

**Submission by the United Nations High Commissioner for Refugees**

**For the Office of the High Commissioner for Human Rights' Compilation Report**

**Universal Periodic Review: 3rd Cycle, 27th Session**

**ECUADOR**

**I. BACKGROUND INFORMATION**

Ecuador ratified the *1951 Convention relating to the Status of Refugees* in 1955 and its *1967 Protocol* in 1969 (hereinafter jointly referred to as the *1951 Convention*). Furthermore, Ecuador ratified the *1954 Convention relating to the Status of Stateless persons* (the *1954 Convention*) in 1970 and the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in 2012.

Ecuador's *2008 Constitution* recognizes the right to freedom of movement to all persons within its territory, including refugees, and stipulates the principle of universal citizenship. It also recognizes the right to asylum and a number of social and economic rights, such as the right to work, to education and to health, which, in theory, provide refugees the opportunity to locally integrate. However, Ecuador's immigration framework, i.e. the *1971 Immigration Act* (*Ley de Migración*) and the *1971 Aliens Act* (*Ley de Extranjería*), has not yet been updated to be in line with the new Constitution and with Ecuador's international obligations. Refugee rights are regulated by the *2012 Refugee Decree 1182*.<sup>1</sup> This Decree provided for accelerated admissibility procedures and shortened the time limits to file asylum applications or appeal decisions of the Refugee Directorate. It was however subjected to a constitutional challenge in 2012 and, in 2013 and 2015, the Constitutional Court of Ecuador issued two important judgments that brought some of the *2012 Refugee Decree 1182*'s provisions in line with international standards.<sup>2</sup>

According to statistics provided by the Refugee Directorate, a division of the Ministry of Foreign Affairs and Human Mobility, 223,198 persons had requested asylum in Ecuador between 1989 and February 2016. Of those, 60,253 were granted refugee status.<sup>3</sup> Figures provided by the Refugee Directorate show 2,093 new asylum applications were lodged from January to May 2016, with an average of 418 applications per month.

In terms of the Colombian conflict, the Colombian Government and the Revolutionary Armed Forces of Colombia (FARC) signed a final peace agreement on 24 August 2016, ending more than 50 years of non-international armed conflict and ongoing peace

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<sup>1</sup> National Legislative Bodies / National Authorities, Ecuador: Decreto Ejecutivo No. 1182 de 2012, Reglamento para la aplicación en Ecuador del Derecho de Refugio, 19 June 2012, available in Spanish at: <http://www.refworld.org/docid/54f427764.html>.

<sup>2</sup> Constitutional Court of Ecuador, Judgement No. 002 – 14 – SIN-CC, 14 August 2014; Judgement No. 090-15-SEP-CC, 25 March 2015.

<sup>3</sup> Statistics provided by the Refugee Directorate 2016.

negotiations since 2012. Nonetheless, critical protection risks continue to pose threats to refugees and asylum-seekers settled in the Ecuador-Colombian border communities. UNHCR foresees that some Colombians may be forced to flee to Ecuador and other neighbouring countries in search of international protection as a result of the actions of other armed actors, who have not been included in the final peace agreement such as the National Liberation Army (ELN).

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

### **Positive developments linked to 2<sup>nd</sup> Cycle UPR recommendations**

**Linked to 2nd cycle UPR Recommendation No. 135.1:** “Accede to the Convention on the Reduction of Statelessness (Iraq)”.<sup>4</sup>

The Government of Ecuador acceded to the *1961 Convention* on 24 September 2012. Under the *Constitution* of Ecuador, treaties are immediately and directly applicable.<sup>5</sup> Although the Government has yet to issue procedural regulations on the subject, UNHCR would like to applaud the Government’s efforts towards eradicating statelessness. Furthermore, it is worth highlighting that the President of the National Assembly joined the #IBelong Campaign to End Statelessness<sup>6</sup> by 2024 in May 2016 and will host a regional workshop for parliamentarians in November.

**Linked to 2nd cycle UPR Recommendation No. 135.42:** “Allow national and international human rights organisations the space to undertake their non-violent advocacy, campaigning, reporting and investigative work and that the Government of Ecuador engage constructively with human rights defenders in seeking solutions to address Ecuador’s human rights challenges (Norway)”

On 5 July 2016 the Ecuadorian Foreign Affairs Minister, Guillaume Long, and the U.N. High Commissioner for Refugees, Filippo Grandi, signed an *accord de siège* (host country agreement), which clearly demonstrates Ecuador’s willingness to engage constructively with UNHCR.

## III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

### **Issue 1: Access to basic rights and services by refugees and asylum-seekers**

**Linked to 2nd cycle UPR recommendations no. 135.17:** “Redouble its efforts to firmly combat discriminatory practices (Luxembourg).”

Currently, recognized refugees in Ecuador are issued a non-resident refugee visa and given a refugee document which is different to identification documents given to Ecuadorian nationals or foreigners holding immigrant visas. In addition, they were not enrolled in the Civil Registry’s database. Consequently, refugees have faced difficulties accessing public and private services, government welfare programmes and enjoying their basic rights such as

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<sup>4</sup> “Report of the Working Group on the Universal Periodic Review of Ecuador, (5 July 2012), A/HRC/21/4, available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/ECSession13.aspx>.

<sup>5</sup> 2008 Constitution of Ecuador, Art. 417.

<sup>6</sup> See: <http://www.unhcr.org/ibelong/>.

access to social security, employment, legal aid, and justice. In fact, most employers and even some public institutions are not aware of the validity of documents issued to refugees.

UNHCR notes with appreciation that in December 2015, the National Assembly passed the *National Identity and Public Information Act*, which provides that the Government of Ecuador shall issue uniform national identification documents to citizens and foreigners alike, including refugees. UNHCR commends the signing, in September 2016, of an agreement between the Refugee Directorate and the Civil Registry to allow for the registration of refugees into the Civil Registry database, with a view to providing them with a national ID at a later date. Enrolment in this database will allow refugees to be enrolled in the social registry and obtain a social security number, which would in turn facilitate employment and access to services. UNHCR will fund refugee registration.

### **Recommendations:**

UNHCR recommends that the Government of Ecuador:

- a) Ensure speedy implementation of the agreement between the Refugee Directorate and the Civil Registry so that refugees are enrolled in the Civil Registry database, to facilitate their integration and ensure that they can enjoy rights and access basic services;
- b) Progressively move towards incorporation of asylum-seekers in the civil registry; and
- c) Issue the regulations necessary to apply the *National Identity and Public Information Act* so as to ensure that national IDs are provided.

### **Issue 2: Ensure that the *Human Mobility Bill* complies with international refugee, statelessness and human rights standards**

**Linked to 2nd cycle UPR Recommendation no. 135.2:** “Maintain its positive efforts in the current process of reviewing its national laws with a view to bringing them in line with its international human rights obligations (Egypt)”

A *Human Mobility Bill* was submitted to the National Assembly on 16 July 2015. If passed, this law will reform the current immigration framework, including the asylum system. The Government must ensure that the bill complies with norms and principles of international refugee and statelessness law and international human rights law.

While the on-going efforts taken by the Government of Ecuador to improve its refugee status determination (RSD) procedure must be noted,<sup>7</sup> it is essential that the *Human Mobility Bill* redress some provisions of the 2012 *Refugee Decree No. 1182*, which were at odds with international standards. The RSD procedure, as contemplated by *Refugee Decree No. 1182*, has fundamental shortcomings, and falls short of due-process standards due to the limited timeframe to apply for asylum and the fact that asylum-seekers have to undergo an admissibility procedure before they can formally file a claim and receive protection against *refoulement*. Those admitted as asylum-seekers undergo a brief interview process often conducted by officers with insufficient training. The eligibility commission in charge of deciding cases meets infrequently and has a backlog of cases. In addition, cases are often insufficiently prepared, and conclusions often reached without adequate objective evidence.

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<sup>7</sup> For example, in 2016, the Refugee Directorate and UNHCR started a year-long training programme for Refugee Directorate staff, and stepped up their cooperation towards improving RSD procedures.

Furthermore, refugees do not have the right to a full appeal or review vis-à-vis a negative decision. Finally, we wish to note that although Ecuador ratified the *1954 Convention* on 2 October 1970, there are currently no regulations on the subject. Therefore, the *Human Mobility Bill* should also stipulate a statelessness determination procedure.

### **Recommendations:**

UNHCR recommends that the Government of Ecuador:

- a) Ensure that the *Human Mobility Bill* makes a distinction between the legal status of refugees and the migratory category or status granted for their residence, in order to facilitate local integration while upholding the right to *non-refoulement*, as stipulated in the *Brazil Declaration and Plan of Action* (hereinafter referred to as the BPA) signed on 3 December 2014;<sup>8</sup>
- b) Ensure that the *Human Mobility Bill* brings the refugee status determination (RSD) procedure in line with international standards, by *inter alia*, increasing time limits for asylum-seekers to apply for refugee status, doing away with the admissibility procedure prior to the filing of an asylum claim, ensuring personal interviews by qualified eligibility officers and accompanied by interpreters if required, and ensuring the applicant's rights to an appeal or review by an independent body;
- c) Ensure that the *Human Mobility Bill* and its regulations develop a statelessness determination procedure in accordance with UNHCR's *Handbook on Protection of Stateless Persons*,<sup>9</sup> as well as the minimum standards established in the *1954 Convention* and the *American Convention on Human Rights*;
- d) Include an effective and accessible mechanism in the *Human Mobility Bill* to facilitate the acquisition of Ecuadorian citizenship for eligible refugees and stateless persons; and
- e) Continue cooperation with UNHCR and efforts underway to build the capacity of officers in charge of reviewing asylum claims, including through training and technical support.

### **Issue 3: Inclusion of refugees in national development plans and programmes**

**Linked to 2nd cycle UPR recommendation 135.9:** "Continue with the social investment focusing on the most vulnerable sectors of the population, particularly the elderly, women, children and other groups in situation of vulnerability (Dominican Republic)"

UNHCR welcomes the fact that *Constitution* of Ecuador recognizes that refugees have the right to humanitarian assistance and are equal to Ecuadorian citizens before the law. In addition, *Refugee Decree 1182* provides for the inclusion of refugees and asylum-seekers in the Government's national economic and social development programmes. Furthermore, in 2013, the Government issued the *National Agenda for the Equality of Migrants (Agenda Nacional de Igualdad para las Personas en Movilidad Humana)*, a document that sets forth the Government's four-year plan to achieve equality for all persons in a situation of human mobility, including refugees. However, in practice, so far only Ecuadorian nationals have

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<sup>8</sup> Regional Refugee Instruments & Related, *Brazil Declaration and Plan of Action*, 3 December 2014, available at: <http://www.refworld.org/docid/5487065b4.html>. On 2 and 3 December 2014, the governments of Latin America and the Caribbean met in Brasilia to mark the 30th anniversary of the Cartagena Declaration on Refugees of 1984. At the end of the Ministerial Meeting, organized by the Government of Brazil, 28 countries and three territories in Latin America and the Caribbean, including Ecuador, adopted by acclamation the Declaration and Plan of Action of Brasilia, agreeing to work together to maintain the highest standards of protection at the international and regional level, implement innovative solutions for refugees and displaced persons, and end the difficult situation faced by the stateless persons in the region.

<sup>9</sup> UN High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>.

accessed government social programmes. Nonetheless, in a positive development, after UNHCR's intervention, refugees and asylum-seekers have been included in the register of earthquake-affected people and are in the process of receiving state aid. In addition, in September 2016, UNHCR and the Coordinating Ministry for Social Development signed an agreement which included the coordination of actions directed at optimising access of people on the move to State policies and social programmes.

**Recommendations:**

UNHCR recommends that the Government of Ecuador:

- a) Include refugees and other persons of concern to UNHCR in public policies so that they can have access to government-sponsored development programmes.

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
September 2016**

## ANNEX

### Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

#### ECUADOR

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Ecuador.

#### I. Universal Periodic Review (Second Cycle – 2012)

Recommendation <sup>10</sup>	Recommending State/s	Position
<b>Discrimination against women</b>		
135.14. Continue promoting the active and effective participation of women at all decision levels; Continue to combat all forms of discrimination against women; Strengthen legal protection for women and ensure gender equality and non-discrimination; Continue efforts to tackle gender discrimination, particularly in the areas of education and employment; Increase public awareness about the prohibition of gender discrimination, in particular in the areas of education and employment;	Morocco, Djibouti, Iraq, Myanmar, Slovenia	Supported
135.16. Step up its efforts in favour of gender equality and racial equality;	Lebanon	Supported
135.19. Strengthen its policies focused on vulnerable groups such as children, women, older people and its fight against any form of discrimination and violation of their human rights;	Vietnam	Supported
<b>Trafficking in persons</b>		
135.6. Continue with all its endeavours to ensure further success in the implementation of the recently established programmes/instruments, including the national plan against human trafficking, for the benefit of all people in the country irrespective of their ethnic origin, or any other social background/status;	Cambodia	Supported
135.27. Strengthening efforts to address trafficking in persons, especially women and children, and sexual violence (South Africa); Further reinforce efforts to combat human trafficking and to protect victims of such crime, especially women and children (Sri Lanka); Step up its further efforts to combat trafficking in persons including continue the practice of developing national plans of actions and other strategies in this area;	Belarus	Supported

<sup>10</sup> All recommendations made to Ecuador during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Ecuador" (5 July 2012), A/HRC/21/4, available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/ECSession13.aspx>.

<b>Discrimination against refugees and migrants</b>		
135.60. Take necessary measures to eradicate the tendency and/or dissemination, through mass media, of stereotypes that could lead to the discrimination of migrants and refugees;	Argentina	Supported
<b>Migrant workers</b>		
135.59. Establish clearly defined programmes to ensure improvement of the labour situation of migrant women in situations of vulnerability; Provide basic guarantees for migrant workers in accordance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;	Honduras and Iraq	Supported
<b>Birth registration</b>		
135.33. Strengthen its efforts to achieve universal birth registration, including by establishing permanent and automated birth registration services in all pre-and post natal healthcare institutions. These services should be accessible to all people throughout the whole country, including in rural areas; Take actions to achieve universal birth registration; Take targeted measures to address the situation of girls and the challenge of ensuring the accessibility to registration for indigenous peoples and people of African descent as well as for migrant families. The right of every child to a name and nationality should be guaranteed;	Finland and Mexico	Supported
<b>Statelessness</b>		
135.1. Accede to the Convention on the Reduction of Statelessness	Iraq	Supported

## II. Treaty Bodies

### Committee on the Elimination of Discrimination against Women

Concluding Observations, (11 March 2015), [CEDAW/C/ECU/CO/8-9](#)  
**Stereotypes and harmful practices**

18. The Committee is concerned about the persistence of deep-rooted social and cultural stereotypes in the State party that underpin such forms of discrimination against women as violence and inequality in the areas of political participation, education, economic life and health and undermine women's empowerment in the family and in society. It also notes that campaigns to combat discriminatory stereotypes have focused exclusively on violence against women and lack action aimed at enforcing the principle of equality between women and men in several areas of public and private life. The Committee is further concerned that, the efforts made by the State party notwithstanding, the practice of "de-homosexualization" in clinics originally established for the treatment of drug addiction continues.

19. **The Committee urges the State party:**

- (a) **To develop a comprehensive strategy targeting women, men, girls and boys to overcome patriarchal and gender-based stereotypical attitudes about the roles and responsibilities of women and men in the family and in**

**society, with a specific focus on disadvantaged and marginalized groups of women, strengthen awareness-raising campaigns at the community level and include education on women's rights in school curricula;**

**(b) To strengthen the role of the Council on the Regulation and Development of Information and Communication in training people working in the media on gender equality and implement campaigns to combat gender stereotypes, allowing for the participation of civil society, in particular women's organizations;**

**(c) To ensure the implementation of article 176 of the Comprehensive Organic Criminal Code on discrimination on the basis of gender identity and the legislation that prohibits practices of de-homosexualization, adopt specific measures and establish a mechanism to periodically monitor institutions for the treatment of drug dependency and implement adequate sanctions.**

### **Violence against women**

20. The Committee is deeply concerned about:

(a) The high incidence of violence against women, in particular sexual violence, including rape and sexual harassment, that affects a large proportion of women and girls;

(b) The absence of a strategy for preventing and eliminating all forms of violence against women and the decision to suspend the implementation of the National Plan for the Eradication of Violence against Women in the context of the institutional reform process;

(c) The absence, within the current procedures on violence against women, of expedited, efficient and swift mechanisms for the adoption of restraining orders against perpetrators of violence against women;

(d) Limited access by women who are victims of violence to such remedies and mechanisms of redress as the provision of shelter, psychosocial counselling and rehabilitation, owing to the lack of funding from the public budget;

(e) The absence of information about measures taken by the State party to implement article 77 of the Comprehensive Organic Criminal Code relating to reparation, rehabilitation of women who are victims of violence, compensation and guarantees of non-repetition;

(f) Information on violence against women, including lesbian, bisexual and transgender women, including reports of mistreatment by the police, and the absence of official statistics on complaints and cases brought to the criminal justice system.

21. **The Committee, recalling its general recommendation No. 19 on violence against women, urges the State party:**

**(a) To continue its efforts to improve the systematic collection of data on violence against women, disaggregated by age, type of violence and relationship between the victim and the perpetrator;**

**(b) To expedite the adoption of a comprehensive national action plan for the elimination of violence against women that covers the prevention of all forms of violence against women, including physical, psychological and economic violence, with an appropriate budget and time frames and that provides for awareness-raising and education programmes;**



- (c) **To enact legislation that provides for the immediate protection of women who are victims of violence upon the first report of violence, including through the issuance of restraining orders against alleged perpetrators;**
- (d) **To ensure that a sufficient number of State-funded shelters are available to women who are victims of domestic violence and their children and that such support services as counselling and rehabilitation are fully accessible to women living in rural and remote areas and to women with disabilities;**
- (e) **To define the scope of measures of redress for women who are victims of violence, including criteria for the application of judicial measures of restitution, compensation, symbolic benefits, rehabilitation, satisfaction and guarantees of non-repetition;**
- (f) **To establish a system to systematically monitor cases of violence against women, including lesbian, bisexual and transgender women, and ensure that perpetrators are prosecuted and punished, and conduct training for judges, prosecutors, police officers and other law enforcement officers on equality of women on all grounds mentioned in the Committee's general recommendation No. 28.**

### **Trafficking and exploitation of prostitution**

22. While the Committee notes that the Comprehensive Organic Criminal Code punishes trafficking and sexual exploitation, it notes with concern:

- (a) That the State party is a country of origin, transit and destination for trafficking in human beings, in particular women and girls, for purposes of sexual exploitation and forced labour, and that trafficking and sexual exploitation of adolescent girls are particularly prevalent in border areas, especially in the provinces of Sucumbíos, Carchi and Esmeraldas;
- (b) The lack of a system to collect data disaggregated by sex and age on victims of trafficking in the framework of the National Plan to Combat Trafficking in Persons;
- (c) The insufficient number of State-funded shelters for women and girls who are victims of trafficking and the lack of specialized services for the reintegration of victims, including through job training, education, counselling and rehabilitation;
- (d) The lengthy period required for the implementation of the new provisions in the Comprehensive Organic Criminal Code for prosecuting and convicting traffickers;
- (e) The absence of disaggregated information on women in prostitution and on exit programmes for women who wish to leave prostitution.

23. **The Committee recommends that the State party:**

- (a) **Increase its efforts to implement the National Plan to Combat Trafficking in Persons and the National Agenda on Equality for Human Mobility and carry out systematic monitoring and periodic evaluations of such implementation, including by collecting and analysing data on both internal and cross-border trafficking and the exploitation of women in prostitution;**

- (b) **Adopt a referral and identification mechanism for victims of trafficking and enhance the allocation of funding for shelters and the provision of counselling, rehabilitation services and psychosocial assistance for victims;**
- (c) **Set up programmes aimed at providing opportunities for the integration into society of victims of trafficking and consider granting them temporary residence permits to prevent revictimization;**
- (d) **Build the capacity of the judicial authorities and the police to conduct investigations into trafficking in a gender-sensitive manner, sanction perpetrators in accordance with the Comprehensive Organic Criminal Code, and strengthen bilateral cooperation with States of origin of victims of trafficking in order to identify and punish perpetrators;**
- (e) **Adopt measures, such as information systems and networks that facilitate reporting to the police, to protect women in prostitution from exploitation, and develop programmes to promote the reintegration of women and girls who wish to leave prostitution, including by providing alternative income-generating opportunities.**

### **Migrant and refugee women**

40. The Committee is concerned about the absence of measures to preserve the procedural rights of women in the context of refugee status determination procedures, including access to individual interviews and female interviewers and interpreters. It is also concerned about the compulsory and very narrow time frame established by Executive Decree No. 1182 for applying for refugee status and its consequences for women, in particular the lack of access to basic social services and health care for those in an irregular situation and the risk of sexual exploitation and trafficking.

41. **The Committee recommends that the State party adopt protocols to conduct the refugee status determination process in a gender-sensitive manner and with full respect for the procedural rights of women, in particular by providing them with the possibility of having individual interviews and female interviewers and interpreters as well as by establishing mechanisms to protect them from reprisals by their families and communities. It also recommends that legislation on the scope of migration adequately address the risk of women who are victims of persecution in their countries of origin, and ensure that women in an irregular situation have access to basic social services and emergency medical care and are protected from sexual and labour exploitation.**

### **Committee on Economic, Social and Cultural Rights**

Concluding Observations, (13 December 2012), [E/C.12/ECU/CO/3](#)

12. The Committee is concerned by the fact that only 35 per cent of all persons with disabilities are part of the economically active population. It is also concerned about the lack of information on measures aimed at eliminating the various forms of discrimination still faced by persons with disabilities. In addition, it is concerned that existing social programmes, such as those that supply prostheses and those that provide special allowances for family members of persons with intellectual or psychosocial disabilities, fall

short of what would be needed to ensure the recognition of persons with disabilities as rights-holders.

**The Committee recommends that the State party persevere in its efforts to attain its employment policy goals relating to diversity and to the skills of persons with disabilities and that it ensure that reasonable accommodations are made in the workplace. It encourages the State party to develop public policies that reflect a recognition of the rights of persons with disabilities that is broader in scope than a simple acknowledgement of their right to social assistance measures. The Committee recommends that the State party provide the Ombudsman's Office (Defensoría del Pueblo) with the necessary resources to monitor the observance of the rights of persons with disabilities and that it build the capacity of local agencies to apply the Disabilities Act of 2012.**

13. The Committee is concerned about the situation in which migrants and asylum seekers find themselves as a result of the implementation of Decree No. 1182 of May 2012 and about its negative impact in terms of the recognition of refugee status. The Committee is concerned by the obstacles that hinder Colombian nationals present in the State party from enjoying their economic, social and cultural rights.

**The Committee recommends that the State party establish a monitoring mechanism with a view to ensuring that asylum seekers and persons with refugee status in the State party can effectively avail themselves of their economic, social and cultural rights. The Committee encourages the public authorities to draw upon the advisory assistance and technical capabilities of international agencies such as the Office of the United Nations High Commissioner for Refugees and of civil society organizations.**

21. The Committee is deeply concerned about the sexual violence and exploitation to which girls and women are being subjected. It is particularly concerned about the sexual abuse committed in schools and the limited results yielded by judicial investigations whose purpose is to identify the responsible parties and lead to the imposition of the corresponding criminal sanctions. The Committee is also concerned that disaggregated information on the age and sex of victims and on whether they live in rural or urban areas has not been forthcoming from the State party. The Committee takes note of the State party's announcement regarding the agreement that is to be signed by the Ministry of Education and the Attorney General's Office under which criminal investigations into suspected cases of sexual violence will be initiated ex officio.

**The Committee recommends that the State party step up its efforts to combat gender-based violence through prevention programmes and mechanisms for the protection of women, giving due consideration to the input that can be provided by women and women's organizations. It urges the State party to assign priority to investigations into cases of sexual violence and abuse in schools, to allocate the necessary budgetary funds for centres that deal with various forms of violence, exploitation and abuse, and to develop prevention programmes and programmes to provide mental health and psychosocial services for victims. The Committee recommends that the State party take steps to ensure that perpetrators of sexual violence are never again allowed to engage in activities involving children or adolescents. The Committee requests the State party to**

**include statistics in its next periodic report that are disaggregated by age, sex and geographic location of the victims of such violence.**

22. While noting that progress has been made in reducing the number of child workers and that the minimum legal working age has been raised to 15 years, the Committee reiterates its concern about the persistence of child labour in the State party. In particular, it notes with concern that the poverty of rural households and limited access to a secondary education increase the risk of child labour.

**The Committee encourages the State party to redouble its efforts to combat the problem of child labour by means of an emergency plan that will incorporate suitable mechanisms for tracking its results in different regions and in the various sectors of the economy. It urges the State party to conduct systematic labour inspections and to implement public policies aimed at reducing the vulnerability of children and young people in rural and urban areas and promoting full access to secondary school.**

### **Committee on the Elimination of Racial Discrimination**

Concluding Observations, (24 October 2012), [CERD/C/ECU/CO/20-22](#)

#### **The Ecuadorian population of Roma origin**

13. The Committee regrets that the State party considers the Ecuadorian population of Roma origin to be a foreign group and that it does not have up-to-date information on the enjoyment by the Ecuadorian people of Roma origin of their rights (art. 2).

**The Committee, reiterating its previous recommendation (CERD/C/ECU/CO/19, para. 11), reminds the State party of its general recommendation No. 27 (2000) on discrimination against the Roma and encourages the State party to adopt and put into effect national strategies and programmes to improve the situation of the Roma and to protect them against racial discrimination.**

#### **Refugees**

14. The Committee regrets that, despite the State party's efforts to integrate people in need of international protection, who are mainly refugees of Colombian origin, such people continue to face discrimination and exclusion in the exercise of their rights, including in access to employment, housing and medical care. The Committee is also concerned about reports of discrimination against children in schools on the grounds of their nationality or refugee status (arts. 2 and 5).

**The Committee urges the State party to take effective measures to promote the integration of people in need of international protection, who are mainly refugees of Colombian origin, by, among other things, guaranteeing their access without discrimination to education, employment and health services.**

## **Migrant workers and their families**

15. The Committee is concerned that, in practice, migrant workers continue to face discrimination and problems in exercising their rights. It also points out with concern that certain media draw a link between migrants and crime (arts. 2 and 5).

**The Committee encourages the State party to take into account its general recommendation No. 30 (2004) on discrimination against non-citizens, and recommends that the State party take effective educational and awareness-raising measures to combat any tendency to stereotype or stigmatize migrant workers, especially on the part of public servants, teachers, the media and society at large. In addition, the Committee urges the State party to continue eliminating the obstacles that, in practice, hinder the enjoyment by migrants in the State party of their rights under the Convention.**

## **Combating discrimination in the media**

16. The Committee continues to be concerned about the negative representation of indigenous and Afro-Ecuadorian people in the media (arts. 4 (a) and 7).

**The Committee reiterates its previous recommendation (CERD/C/ECU/CO/19, para. 22) that the State party should adopt measures that focus on the social role of the media, including through the education and training of reporters and others working in the media, as well as campaigns aimed at the general public to combat the racial prejudice that can lead to racial discrimination against indigenous and Afro-Ecuadorian people and to foster tolerance and respect among the various racial groups in the State party.**

## **Lack of judicial proceedings in cases of racial discrimination**

18. The Committee is concerned by the absence of racial discrimination cases in the country's courts and by reports that such cases are often dismissed, particularly when they are brought by indigenous persons, Afro-Ecuadorians or Montubios (arts. 5 (a) and 6).

**The Committee reiterates its previous recommendation in this regard (CERD/C/ECU/CO/19, para. 21) and urges the State party to provide training to court officials who deal with cases involving racial discrimination against indigenous persons, Afro-Ecuadorians and Montubios. In the light of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party redouble its efforts to provide equal access to justice for all and to ensure the wide distribution of information on the domestic remedies available in cases of racial discrimination, the existing legal avenues for obtaining reparation in the event of discrimination and the individual complaint procedure provided for in article 14 of the Convention.**

## **Multiple forms of discrimination**

23. The Committee is concerned by the fact that women belonging to indigenous, Afro-Ecuadorian, Montubio, migrant and refugee communities continue to be confronted with

multiple forms of discrimination and gender-based violence in all areas of life. It is also concerned by reports that such women have difficulty in gaining access to justice (art. 5).

**The Committee recommends that the State party bear in mind the Committee's general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination and that it incorporate a gender perspective into all policies and strategies for combating racial discrimination in order to address the multiple forms of discrimination to which women are subject. The Committee also calls upon the State party to continue to implement the measures that it has taken to support women victims of discrimination and provide them with greater access to justice. It also requests the State party to include information in its next report on the progress made in respect of specialized courts for hearing cases involving women's issues and domestic violence.**

### **III. Special Procedures**

#### **Report of the Special Rapporteur on the right to education**

Mission to Ecuador (13 May 2013) [A/HRC/23/35/Add.2](#)

#### **Promotion of equal opportunities in education**

49. The Government has recognized the central role of education in the promotion of equality and social justice, and initiated various efforts to assist marginalized groups. The Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion for 2009–2012 includes the promotion of the right to education as one of its central areas of concern.

50. The Government reported some improvements. Enrolment rates in higher education rose over the last five years from 9.5 per cent to 17.8 per cent among the Afro-Ecuadorian community, and from 6.5 per cent to 14 per cent among the indigenous population (A/HRC/WG.6/13/ECU/1, para. 47).

51. As indicated, the emphasis in the new legal framework on an intercultural approach to the overall education system has opened an important path for ensuring the inclusion of a more culturally sensitive approach to education policies. However, despite additional investments reported by the Government in the promotion of quality standards and teacher training, the bilingual education system still needs to enhance its financial and technical capacity to ensure good quality and culturally adequate education to the various indigenous groups in the country.

52. Historical disadvantages in the access to all levels of education remain a serious concern for Afro-Ecuadorians, the Montubio and indigenous groups. In 2010, indigenous peoples were estimated to receive only 5.55 years of schooling (the lowest schooling average among all ethnic groups). The Montubio and Afro-Ecuadorians displayed slightly higher numbers (7.19 and 8.45 years of schooling, respectively), but were also at a disadvantage if compared to the white schooling average (11 years, the highest average) or the national average (9.39 years).<sup>22</sup> Moreover, despite renewed commitments to eliminate illiteracy, 30.2 per cent of indigenous peoples and 16.7 per cent of the Montubio remained illiterate in 2012, while the

national illiteracy average was 7.9 per cent.<sup>23</sup> These stark differences seem to reflect the accumulated impact of successive decades of inadequate education, particularly for groups living in certain remote regions, and insufficient attention to the cultural requirements of these groups.

53. Various legal instruments, including the Constitution, call for the promotion of an inclusive education system, in line with international human rights standards, ensuring opportunities for children with disabilities to be integrated within the mainstream education system. A number of initiatives and projects have been undertaken by the Office of the Vice-President, in cooperation with the Ministry of Education, including the elaboration of manuals and guides for persons with disabilities. The Ministry of Education reported that there has been a nearly 50 per cent increase in the number of children with disabilities enrolled in schools from 2007 to 2012.<sup>24</sup> Nevertheless, not all children with disabilities are yet able to attend schools or kindergarten due to the lack of human and technical capacity to promote their integration into the education system.

54. In keeping with Ecuador's legal and policy commitments to promote universal access and equality of opportunities in education, obstacles which disproportionately affect the education of persons living in poverty, Afro-Ecuadorians, the Montubio, indigenous peoples and persons with disabilities must be overcome. The disadvantages posed by economic deprivation often appear closely associated with all discriminatory patterns, affecting the most marginalized groups of society.

### **Conclusions and recommendations**

**83. Ecuador should continue paying special attention to the need for elimination of disparities – especially rural and urban – in education, which adversely affect marginalized groups, such as indigenous peoples, Afro-Ecuadorians, the Montubio, persons with disabilities, and all those who are victims of poverty. Historical inequalities can only be uprooted through long-term attention to often interrelated economic, physical, social and cultural barriers to access to good quality education.**

**84. Specific strategies and policies are needed to ensure marginalized groups, in particular, indigenous peoples, Afro-Ecuadorians, people living in rural areas and the poor, are able to realize their right to education. As provided for in article 30 of the Convention on the Rights of the Child, the State must take appropriate measures to ensure that children are able to learn and use the language, religion and customs of their families. Further investments are needed to guarantee better quality in the bilingual education system, including strengthening teacher training programmes. Educational texts and curriculum, teachers must respect and integrate the intercultural heritage of Ecuador, particularly in areas populated by Afro-Ecuadorian and indigenous peoples. Continued attention must be paid to ensure that no costs are imposed locally on poor families, and where necessary support for transportation to schools should be provided.**