommend that Ibero-American prosecutors-general should ensure that victims and witnesses are duly afforded the protection they deserve.

185. In the investigation of the murder of forensic expert Germán Antonio Ramírez, the Prosecutor-General's Office has taken various actions, including the following:

(a) Preliminary investigation No. 224-2010, in which different accounts of the murder have been received, expertise has been provided and various inquiries conducted;

(b) On 20 April 2012, the national head of the Programme of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings reported on the action taken to ensure the physical integrity of Mr. Ramírez's family: on 23 July 2010, as a safety measure, members of the Los Ríos victim and witness protection unit had handed over the files of the victim's family members to protection officers in another province, in view of the family's change of domicile. Members of the community policing unit in the province where the victim's family were now living had been ordered to provide immediate assistance to members of the victim's family, if required, and had been told that they were responsible for monitoring the security of the family's home;

(c) From 28 October 2010 to 24 November 2011, semi-permanent protection was provided to members of Mr. Ramírez Herrera's family. After an analysis of the threats and personal risk to the victim's family members determined the risk to be low, this semi-permanent protection was suspended. However, security checks continued to be made in the workplace and at the home of family members.

F. Elimination of slavery and servitude (art. 8)**Reply to paragraph 19 of the list of issues**

186. Ecuador has evaluated the effectiveness of action taken under the national plan to combat human trafficking. In 2009, some shortcomings were observed and a decision was

⁵¹ Supplement to *Registro Oficial* No. 268 of 23 March 2012.

⁵² Supplement to *Registro Oficial* No. 219 of 4 April 2014.

taken to update it. It was found that the 2006 plan's⁵³ focus on a large number of complex problems (human trafficking, migrant smuggling, sexual and labour exploitation, etc.) was preventing an in-depth, specialized response to each crime. To resolve this, specific working agendas⁵⁴ were adopted.

187. In 2010, a committee was set up, consisting of representatives of the Ministry of Justice, Human Rights and Worship, the former Secretariat of Migration, now the Vice-Ministry of Human Mobility in the Ministry of Foreign Affairs and Human Mobility, the Ombudsman's Office, the National Council for Children and Adolescents,⁵⁵ the Council for Gender Equality transition commission,⁵⁶ the Council of the Judiciary and the Prosecutor-General's Office.

188. The plan's formulation began with a preliminary analysis of the problem of human trafficking in Ecuador. Progress in formulating a comprehensive plan against human trafficking was presented and circulated at internal meetings and at workshops with representatives of State institutions, civil society and international cooperation agencies. To ensure resources for the plan, an investment project was designed, which was presented and then adopted by the National Secretariat of Planning and Development.

189. Since 2012, the lead agency on human trafficking has been the Ministry of the Interior, through the Subsecretariat for Democratic Safeguards. A unit specialized in combating the crimes of human trafficking and migrant smuggling has been set up and will coordinate the Ministry's powers and objectives.

190. The Code on Territorial Organization, Autonomy and Decentralization grants concurrent powers to local entities in developing a system for the protection of priority groups. Ordinances are issued for the local implementation of measures to combat this crime.

191. Between 2009 and 2014, a total of 2,187 cases of human trafficking were brought and settled. With respect to the data submitted on such cases, the Council of the Judiciary notes that prior to 2012, there was considerable underreporting of this crime, which at the time was also categorized differently. That is why the volume of data on the crime of human trafficking has increased since 2012; it does not necessarily mean that the number of cases has risen.

192. Annex 8 gives the number of judicial decisions issued from 2009 to 2014.

G. Personal liberty and security and treatment of persons deprived of their liberty (arts. 9 and 10)

Reply to paragraph 20 of the list of issues

193. The Ministry of Justice is implementing a new prison management model and has been involved in improving prison infrastructure;

(a) Reconstruction of the 12 wings of men's social rehabilitation centre No. 1 in Guayaquil (prison), increasing its capacity by 4,800 places;

(b) Repair of the infrastructure of the Riobamba, Guayas (male) and Ibarra juvenile offender centres;

⁵³ Executive Decree No. 1823, *Registro Oficial* No. 375.

⁵⁴ Sectoral report on compliance with the National Plan for the Prevention and Punishment of Human Trafficking and Comprehensive Protection of Victims.

⁵⁵ NB. Now the Council for Intergenerational Equality.

⁵⁶ NB. Now the Council for Gender Equality.

(c) Comprehensive repair of the Santo Domingo de los Colorados pretrial detention centre;

(d) Remodelling of the Chillogallo remand home.

194. Major regional social rehabilitation centres have been built (see annex 9), increasing capacity by 12,050 places, relieving overcrowding and improving prisoners' quality of life. Overcrowding in the García Moreno prison complex in Quito has been ended through the transfer of prisoners to the Sierra Centro Norte regional centre in Latacunga.

195. Based on the new Comprehensive Criminal Code, the National Council for Social Rehabilitation is being replaced by a technical body comprising representatives of various ministries and the Ombudsman's Office. This will allow each ministry to assume responsibilities within the prison system that are tailored to its area of expertise. By Interministerial Agreement No. 0001 of June 2013, the Ministry of Health assumed responsibility for prison health care.

196. Through the 2013 comprehensive health-care model, the Ministry establishes the typology of health establishments at the three levels of care, based on the following parameters:

- (a) Population density of each prison;
- (b) Epidemiological profile of the prison population;
- (c) Infrastructure characteristics of the prison;
- (d) Access to other services of the comprehensive health-care network.

197. The typology of prison health units is determined on the basis of these parameters:

- (a) Clinic: in prisons with up to 1,000 inmates;
- (b) Type A health centre: in prisons with between 1,000 and 2,000 inmates;
- (c) Type B health centre: in prisons with over 2,000 inmates.

198. Care protocols have been drawn up with specialists in different areas, namely, catastrophic illnesses or infectious/contagious diseases, disabilities, pregnancy or older person care.

199. The progress made includes the development of Ministry of Economic and Social Inclusion protocols for the care of children aged up to 36 months living in prison with their mothers.

200. In more complex cases, care and referral to specialized hospitals are guaranteed throughout the prison system. As of December 2014, more than 69 such cases had been handled.

201. A strategy for medical visits has been introduced, in the expectation that 70 per cent of visits will be scheduled and the remaining 30 per cent will be for emergencies. As a result, by July 2014, a total of 53,611 prisoners had received medical care and 254 had undergone surgery. The new centres have made it possible to improve safety levels and control drug use, with over 1,800 prisoners being treated for drug withdrawal (annex 10).

202. Concerning the use of non-custodial measures and sentences, article 522 of the Comprehensive Criminal Code establishes the following non-custodial sentences: (a) prohibition on leaving the country; (b) obligation to report regularly to the judge hearing the case or the designated authority or institution; (c) house arrest; and (d) electronic tagging.

203. To ensure enforcement of the Code's provisions, the Council of the Judiciary has provided training to judges on these non-custodial sentences, emphasizing that they should be given priority. With regard to juvenile offenders, the Council of the Judiciary and the Terre des Hommes foundation (Switzerland) have signed a framework inter-institutional cooperation agreement for carrying out specialized training programmes on the issue.

204. Under this agreement, the Human Rights Directorate of the Council of the Judiciary has drawn up a management model for the monitoring of non-custodial socio-educational measures ordered by juvenile courts, with the participation of judges and members of technical teams.

205. With regard to the number of persons held in pretrial detention and prisoners serving a sentence, as of October 2014 there were 22,892 men and 1,864 women in detention or prison.

206. The age-disaggregated data requested by the Committee are as follows: 5,929 prisoners aged 18 to 27 years; 7,087 prisoners aged 28 to 37; 3,210 prisoners aged 38 to 47; 1,913 prisoners aged 48 to 64; and 201 older prisoners.

207. In terms of national origin, most prisoners are from Ecuador (22,838), followed by Colombia (1,237), Peru (185), Spain (72), Mexico (45), Cuba (37), the Dominican Republic (33) and the United States (29), among others.

208. With regard to the occupancy rate, as of October 2014 the total capacity of Ecuador's detention centres was 22,506 places. However, the prison population was 24,756, meaning that there was a shortfall of 2,250 places (see annex 11).

209. The entry into force of the Comprehensive Criminal Code has resulted in the release of over 5,000 prisoners, or around 20 per cent of inmates, given that as of 10 August, the prison population totalled 26,821 inmates.

210. As regards protocols to prepare for the release of prisoners who have served their prison term, the new prison management model includes a protocol for a prisoner release plan.

211. A year before their release, prisoners who have advanced under the progressive prison regime and are close to completing periods of pre-release or restricted liberty will be prepared for their return to life outside prison by the treatment and education team of each prison wing.

212. Increased efforts will be devoted to: (a) tackling addiction problems; (b) improving social skills; (c) restoring family relations; and (d) ensuring workplace integration and advancement.

213. Persons who have been released after serving their prison term will be able to participate in the support programme for former prisoners, involving periodic home visits over a two-year period.

Reply to paragraph 21 of the list of issues

214. Article 21 of the Constitution states that the aim of the social rehabilitation system is the comprehensive rehabilitation of prisoners and the safeguarding of their rights. Article 203 (2) establishes that plans for education, job training, agricultural, craft, industrial and any other form of occupational training, physical and mental health and culture and recreation shall be promoted and implemented in social rehabilitation and pretrial detention centres.

215. Article 701 of the Comprehensive Criminal Code envisages five areas of social rehabilitation: (a) work; (b) education, culture and sport; (c) health; (d) family and social ties; and (e) reintegration.

216. Under the Code, the first step in a prisoner's social reintegration is the development of a life plan. This begins with an observation phase, followed by a treatment and education phase, and ends with a release and social reintegration plan.

217. The observation phase is a period during which various aspects of the prisoner's profile are studied and analysed and an individualized treatment and education plan is developed.

218. In developing a life plan, which takes 30 days, the following elements are analysed: (a) social, family, economic, educational, cultural, employment and health exclusion; (b) the prisoner's abilities and skills; (c) goals and objectives in the educational, family, economic, work, health, cultural and physical education areas to be included in the life plan, and time frames for their attainment; and (d) time frames and activities for advancing in the progressive prison system.

219. The treatment and education phase involves carrying out the activities in the areas of education, work, culture, sport, personal growth, family ties and health care envisaged in the individualized life plan.

220. In this context, the adult education programme implemented in social rehabilitation centres consists of formal, basic, upper secondary, technical and higher education. In October 2014, 5,632 prisoners had access to formal education (see annex 12).

221. Non-formal education covers a range of subjects that generally includes values, conflict resolution, human rights, gender, domestic violence and other issues. In October 2014, 5,429 prisoners had access to this kind of programme (see annex 12).

222. In the cultural area, prisoners are encouraged to participate in artistic and cultural activities such as competitions and festivals both inside and outside social rehabilitation centres, as a way of expressing themselves among different sectors of society. A total of 3,657 prisoners are involved in this area (see annex 12).

223. A total of 4,752 prisoners have access to sports activities and 4,305 have access to recreational activities (see annex 12).

224. The aim of the work area is to develop work-related plans, programmes, projects and activities for prisoners as part of their life plan. This area includes various programmes, such as job training, entrepreneurship and involvement in community activities.

225. The Ministry of Justice has concluded inter-institutional agreements aimed at vocational training, skills training and certification.

226. With regard to violence among inmates, there were 19 cases of prison violence in 2009, 23 cases in 2010, 10 cases in 2011, 10 cases in 2012, 4 cases in 2013 and 7 cases in 2014, making a total of 73 cases of violence (see annex 13).

227. Concerning cases of death in custody during the period under review, there were no deaths in 2009 and 2010. There were 13 deaths in 2011, 44 deaths in 2012, 11 deaths in 2013 and 46 deaths up to 17 December 2014, making a total of 114 deaths by natural causes (see annex 13).

228. Lastly, with respect to preventive action, under bilateral cooperation between Ecuador and France, 60 prison security officers took part in the second training module on prison security technologies and human rights. French experts assisted with the training, which took place from 25 May to 4 July 2014.

229. The Ombudsman's Office is another mechanism for the prevention of torture. The Office makes prison visits and prepares reports that are transmitted to the Ministry of Justice for review and publication.

H. Right to a fair trial and equality before the law (arts. 14 and 26)

Reply to paragraph 22 of the list of issues

230. The Council of the Judiciary comprises five members and their alternates, who are chosen by the Council for Public Participation and Oversight through a public ballot that is open to public oversight and may be challenged by the public.

231. The activities of the Transitional Council of the Judiciary during its 18 months in operation included: (a) a merit-based competitive examination, open to public challenge and oversight, for the selection and appointment of judges of the National Court of Justice; and (b) an appraisal of judicial officials (see annex 14).

232. With regard to mechanisms in place to guarantee the independence of the judiciary, article 168 (1) of the Constitution stipulates that judicial organs shall enjoy internal and external independence. One of the mechanisms for guaranteeing such independence is the selection of judges and prosecutors through merit-based competitive examinations.

233. Pursuant to the above article, 16 merit-based competitive examinations have been held for the selection of judges and prosecutors. There were six examinations in 2009, one in 2010, one in 2011, four in 2012, one in 2013 and three in 2014 (see annex 14).

234. With regard to the regulations governing dismissal, article 109 of the Code of the Judiciary establishes a total of 16 grounds for dismissal. The Regulation governing the exercise of the disciplinary powers of the Council of the Judiciary is contained in resolution No. 184-2013.

235. The power to dismiss a judicial official rests with the plenary Council of the Judiciary. An administrative hearing, at which the right of defence is guaranteed, is held for this purpose.

236. Pursuant to article 122 of the Code of the Judiciary, judicial officials may be removed from office on grounds of conflict of interest or nepotism or if they fail to score higher than the minimum in their performance evaluation.

Reply to paragraph 23 of the list of issues

237. The special Standing Committee on Justice and the Structure of the State is responsible for the bill on coordination and cooperation between the indigenous and ordinary justice systems. A plenary decision is pending on the need for pre-legislative consultation and a report for the second debate.

238. The Constitution stipulates that indigenous justice shall function as a jurisdiction in which the different indigenous authorities exercise their respective judicial functions, in accordance with their own traditions and customs.

239. The Constitution imposes certain limits on customary justice, stipulating that ancestral and customary practices may not contravene the Constitution or international human rights treaties.

240. In the *La Cocha* case, the Constitutional Court ruled that the ordinary criminal justice system has sole and exclusive jurisdiction to try, judge and punish cases involving attempts on a person's life. This jurisprudence helps prevent conflicts of jurisdiction between indigenous and ordinary courts. The Court's ruling also states that judges

responsible for trying an indigenous person must observe the provisions of ILO Convention No. 169.

241. To ensure that indigenous persons have equal access to justice, ordinary criminal law provides for recourse to translators or interpreters and to the expertise of anthropologists and experts in indigenous law in order to give judges greater insight and help them understand the conflict or dispute.

242. When, for some reason, an indigenous person must be tried by the ordinary criminal courts as established by the Code of the Judiciary, the principles of diversity, equality, *non bis in idem* and recognition of indigenous jurisdiction must be observed and the facts must be interpreted from an intercultural standpoint.

243. The Council of the Judiciary has a Judicial Training School, which is responsible for teaching judges of the ordinary justice system about issues related to the administration of justice, including juridical pluralism and indigenous justice.

I. Freedoms of expression and association (arts. 19 and 22)

Reply to paragraph 24 of the list of issues

244. The Organic Act on Communication establishes fundamental principles for the exercise of the right to freedom of expression and opinion, as well as some related obligations that persons who provide this public service professionally must fulfil.

245. To ensure that the right to freedom of expression is exercised responsibly and to prevent it from being exercised arbitrarily, the Communication Act created the Information and Communication Superintendency as the body competent to impose administrative penalties on any media that commit any of the misdemeanours or fail to comply with any of the obligations laid down in the Act. It must be noted that the efficient provision of a public service in general and, more especially, a public service such as communication that validates the rule of law requires that it be subject to oversight and supervision.⁵⁷

246. Under the Act, all persons who have been affected, either individually or collectively, by the publication of inaccurate information are guaranteed the right to correct that information in the communication media that published it, in due exercise of the right to freedom of expression.

247. Freedom of expression is guaranteed throughout the Communication Act. For instance, article 10 (4) establishes minimum ethical standards for mass media practices, based on respect for freedom of expression, comment and criticism, while article 13 establishes the principle of public participation in public, private and community media communication processes, in accordance with the right to intercultural and plurinational communication (art. 36).

248. Regarding the changes introduced by the Comprehensive Criminal Code in respect of the offences of defamation, slander and contempt, it is to be noted that those precise terms are not used in the corresponding provisions; however, those articles do define analogous criminal acts.

249. Defamation and slander are covered by article 182 of the Code on the crime of libel, defined as offences against the right to honour and good name. Contempt, defined as failure to comply with lawful decisions of a competent authority, is covered by article 282 on crimes against the efficiency of the public administration.

⁵⁷ Inter-American Court of Human Rights (IACHR), Case of *Ximenes Lopes v. Brazil*, Merits, Reparations and Costs. Judgment of 4 July 2006. Series C No. 149, paras. 137 and 139.

250. With regard to criminal proceedings brought during the period under review against journalists, trade unionists and members of the opposition for defamation, slander or contempt, as well as the convictions handed down and sentences imposed, resolution No. 222-2012 issued in criminal trial No. 0840-2011 declared the defendants' appeals inadmissible and ordered that the proceedings be returned to the lower court. In the end, the plaintiff, Rafael Correa Delgado, remitted the penalty and forgave the payment of damages and costs by the defendants and the newspaper *El Universo*.

Reply to paragraph 25 of the list of issues

251. The right to freedom of association is enshrined and guaranteed in chapter 6 of title II of the Constitution as one of several freedom rights, which include the rights of free and voluntary association, assembly and protest pursuant to article 66 of the Constitution.

252. There are other articles of the Constitution that specifically guarantee the rights of assembly and association for special groups, such as young people (art. 39) and children and adolescents (art. 45).

253. Descending the legislative hierarchy, book I of the Civil Code devotes an entire title to legal entities, corporations and foundations.

254. At the same legislative level, title IV of the Public Participation Act, in force since 20 April 2010, contains provisions on social, voluntary and civic education organizations, among which article 31 guarantees the right to freedom of association.

255. As regards the content and application of Executive Decree No. 16 of 4 June 2013 and the process of setting up the new unified information system for social organizations, article 3 of the Decree defines social organizations as all the forms of societal organization through which individuals, communes, communities, peoples, nationalities and collectives are entitled to convene in order to establish an organized, coordinated and stable grouping of people for the purpose of interacting among themselves and adopting lawful goals and objectives.

256. In other words, the creation of social organizations for lawful purposes does not result in undue restrictions on the right of association.

257. Neither registration in the unified information system for social and civic organizations nor the requirement that civil organizations be registered with the system contravenes domestic or international law because, according to transitional provision 6 of Decree No. 16, the aim is to establish a system of organizations, not to create restrictions.

258. With respect to the Committee's concern about grounds for dissolution, article 26 of the Decree establishes the following grounds: diverging from the aims for which the organization was set up and engaging in political activities that threaten the internal or external security of the State or undermine public peace. These grounds are consistent with article 22 (2) of the Covenant.

259. Establishing grounds for dissolution is thus intended to promote mechanisms capable of regulating political activities that threaten State security and peace. Obviously, any decision to adopt such measures will have to be subject to due process.

260. With regard to the closure of the non-governmental organization Fundación Pachamama, article 3 (8) of the Constitution stipulates that the State's primary duty is to guarantee its inhabitants the right to a culture of peace. In this context, since the Pachamama Foundation exceeded the mandate for which it was created by joining in the violent protests on 28 November 2013 that marked the holding of the eleventh bidding round for oil concessions in Ecuador, it met the grounds for dissolution legitimately set forth in the rules governing social organizations.

J. Rights of the child (art. 24)**Reply to paragraph 26 of the list of issues**

261. The Ministry of Labour is spearheading the project for the eradication of child labour. The new draft Labour Code prohibits work for children aged under 15. It also stipulates that adolescents who want to work must prove that they are studying at the same time.

262. With regard to child abuse or corporal punishment in the home, for the first time in Ecuadorian criminal law, articles 156 and 159 of the Comprehensive Criminal Code include physical violence against members of the family unit, including children, as a crime against integrity of the person. Punishment of protected persons in an armed conflict has also been criminalized.

263. Concerning violence in educational establishments, the Intercultural Education Act published on 31 March 2011 develops and expands upon rights, obligations and safeguards in education. It also establishes rules to prevent and address all kinds of abuse and violence in educational establishments.

264. With regard to the Decentralized National System of Comprehensive Protection for Children and Adolescents and the establishment of national equality councils, article 6 of the National Equality Councils Act creates a National Council for Intergenerational Equality, whose role is to influence society and the State through public policies for intergenerational equality that safeguard the rights of children, adolescents, young people, adults and older persons.

K. Participation in public affairs (art. 25)**Reply to paragraph 27 of the list of issues**

265. Article 57 (7) of the Constitution sets out the collective rights of indigenous nationalities, peoples, communes and communities.

266. The prior consultation process is governed by the principles of inclusion and public participation, ensuring the creation of opportunities for constructive dialogue and encouraging the presence of different voices, perspectives and positions of indigenous communities, peoples and nationalities. Executive Decree No. 1247 contains the rules on consultation and prior, free and informed consent in bidding and award processes for hydrocarbon-bearing tracts and blocks.

267. The bill on consultation of Ecuador's communes, communities, peoples and nationalities is currently under consideration in the National Assembly.

L. Rights of persons belonging to minorities (art. 27)**Reply to paragraph 28 of the list of issues**

268. According to the 2010 population and housing census, Ecuadorians self-identify as follows: indigenous, 1,018,176 (7 per cent); Afro-Ecuadorian, 1,041,599 (7.2 per cent); Montubio, 1,070,728 (7.4 per cent); mestizo, 10,417,299 (71.9 per cent); white, 882,383 (6.1 per cent); and other, 53,354 (0.4 per cent).

269. The National Equality Council for Peoples and Nationalities (currently in transition) was set up by the National Equality Councils Act to guarantee the rights of ethnic minorities.

270. With regard to religious minorities, 91.95 per cent of the population say that they have a religion. Of these, 80.4 per cent are Catholics, 11.3 per cent are Evangelicals, 1.29 per cent are Jehovah's Witnesses, 0.37 per cent are Mormons, 0.29 per cent are Buddhists, 0.26 per cent are practising Jews, 0.12 per cent are spiritualists and 5.92 per cent practise other religions. Of the remainder, 7.94 per cent are atheists and 0.11 per cent are agnostics.

271. After a long process of data collection and analysis, the Ministry of Justice, Human Rights and Worship drafted a public policy document on freedom of religion, belief and conscience, which was adopted on 27 June 2012.
