



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

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under article  
9 of the Convention**

**Twentieth to twenty-second periodic reports due in 2012**

**Ecuador\*, \*\***

[15 February 2012]

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\* This document contains the twentieth, twenty-first and twenty-second periodic reports of Ecuador, due in 2012. For the seventeenth, eighteenth and nineteenth reports, submitted in one document, and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/ECU/19 and CERD/C/SR.1876, 1877 and 1896 respectively.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## Acronyms and abbreviations

ARCOM	Mining Regulation and Management Agency
CODAE	Afro-Ecuadorian Development Corporation
CODENPE	Council for the Advancement of the Nations and Peoples of Ecuador
CONEPIA	National Statistics Commission for Indigenous Peoples, Afro-Ecuadorians and Montubios
CRE	Constitution of the Republic of Ecuador
DINEIB	National Directorate for Bilingual Intercultural Education
EIFC	Community and Family Education for Children
FLACSO	Latin American Faculty of Social Sciences
INEC	National Statistics and Census Institute
INIGEMM	National Institute for Geological, Mining and Metallurgical Research
LOEI	Organic Act on Intercultural Education
MJDHC	Ministry of Justice, Human Rights and Religion
MOSEIB	Bilingual intercultural education model
RAOH	Environmental Regulation governing hydrocarbon operations
SENPLADES	National Secretariat of Planning and Development
SPPC	Secretariat for Peoples, Social Movements and Citizen Participation
UN-Habitat	United Nations Human Settlements Programme

## I. Introduction

1. Ecuador has been party to the International Convention on the Elimination of All Forms of Racial Discrimination since 22 September 1969.
2. This document contains Ecuador's twentieth, twenty-first and twenty-second periodic reports, in compliance with the recommendation made in paragraph 28 of the concluding observations on Ecuador's seventeenth, eighteenth and nineteenth reports (CERD/C/ECU/CO/19) of the Committee on the Elimination of Racial Discrimination (CERD). It describes how national legislation and the situation within the country in respect of this topic have evolved since the presentation of Ecuador's previous reports in 2006. The annex to this report contains an updated version of the common core document (HRI/CORE/ECU/2009).
3. This report follows the guidelines for the CERD-specific document which were adopted by the Committee at its seventy-first session (CERD/C/2007/1) and the recommendation to Ecuador contained in paragraph 26 of the Committee's concluding observations. A workshop was held for the purpose of circulating the draft report among the relevant civil society organizations for comment.

## II. General comments

4. Since October 2008, Ecuador has had a new Constitution, which addresses some major conceptual and practical challenges and which declares Ecuador to be a constitutional State governed by the rule of law.<sup>1</sup> The Constitution reflects an approach that safeguards and reconciles intercultural notions with the need to protect groups with priority needs. In addition, the Constitution avoids the customary classification of rights by generation which might encourage a systematic fulfilment of rights, and its content is instead arranged thematically according to the priority attributed to national needs.
5. According to its Constitution, Ecuador is a plurinational and intercultural State, which seeks to promote the equitable and harmonious inclusion of and interaction between the country's peoples, nationalities and cultures, on the basis of dialogue, mutual respect and recognition of the equality and differences of those who coexist in the national territory, in order to achieve what the Constitution terms "*Buen Vivir*" (good living). This principle is enshrined in the National Development Plan for the period 2009–2013 (National Plan for Good Living), especially section 7 thereof setting out the relevant National Good Living Objectives. Objective 1 is "to promote social and territorial equality, cohesion and integration within diversity". Policy 1.3 states that the country's objective is "to promote social and economic inclusion with a gender, intercultural and intergenerational perspective in order to generate equitable conditions". Policy 1.6 calls for "recognizing and respecting sociocultural diversity and eradicating all forms of discrimination, whether on grounds of gender, sexual orientation, origin, migration, age, socioeconomic standing or disability, or on ethnocultural, political, economic, religious or geographical grounds". Policy 7.5 seeks "to promote the strengthening and opening of permanent public forums for exchanges between different groups, which foster interculturalism and mutual acceptance and enhance all forms of collective expression".

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<sup>1</sup> Article 1 of the Constitution of the Republic of Ecuador, published in *Registro Oficial* No. 449 of 20 October 2008.

6. In response to the recommendations contained in paragraphs 8 and 23 of the Committee's concluding observations, regarding article 2 of the Convention and in line with article 3 of the Durban Declaration and Programme of Action, on combating racial discrimination "by drawing up a comprehensive national policy to combat racism and racial discrimination", the Government adopted the Plurinational Plan for the elimination of racial discrimination and ethnic and cultural exclusion (2009–2012), which was approved by Executive Decree No. 60 of September 2009. This Plan focuses on five main areas: justice and legislation; the universality of rights; education, communication and information; citizen participation and institution building; and international relations. The Plan comprises 59 articles and is implemented by the Secretariat for Peoples, Social Movements and Citizen Participation, the Ministry for the Coordination of the Natural and Cultural Heritage (Heritage Ministry), the Ministry of Labour Relations and the National Secretariat for Communication. Civil society participated widely in the preparation of the Plan through national workshops.

7. Ever since the Plan has been put into effect, national public bodies and social organizations have been constantly consulted and information has been gathered on the services, plans and programmes, such as education scholarships and multicultural health drives, which are accessible to indigenous peoples, Afro-Ecuadorians and Montubios, enabling them to achieve equality in the exercise of their rights. In November 2011, for example, a week-long national educational campaign was conducted against racial discrimination.

8. With regard to reporting indicators on the enjoyment of rights, it is worth noting that for the 2010 census, the Government, acting through the National Statistics Commission for Indigenous Peoples, Afro-Ecuadorians and Montubios (CONEPIA) and the National Statistics and Census Institute (INEC), added a question on ethnic origin in the census form. It also helped CONEPIA to design and carry out the self-identification campaign accompanying the 2011 census. The campaign had the approval of all the members of the councils of peoples and nationalities and leaders of grass-roots organizations, which facilitated its execution. It was also planned on a participative basis.

9. In keeping with the Committee's recommendation that the next periodic report should include disaggregated statistics on the composition of the population (CERD/C/ECU/CO/19, paras. 9 and 25), the Government has pleasure in presenting the following information taken from the seventh population census and the sixth housing census, conducted in 2010,<sup>2</sup> and the 2011 economic census.

10. Ecuador has 18 indigenous peoples: Tomabela, Karanki, Natabuela, Otavalo, Kayambi, Chibuleo, Kisapincha, Panzaleo, Kitukara, Salasaka, Waranka, Puruhá, Pasto, Kañari, Saraguro, Palta, Huancavilca and Manta. It has 14 indigenous nationalities: Awá, Chachi, Épera, Tsáchila, A'i-Cofán, Secoya, Siona, Waorani, Shiwiar, Zápara, Achuar, Andoa, Kichwa Amazónica and Shuar, as well as Afro-Ecuadorian peoples and Montubios, which are recognized in the 2008 Constitution.

11. Up-to-date data regarding the characteristics of the country, official languages, organization, sovereignty, political and geographical divisions, participation, national symbols and maritime, air and land borders are given in the core document submitted to the United Nations human rights treaty-monitoring bodies in 2009, an updated version of which is appended to this report.

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<sup>2</sup> National Statistics and Census Institute, Seventh Population Census and Sixth Housing Census 2010. This source will be quoted later in the report when reference is made to population and sociodemographic statistics.

12. Ecuador draws attention to the updated data on the composition of the population obtained from the 2010 census, which used classifications that made it easier for individuals to identify with the various ethnic groups. In particular, the notion of “Afro-Ecuadorian” was added to the traditional terms of “black and/or mulatto” in order to gather data based on the self-identification of this population group. The 2010 census was historic in that it also shed light on the Montubio people, and the official statistics it produced offered a basis for recognizing their existence. This in turn will make it possible to promote, defend and safeguard their rights in a more focused manner.

13. The latest sociodemographic data, disaggregated by means of ethnic self-identification, show that the country has a resident population of 14,483,499 persons, of whom 71.9 per cent are mestizo, 7.4 per cent are Montubios, 7.2 per cent are Afro-Ecuadorians and 7.03 per cent indigenous. In 2010 there were 187,758 more indigenous persons and 437,550 more Afro-Ecuadorians than in 2001. The annual growth rate in the population between 2001 and 2010 amounted to 1.95 per cent. The urban population accounts for 63 per cent and the rural population for 37 per cent of the total.

14. There are slightly more women than men in the country (0.8 per cent more), the percentages being 50.4 and 49.6 respectively. According to the 2010 census, there are 7,305,816 women and 7,177,683 men in the country.

15. The Montubio population comprises a total of 1,070,728 persons. Afro-Ecuadorians number 1,041,559, of whom 74.4 per cent live in urban areas and 25.6 per cent in rural areas. There are 1,018,176 indigenous persons in the country, of whom 78.5 per cent live in rural areas and 21.5 per cent in urban areas. The mestizo population totals 10,417,299 and the white population 882,382.

16. The percentage of poor people fell nationwide from 66.2 per cent to 60.06 per cent between 2001 and 2010. The biggest drop occurred in urban areas.

### **III. Information relating to the implementation of the Committee’s recommendations and of the Convention**

#### **A. Implementation of paragraphs 10 and 12 of the concluding observations (CERD/C/ECU/CO/19)**

17. The following paragraphs provide information in respect of the recommendation concerning existing domestic remedies and legal avenues for combating acts of racial discrimination.

18. Domestic legislation contains no rules which would nullify or impair the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms; on the contrary it seeks to guarantee, without any discrimination whatsoever, the real enjoyment of the rights set forth in the Constitution and international instruments, in accordance with article 3 of the Constitution.

19. Domestic laws on nationality, citizenship and naturalization establish no distinction, restriction, exclusion or preference with regard to any particular national group. In fact, article 6 of the Constitution forestalls any possible misinterpretations by referring to Ecuadorian nationality as the “political and legal bond between the State and individuals, irrespective of whether they belong to one of the indigenous nationalities which coexist in plurinational Ecuador”. Article 7, paragraph 3, makes it clear that “persons belonging to communities, peoples or nationalities recognized by the State who live in border areas” are deemed to be Ecuadorians by birth.

20. The Constitution provides in particular for the appropriate promotion and protection of the groups and individuals covered by the Convention. For example, in chapter IV it specifically refers to the rights of communities, peoples and nationalities. Article 66 (4) of chapter VI, on rights to freedom, establishes the right to formal and material equality and non-discrimination, while article 83 (10), of chapter IX, on responsibilities, concerns the promotion of unity and equality in diversity and in intercultural relationships.

21. Article 57 (2) of the Constitution recognizes and guarantees the right of communes, communities, peoples and nationalities “not to be the target of racism or any form of discrimination based on their origin, or on their ethnic or cultural identity”, while article 57 (3) establishes “the right of groups affected by racism, xenophobia and other related forms of intolerance and discrimination to recognition, reparation and compensation”. The same article further prohibits racism and racial discrimination in the media and concludes by stipulating that: “The State shall guarantee the implementation of these collective rights without any discrimination whatsoever, in conditions of equality and equity between men and women.”

22. With reference to article 2 of the Convention and its implications for constitutional measures, it is worth noting that article 1 of the Constitution decrees that Ecuador is a social, democratic, sovereign, independent, unitary, intercultural, plurinational and secular State.

23. Ecuador has the following legal framework for prohibiting and eliminating discrimination in any form:

(a) The Constitution, articles 1, 11 (2), 57 (2), 58, 59 and 66. According to article 11 (2), the State will adopt affirmative action measures to promote real equality should persons entitled to rights find themselves in a position of inequality;

(b) The Organic Act on the public institutions of indigenous peoples of Ecuador who define themselves as nationalities with ancestral roots;

(c) The Act on the collective rights of black and Afro-Ecuadorian peoples, of 30 March 2006;

(d) Ministerial Agreement 0142, Ministry of Labour Relations, of 31 May 2011;

(e) The Criminal Code, which specifies hate crimes, under article 5 of the unnumbered Act, published in *Registro Oficial* Supplement 555 of 24 March 2009;

(f) The Organic Act on Intercultural Education (LOEI), article 132, on prohibited acts;

(g) The Youth Act, article 4;

(h) The Code on Children and Adolescents;

(i) The Organic Act on Citizen Participation, article 32;

(j) Decree No. 1328-a, published in *Registro Oficial* 320 of 7 May 2001, which places the Attorney General of the State in charge of receiving complaints concerning any form of racial discrimination;

(k) Decree No. 60, published in *Registro Oficial* 45 of 13 October 2009, approving the Plurinational Plan for the elimination of racial discrimination and ethnic and cultural exclusion;

(l) The Congress resolution of 1997 declaring 2 October the national day of the Afro-Ecuadorian people;

(m) Metropolitan Ordinance 158 of 13 October 2005, which instituted the Jonatás Sáenz medal in memory of an Afro-Ecuadorian liberation heroine. This medal is awarded to persons for outstanding service in the promotion and defence of social inclusion, at a ceremony to commemorate the founding of Quito;

(n) Metropolitan Ordinance 0216, on the social inclusion with an ethnic and cultural focus of the Afro-Ecuadorian people of the Quito Metropolitan District, published in *Registro Oficial* No. 159 of 30 August 2007 and its implementing regulation of 11 December 2008;

(o) Declaration of Interculturalism Day, published in a municipal ordinance of the Quito Metropolitan District;

(p) The proclamation of Quito as Intercultural City in the Metropolitan resolution of 11 October 2011;

(q) A bill on collective rights, including those of indigenous peoples, Afro-Ecuadorians and Montubios, together, which is currently being debated in the National Assembly.

24. In this connection, mention must be made of the section in the National Development Plan which describes the Government's public policy to safeguard the human rights of Afro-Ecuadorians. The plan refers to the formulation of a human development policy for the Afro-Ecuadorian people, comprising a series of practical steps to overcome the conditions of poverty, marginalization, exclusion and discrimination affecting Afro-Ecuadorians, through measures of inclusion and affirmative action to promote the comprehensive development of these communities, in accordance with the international and domestic legal framework within which the Government must operate.

25. In 2009 the Government embarked upon a development and cultural diversity programme for poverty reduction and social inclusion (PDC), which promotes inclusion, intercultural dialogue and measures to combat discrimination and exclusion on ethnic and cultural grounds. The aim of the programme is to reduce the gaps caused by discrimination and exclusion and to further the implementation of the United Nations Declaration on the Rights of Indigenous Peoples and the attainment of the Millennium Development Goals, through an interagency mechanism to foster interculturalism, in keeping with the policies of the Heritage Ministry and with the support of the United Nations system.

26. Under the PDC programme, a number of public measures have been undertaken to assist peoples and nationalities, such as: the plan against racism; the public policy on gender and interculturalism; the national Nelson Estupiñán Bass competition to reward initiatives to combat discrimination and racism, the provision of maternity wards adapted to the needs of traditional and ancestral practices, and technical and financial support for the cultural projects of peoples and nationalities.

27. Since 2009, the PDC programme has supported the production of basic educational material in indigenous peoples' languages by offering technical and financial assistance to 28 cultural schemes in the provinces of Chimborazo, Esmeraldas and Sucumbíos. The schemes benefit 27,864 recipients in all (13,315 direct and 14,549 indirect beneficiaries). Out of the total number 13,355 are women (6,724 direct and 6,631 indirect beneficiaries). All these projects are managed by indigenous persons and Afro-Ecuadorians. They are innovative models offering local organizations the prospect of building up sustainable livelihoods that maintain and preserve the cultural and natural heritage. As a result, population groups that have been historically excluded on ethnic grounds are gradually extending their opportunities for human development and cultural revitalization through cultural and creative schemes.



## **B. Implementation of paragraph 11 of the concluding observations and article 1 of the Convention**

28. With reference to the recommendation in paragraph 11 of the Committee's concluding observations and to article 1 of the Convention, it may be noted that the ban on the expulsion of groups of foreigners laid down in article 66 (14), third subparagraph, of the 2008 Constitution, applies to migrant groups such as the Roma.

29. Article 11 (2) of chapter one of the 2008 Constitution concerning the exercise of rights reads as follows:

“All persons are equal and shall enjoy the same rights, duties and opportunities. No one may be discriminated against for reasons of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, legal record, socioeconomic standing, migratory status, sexual orientation, state of health, being a HIV carrier, disability, physical difference or for any other distinguishing feature, whether personal or collective, temporary or permanent, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of rights. All forms of discrimination are punishable by law.”

30. The preliminary draft Organic Act of the National Equality Councils, which has been discussed by the Executive branch since 2010, seeks to enhance the protection and promotion of the rights of persons, groups, communes, communities, peoples and nationalities, in order to foster equality and to guarantee non-discrimination within intercultural diversity, and to build a plurinational State. This is in line with the targets set in the National Plan for Good Living, objective 2, policy 2.4 of which is aimed at “generating lifelong learning and training processes, with a gender, generational and intercultural perspective, compatible with the objectives of Good Living”.

## **C. Implementation of paragraph 12 of the concluding observations**

31. A preliminary bill on coordination and cooperation between indigenous and domestic courts has been drafted in order to give effective recognition to diversity embracing indigenous traditions and views of the world. The bill is founded on article 171, paragraph 1, of the Constitution, which guarantees judicial pluralism by making provision for judicial authorities separate from domestic courts, and the second paragraph of that article, which establishes a mechanism for coordinating the two court systems.

32. The Afro-Ecuadorian Development Corporation (CODAE) and the Ministry of Justice, Human Rights and Religion (MJDHC) have jointly proposed four training modules on the collective rights of peoples and nationalities intended for the national police force, officials of the Ombudsman's Office, members of the legal service and members of the armed forces. In preparation, four pilot workshops were held for each of the beneficiary groups in order to obtain their feedback on the modules.

33. In order to overcome the ignorance, misconceptions and misinterpretations on the part of the media of what really constitutes indigenous justice, the above-mentioned entities examined three cases handled by indigenous courts, which were recorded in a video called “Living justice”, which is intended as a teaching aid.

#### **D. Implementation of paragraph 13 of the concluding observations**

34. The following information concerns the protection of indigenous and Afro-Ecuadorian women's rights.

35. The National Development Plan, known as the "National Plan for Good Living 2009–2013", which comprises 12 national strategies and 12 national objectives sets new challenges with a view to building a plurinational, intercultural State, with the ultimate goal of achieving "Good Living". The plan contains a number of provisions designed to improve the situation of indigenous and Afro-Ecuadorian women through education campaigns for the general public and the authorities, which are aimed at eliminating racism, discrimination and sexism. These campaigns will be organized by the Transition Council for the definition of public institutions, the Women, Equality and Gender Council, which has been instrumental in shaping policies to reduce poverty among women by mainstreaming a gender and ethnic perspective in all programmes.

36. With regard to the spoken and teaching languages of schools, the Ministry of Education is developing literacy courses as part of its basic education programme for young people and adults who speak Spanish or Kichwa.

37. Similarly, the launching in 2011 of a policy on gender and interculturalism, with the setting up of a committee on gender and interculturalism coordinated by the Heritage Ministry, illustrates the importance attached to affirmative action for the benefit of women from indigenous communes, communities, nationalities and peoples and those belonging to the Afro-Ecuadorian and Montubio peoples, as well as campesino women, women settlers and displaced women.

38. With regard to stopping the alleged murder of indigenous women after the reported killing in 2003 of several women from the isolated Tagaeri-Taromenani tribes, the Inter-American Commission on Human Rights (IAHRC) asked the Ecuadorian Government in 2006 to implement precautionary measures to protect the above-mentioned indigenous peoples. The State did carry out a number of measures to protect indigenous nationalities and peoples in places where such incidents had been reported. In 2007 the boundaries were marked out for the Untouchable Zone of the Tagaeri-Taromenani, whose territory was recognized in 1999. In addition, a binding code of conduct was laid down for hydrocarbon operations there.

39. The Ministry of the Environment was initially made responsible for coordinating and monitoring Ecuador's plan for precautionary measures to protect the isolated Tagaeri-Taromenani indigenous peoples. Subsequently, in October 2010, responsibility was transferred by the President of the Republic to the Ministry of Justice, Human Rights and Religion. Patrols have been conducted on average twice a month in the designated areas, with the support of Waorani specialists, as well as sociologists, anthropologists and members of the security forces, and radio monitoring in the approximately 30 communities equipped with radio.

40. In April 2007, a national policy on peoples living in voluntary isolation was introduced in order to implement IAHR recommendations regarding precautionary measures to protect the Tagaeri-Taromenani peoples. In addition, on 20 December 2011, Ecuador invited the Commission to visit Ecuador in order to see the work being done in cooperation with the communities living in the area covered by the new precautionary measures.

41. Ecuador has likewise asked the Commission to recommend suitable ways of monitoring and assessing the population concerned in view of the high mobility of indigenous peoples living in voluntary isolation. The most recent note from the

Commission on the matter, dated 23 December 2011, acknowledges receipt of the latest information from Ecuador.

42. Lastly, public policy 9.4 of Objective 9, section 7, of the National Plan for Good Living aims to “eradicate violence against persons, peoples and nationalities”. Under this heading the National Assembly is discussing a proposal to approve the comprehensive Criminal Code, which establishes the crime of murder with aggravating circumstances. Thus, in article 79 (7) and (10), murder is defined as a crime which carries a prison sentence of 19 to 25 years if it is committed for reasons of hatred on social, political, racial, ideological, gender or sexual orientation grounds, or if the perpetrator has killed his or her ascendants, descendants, spouse, partner, sister or brother. The latter provision also applies in the event of a woman being murdered by a member of her family.

## **E. Implementation of paragraphs 14 and 21 of the concluding observations**

43. The following information concerns the recommendations contained in paragraphs 14 and 21 of the Committee’s concluding observations and article 5 of the Convention.

44. With reference to article 5 of the Convention and the proceedings initiated in domestic courts in respect of offences involving hate and discrimination, the Prosecutor-General’s Office received 59 complaints in 2009. In 58 of these cases preliminary inquiries were held, this being the initial stage of the investigative process; 9 cases were dismissed and therefore shelved; 2 were moved on the stage of official investigation in order to identify the possible perpetrators of the crime concerned and in 1 case charges were brought. No sentences have yet been passed. In the first half of 2010, at the national level, the Prosecutor-General’s Office received 39 complaints. In 33 cases preliminary inquiries were held, 5 were dismissed and shelved, and 1 was officially investigated. No sentences have been passed.

45. In the specific case of the Afro-Ecuadorian people, as part of the project to attain the Millennium Development Goals, CODAE is holding a series of workshops at which Afro-Ecuadorians are asked if they know of any acts of racism and discrimination, if they have been affected by such crimes and how they reacted. Various reports of instances of racial discrimination were received during the workshops on law, equality and racial discrimination held in Guayaquil, Lago Agrio, Esmeraldas, San Lorenzo, Quito and Ambuquí in July and August 2010. They were attended by 264 persons, 60 per cent of whom were women and 40 per cent men. At the workshops in San Lorenzo where such testimony was given, 98 per cent of the participants were Afro-Ecuadorians and the remaining 2 per cent Afro-Colombians.

46. With regard to complaints of acts of discrimination, Ecuador is aware that progress needs to be made with mechanisms for the systematic monitoring, documenting and recording of information by all those involved at the executive and judicial level, in order to improve follow-up procedures, by defining offences and obtaining positive results when cases are tried in court. In this connection, Decree No. 1328-a, published in the *Registro Oficial* 320 of 7 May 2001, made the Attorney-General’s Office the competent body for receiving complaints concerning any form of racial discrimination.

47. Surveys have also been carried out of the socioeconomic situation of nationalities and peoples and of any racism or discrimination displayed towards them. Four training modules on collective rights have been developed for officials and members of the armed forces, national police force, Public Defender Service and legal services.

**F. Implementation of paragraph 15 of the concluding observations**

48. With regard to the participation of indigenous and Afro-Ecuadorian peoples at all levels of public administration, Ecuador is carrying out affirmative action in favour of the groups protected by the Convention.

49. With a view to giving greater effect to citizens' rights and to promoting participation in the running of public affairs, the present Government set up the Secretariat for Peoples, Social Movements and Citizen Participation, which has the standing of a ministry, under Executive Decree No. 133 of 26 February 2007.

50. On 31 May 2011, the Ministry of Labour Relations issued Ministerial Agreement 0142 providing for preferential treatment to facilitate access to public office by Afro-Ecuadorians, Montubios and indigenous persons. The agreement states that "When institutions, entities and bodies in the public sector hold competitive examinations to fill any post, they shall add two points to the total score achieved in tests and interviews by Afro-Ecuadorian, indigenous or Montubio candidates who have been shortlisted, until the institution reaches a proportion in its total payroll (civil servants and employees) equal to that of their proportion in the total national population (information supplied by INEC which shall be published on the website of the Ministry of Labour Relations, [www.mrl.gov.ec](http://www.mrl.gov.ec)). The recruitment panel shall determine how this provision is to be complied with."

**G. Implementation of paragraph 16 of the concluding observations**

51. With regard to the right of consultation and participation of the indigenous population and of any other community affected by an investment or production scheme, Executive Decree 1040 gives effect to the social participation mechanisms provided for in the Environmental Management Act of 22 April 2008 issued by the Ministry of Non-renewable Natural Resources.

52. The purposes of the decree are:

(a) To define the social participation mechanisms provided for in the Environmental Management Act;

(b) To enable the public authorities to hear a community's views with respect to an activity or scheme producing an environmental impact;

(c) To use the communities' views to steer and develop environmental management;

(d) To clarify the actions and activities which may affect the environment and, the same time, ensure the community's full access to available information.

53. The Ministry of the Environment has also done extensive groundwork on the environmental permits required for the approval of hydrocarbon operations, considering that in the period 2008–2011 a total of 280 permits were issued. Furthermore, the hydrocarbon industry is governed by binding environmental legislation, namely that established by Environmental Regulation 1215 governing hydrocarbon operations, which makes specific provision for the compensation and indemnification of communities.

54. With regard to the legal framework governing the mining and hydrocarbons sector, article 261 (11) of the current Constitution gives the central Government exclusive jurisdiction over energy resources, minerals and hydrocarbons, while article 313 thereof states that the Government reserves the right to administer, regulate, control and manage

strategic sectors on the basis of the principles of environmental sustainability, precaution, prevention and efficiency.

55. Article 7 (i) of the Mining Act provides for the establishment of “advisory councils”. These offer citizens an opportunity to participate in decision-making and the definition of mining policies, thereby ensuring that a community’s views are considered and incorporated in the social and environmental management of a mining scheme. This process will promote the sector’s sustainable development at all phases of mining activity.

## **H. Implementation of paragraph 17 of the concluding observations**

56. With regard to measures to end forcible eviction, article 60 of the Constitution recognizes that “ancestral, indigenous, Afro-Ecuadorian and Montubio peoples may establish territorial constituencies in order to preserve their culture”. Article 65 reads: “The State shall promote the equal representation of women and men in appointed or elected positions in the civil service, in its administrative and decision-making bodies and in political parties and movements. Candidates in electoral lists shall appear alternately, in successive order. The State shall adopt affirmative action measures to guarantee the participation of sectors affected by discrimination.”

57. Articles 156 and 157 and transitional provision 6 of the Constitution refer to the setting up of national equality councils, which are “responsible for securing the full enjoyment and exercise of the rights established in the Constitution and in international human rights instruments”.

58. Article 156 states that national equality councils “shall comprise an equal number of representatives of civil society and the Government and shall be chaired by the representative of the Executive”.

59. Article 257 of the Constitution concerns the structure of indigenous and/or Afro-Ecuadorian territorial constituencies, which will exercise the powers of autonomous local government and will be governed by the principles of interculturalism and plurinationalism with due regard to collective rights. This provision offers an opportunity for establishing an administration in these constituencies that is in tune with the needs of indigenous, Afro-Ecuadorian and Montubio communities, peoples and nationalities, within the framework of a participative government system.

60. In 2010 and 2011, in order to formalize land ownership by ancestral groups, 396,529.52 hectares were allocated to indigenous groups of the Shuar, Achuar, Kichwa and Afro-Ecuadorian communities. The Kichwa, Shuar and Zapara Amazonian nationalities were given formal title to 291,988 hectares of ancestral lands. An agricultural innovation programme is in place to enhance food sovereignty by raising the production of major crops through agrarian revolution colleges (ERAS), which employ participative, learning-by-doing methods. These colleges have trained 26,601 persons, 52 per cent of whom have been women from the Panzaleo, Shuar and Saraguro indigenous peoples inter alia. A further initiative has been the establishment of a permanent technical unit, which has focused on working with the Afro-Ecuadorian, Shuar and Kichwa peoples on projects to breed, raise, farm and sell mainly dairy cattle. In addition agricultural insurance cover has been provided against the main farming hazards of drought, flooding, excessive humidity, fires and frost, for 7,097 small- and medium-sized farmers, 65 per cent of whom are Montubios.

61. CODAE had signed agreements legalizing the ownership of plots of land and the construction of social housing, giving priority to families headed by women: thus 200 homes have been built in the municipality of Ibarra, 100 in the canton of Esmeraldas and 50 in the parish of Tululbí in the canton of San Lorenzo. In the municipality of Guayaquil, the ownership of 240 out of a total of 600 plots was legalized and earmarked for housing. In

Quito, as part of the bicentennial city plan, 80 homes were purchased, under an investment scheme worth a total of US\$ 1,200,000.

## **I. Implementation of paragraph 18 of the concluding observations**

62. The following information concerns compliance with the recommendation made in paragraph 18 of the Committee's concluding observations and with article 5 (e) (vi) and (f) on programmes to safeguard economic, social and cultural rights.

63. Ecuador, through the Ministry of Culture, is currently working on a cultural information system operating within the national system, which will make it possible to determine what contribution the cultural sector makes to the national economy, that is, as a percentage of the gross domestic product. It is also preparing a cultural consumption survey, which will provide information on uses, preferences, tastes and attendance at cultural and artistic events and programmes, as well as on the consumption of cultural products through the media.

64. Work is also developing a cultural information atlas of Ecuador, which will supply data on the geographic location of cultural infrastructure and on the material and immaterial heritage, thus showing where and how the population gains access to cultural expression and cultural goods and services (libraries, bookshops, theatres, cinemas and museums).

65. The Government has circulated the publication "*Los Derechos Colectivos: Hacia su efectiva comprensión y protección*" (Collective rights: towards their true understanding and protection), which is designed for members of the legal service, law students, researchers, etc. In 2010 and 2011 some 450 public officials took the course.

66. With regard to housing, the Ministry of Urban Development and Housing has issued a "national policy on sustainable habitat, human settlements and decent housing", resting on the principles of interculturalism and the promotion of public management, which encourages and guarantees the respect, recognition, interaction and participation of individuals, groups and peoples of the different cultures that make up Ecuadorian society.

67. The percentage of homes with a sewage system has risen where the various ethnic groups in the country are concerned as follows: indigenous groups from 67 per cent in 2008 to 70 per cent in 2011; Afro-Ecuadorian group from 83 to 88 per cent over the same period, with Montubios at 78 per cent in 2011 (there are no data from 2008 for this group). The percentage of households with their own home has also gone up: among indigenous groups from 75 per cent in 2008 to 82 per cent in 2011; among Afro-Ecuadorians from 64 to 65 per cent over the same period; and among Montubios 79 per cent in 2011 (no data from 2008). The percentage of homes with a piped water supply has remained the same among indigenous groups, but the rate has improved among Afro-Ecuadorians from 58 per cent in 2008 to 67 per cent in 2011. There are no data from 2008 regarding Montubios, but the percentage with access to this public service is still low. As far as homes with electricity are concerned, those belonging to the Afro-Ecuadorian group recorded a slight increase between 2008 and 2011, from 94 to 96 per cent, but those of indigenous groups showed no progress, since the percentage was 89 in 2008, 87.5 in 2010 and 87.9 in 2011. There are no data from 2008 for Montubios, but the current rate for the group stands at 90.8 per cent.

68. On the basis of an agreement signed on 11 March 2011 between the College of Architects of Ecuador (Pichincha Section) and the United Nations Human Settlements Programme (UN-Habitat), a national design contest entitled *Concurso Nacional de Vivienda para el Cambio Climático* (housing and climate change) was launched for the purpose of obtaining designs prototype of social housing and housing estates, which are suited to the geographical, natural, climatic and cultural conditions of the various regions and which employ traditional technologies that can be incorporated in the College's

housing programmes. A methodology for establishing territorial targets and investment priorities has been worked out, based on social variables such as poverty, chronic malnutrition, the lack of basic services, overcrowding and the condition of housing fabric, as criteria for directing measures towards the neediest groups of potential beneficiaries, without any form of ethnic discrimination, while at the same time taking account of social, economic, cultural and religious factors.

69. With regard to article 5 (e) (iv) of the Convention, which requires States to provide information concerning access without discrimination to friendly, high-quality health services, the Ministry of Health and the Heritage Ministry have jointly introduced changes in the health management model within the cultural development and diversity programme. Seven health centres have undergone adaptation in the provinces of Chimborazo (Alausí, Guamote and Colta), Esmeraldas (Río Verde) and Sucumbíos (Puerto El Carmen, Shushufindi and Cascales), which are provinces with a very diversified population. The population of Chimborazo comprises 38 per cent indigenous groups (52 per cent women) and 1 per cent Afro-Ecuadorians (50 per cent women). In Esmeraldas 44 per cent of the population is Afro-Ecuadorian (50 per cent women) and 3 per cent indigenous (48 per cent women). In the province of Sucumbíos, 13 per cent of the population is indigenous (49 per cent women) and 6 per cent Afro-Ecuadorian (46 per cent women).

70. The health budget for improvements in equipment, medicinal products and medical staff has tripled over the last four years. It is estimated that the number of consultations rose by 14 million between 2007 and 2011. For every dollar that the Government has invested in public health, Ecuadorian households have saved 1.3 dollars. The rate of chronic malnutrition among children dropped by 7 percentage points between 2007 and 2010. The increase from 15 to 30 dollars in the human development voucher improved coverage for the most vulnerable on the basis of an intercultural and plurinational approach in catering for children who were not previously covered. The Joaquín Gallegos Lara pension has been introduced to benefit persons with serious disability.

71. The Ministry of Culture<sup>3</sup> has engaged in various activities and has included in its legislation mechanisms and incentives for festivals, memorials, offices, funds and competitions, to provide opportunities for spreading a new intercultural outlook.

72. Similarly, the Government has introduced measures through the Ministry of Public Health, such as the national plan to promote intercultural awareness and good treatment to eliminate all forms and practices of racism, discrimination and exclusion among the staff of the operative units of the Ministry's health services.

73. In addition, the Ministry of Public Health has carried out the following related measures:

- (a) National plan to train social participation facilitators, with a focus on gender, rights and interculturalism, which is aimed at strengthening identity and access to rights;
- (b) Inclusion of an ethnic parameter in administrative health registers;
- (c) Affirmative health action among Afro-Ecuadorians and indigenous peoples based on dietary surveys;
- (d) Strengthening of the ancestral medicine network;
- (e) Use of intercultural management and care models in 57 operative health units;

<sup>3</sup> Ministry of Culture, *Report on activities*, 2011.

(f) Convening of the first national congress of men and women versed in ancestral medical knowledge and practices of the peoples and nationalities of Ecuador in the province of Pastaza, aimed at strengthening such knowledge and practices.

74. The largest amount of non-repayable international aid for the period 2007–2009 went to social development, which accounted for 18.9 per cent of disbursements, or 159.67 million dollars. The health sector came second with 15.3 per cent, amounting to 129.25 million dollars, followed by the environment with 13.4 per cent or 113.23 million dollars and education with 12.1 per cent or 102.4 million dollars. All in all these sectors accounted for 59.8 per cent of total international aid disbursements during the period under consideration. The regional development of indigenous and Afro-Ecuadorian communities of the High Andes and the tropical and Amazonian flatlands in northern Ecuador received 6.8 million dollars of Spanish aid, channelled through the International Fund for Agricultural Development (IFAD), which runs Plan Ecuador in the provinces of Esmeraldas, Imbabura, Carchi and Sucumbíos. Spanish aid provided a further 5,500,000 dollars for the Development and Cultural Diversity Programme, to promote the rights of peoples and nationalities in provinces with some of the greatest cultural diversity and worst poverty levels, such as Esmeraldas, Sucumbíos and Chimborazo.

75. Changes have also been made in the running of maternity services, with the upgrading of delivery wards and efforts to raise the capacity and awareness of Ministry of Health staff, which have been intensified in 2010 and 2011, making it possible to introduce interculturalism in the public health service, so that women can give birth according to their own traditions. Health personnel have been given additional training in order to offer a friendly, high-quality service without discrimination.

76. In addition, CODAE and the Simón Bolívar Andean University have developed and included in their curricula courses studies on cultures of African origin, with the support of scholarships awarded to first-degree students specializing in the protection of the Afro-Ecuadorian people. An agreement has likewise been signed with the Latin American Faculty of Social Sciences (FLACSO) to run first-degree and master's degree courses in human rights.

77. The social inclusion of the Afro-Ecuadorian people following an ethnic and cultural approach has been promoted by Metropolitan Ordinance No. 216 of the Quito Metropolitan Council, approved in August 2007, for the Quito Metropolitan District. This ordinance set up the Metropolitan Social Council for the Elimination of Racial Discrimination, which is active in the defence of citizens who are the victims of racism in Quito. The regulation implementing Metropolitan Ordinance No. 216 was approved on 11 December 2008.

78. On 18 June 2010, 25 towns entered into another sizeable commitment when they set up the national coalition of towns free of racism, discrimination and xenophobia and signed a 10-point action plan to deal with the problem in Ecuadorian cities. They have agreed to plan, coordinate and monitor action to combat racism, discrimination and xenophobia through measures in the spheres of education, housing, employment, culture and sport, following the example set by the Quito Metropolitan District Council.

79. As part of the basic education programme for young people and adults, the Ministry of Education proposes to run three literacy programmes in addition to “*Manuela Sáenz*” and “*Yo sí puedo*” (Yes, I can) for illiterate Spanish-speakers and “*Dolores Cacuango*” for illiterate Kichwa-speakers.

## **J. Implementation of paragraph 19 of the concluding observations**

80. With reference to the Committee's recommendation regarding the inclusion of data on the proportion of indigenous people and Afro-Ecuadorians who have access to primary,



secondary and university education, it has been ascertained that 92.4 per cent of indigenous children, 91.6 per cent of Afro-Ecuadorian children and 91.3 per cent of Montubio children are enrolled in primary education, while 67.3 per cent of indigenous teenagers, 66.3 per cent of Afro-Ecuadorian teenagers and 60 per cent of Montubio teenagers are enrolled in secondary education (15 to 17 age group).

81. The illiteracy rate fell from 9 to 6.8 per cent between 2001 and 2010. In 2010 the average illiteracy rate in towns was 3.7 per cent compared with 12.2 per cent in rural areas. Illiteracy rates among the various population groups were as follows: indigenous peoples 20.4 per cent in 2010 compared with 28.2 per cent in 2001; Montubios 12.9 per cent in 2010; Afro-Ecuadorians 7.6 per cent in 2010 compared with 10.3 per cent in 2001; mestizo 5.1 per cent in 2010 compared with 8.3 per cent in 2001; and the white population 3.7 per cent in 2010 compared with 4.8 per cent in 2001.

82. The percentage of the population nationwide who have access to higher education remains lower than for other levels of education and it is recognized that no clear progress has been made in respect of indigenous peoples, Afro-Ecuadorians and Montubios; thus only 4.9 per cent of the indigenous population, 9.2 per cent of Afro-Ecuadorians and 6.8 per cent of Montubios have access to higher education.

83. In 2011, as part of the cultural development plan, the National Directorate for Bilingual Intercultural Education of the Ministry of Education published the following reports: *Nacionalidades y Pueblos Indígenas y políticas interculturales en Ecuador: una mirada desde la educación* (Indigenous nationalities and peoples and intercultural policies in Ecuador, an educational vantage point) and *Anuario Estadístico de la Educación Intercultural Bilingüe de Esmeraldas* (*Statistical Yearbook of Bilingual Intercultural Education in Esmeraldas*), the latter being a province where the majority of the population is of African descent. Various events involving civil society and public institutions from the provinces of Esmeraldas, Sucumbíos and Chimborazo have been held to take stock of bilingual intercultural education, with a view to improving the situation, especially by including indigenous children who have hitherto been excluded from the educational system for various reasons, such as economic conditions obliging them to work for a living.

84. Objective 2 of the national development plan, which is to improve citizens' capabilities and potential, and policy 2.3, which aims to promote bilingual intercultural education and the interculturalization of education, have been incorporated in public policy. Dictionaries for primary education in the Secoya, Cofan, Wao and Achuar languages have been produced in consultation with indigenous peoples, enabling children from these indigenous nationalities to gain access to high-quality education.

## **K. Implementation of paragraph 20 of the concluding observations and article 7 of the Convention**

85. On 11 January 2011 the National Assembly passed the Organic Act on Intercultural Education (LOEI). The Act consists of 143 articles, which disaggregate, set out and establish cross-cutting rights, duties and obligations on the part of the State, pupils, teachers, families, the educational community and educational institutions. Obligations are set in the context of shared responsibility and are both clearly measurable and feasible.

86. The Act establishes that the Bilingual Education System is implemented through the National Education Authority, the Plurinational Council of the Bilingual Intercultural System, the National Directorate for Bilingual Intercultural Education (DINEIB), the Under-Secretariat for the Bilingual Intercultural Education System and the Institute of Ancestral Languages, Sciences and Knowledge of Ecuador. The purpose of the Act is to secure a decent salary for all teachers, an adequate infrastructure for educational

establishments, the ongoing assessment and training of teachers, as well as the provision of school equipment, meals and free education at all levels.

87. The project to improve bilingual intercultural education is now operating with the academic backing of Cuenca University. Between 2009 and 2011 a total of 249 students obtained a degree in bilingual intercultural education and between 2006 and 2010, 172 students of Cuenca University obtained an Andean language and bilingual education degree.

88. In the area of education for indigenous peoples and nationalities, DINEIB has put together a bilingual intercultural education model (MOSEIB), setting out the principles, philosophy, strategies, methodology and curriculum for furthering the education of indigenous peoples and nationalities, and establishing a programme of community and family education for children (EIFC) among Amazonian nationalities.

89. With regard to the situation of minority, indigenous and other languages, article 16, of section three (Title II) of the Constitution on Communication and Information, states that, "All persons, individually or collectively, have the right to: 1. Free, intercultural, inclusive, diverse and participative communication in all spheres of social interaction, by any means or form, in their own language and with their own symbols; 2. Universal access to information and communication technologies; 3. The creation of social communication media and access, on equal conditions, to the use of radio spectrum frequencies for the management of public, private and community radio and television stations and to free bands for the use of wireless networks."

90. Ecuador also has the Bilingual Intercultural Education model and EIFC programme, which seek to influence the cultural values of the indigenous population while respecting their identity, culture and the role of the family, and constantly endeavour to mainstream human rights in the curriculum and to incorporate explicit recognition of Ecuador's intercultural and plurilingual make-up in educational material.

91. Article 3 of the Convention requires States to prevent, prohibit and eradicate all practices of racial segregation and apartheid. In response, the Ecuadorian Government, acting through the Heritage Ministry, the Ministry for the Coordination of Social Development, the Ministries of Foreign Affairs, Trade and Integration, Culture, Health, National Defence and Education, and the Afro-Ecuadorian Development Corporation and the Secretariat for Peoples, Social Movements and Citizen Participation (SPPC), agreed on a joint interdepartmental agenda for 2011 comprising activities to mark the International Year for People of African Descent, proclaimed by the United Nations.

92. One of the activities giving practical effect to the agenda was a national media campaign on the identity of people of African descent, which was conducted through the radio, television, press, internet and some alternative media. A "Week of Afro-Ecuadorian dignity" was held in the town of Guayaquil to acquaint the public with the culture and traditions of this people, in which more than 150 persons took part every day. In addition, the town of Esmeraldas issued a postage stamp to draw attention to Afro-Ecuadorian identity at the national and international level. The Ministry of Justice, Human Rights and Religion published a book entitled "*Pueblos Afrodescendientes: del reconocimiento a las acciones afirmativas*" (Peoples of African Descent – from recognition to affirmative action), which describes the efforts made by the State for their development.

93. The Heritage Ministry arranged an international meeting on public policies for Afro-descendants in Quito, which was attended by State bodies and civil-society organizations active in that sphere. It was addressed by speakers from Colombia, Brazil, the United States, Uruguay and Ecuador, who described international experiences with the application of public policies designed to eliminate racial discrimination, especially against members of the population of African descent. Some 200 people participated in the meeting.

94. In addition, events were held for officials of public authorities and sectors of civil society to raise their awareness of the issues involved, including the production of promotional material for the plan, an agreement signed with the Latin-American Faculty of Social Sciences (FLACSO) on setting up an observatory against racism and forms of discrimination against indigenous and Afro-Ecuadorian nationalities and peoples. The preparation of a guide to the plan's methodology, and guidelines for human resources units on how to prevent discrimination in public institutions.

95. The Ministry of Foreign Affairs held an international discussion meeting entitled "*Al otro La'o de la Raya*" (On the other side of the line) which was attended by 150 representatives of Columbian and Ecuadorian civil-society organizations and addressed by speakers from Colombia, the United States, Cuba, Brazil, Ecuador and Venezuela. This meeting contributed towards the recovery of historical memory, the strengthening of identity and the forging of closer interregional links between Afro-descendants living in border areas, while highlighting the values and interests of this people.

96. Additional events in connection with the agenda included various national gastronomic, artistic and cultural festivals and a photographic exhibition on "Afro-descendants: identity and culture", shown at the Ministry of Foreign Affairs in December 2011. The National Afro-Ecuadorian Commission was set up in April 2011 with 36 representatives of civil society organizations to develop joint actions with the Executive.

97. The Ministry of Justice, Human Rights and Religion submitted the draft Organic Comprehensive Criminal Code to the National Assembly on 14 October 2011, which aims to punish all human rights violations and ensure State protection against all forms of discrimination.

98. Furthermore, in resolution C-1009 of 11 December 2008 (section X), the Quito Metropolitan District Council established a set of administrative disciplinary measures and remedies for acts of discrimination, which apply to the officials of all the institutions, entities and organizations of the Quito Metropolitan District. They include fines not exceeding 10 per cent of salary, temporary suspension without pay for not longer than 30 days, or even dismissal, in accordance with the Organic Act on Public Service (LOSEP).

## **L. Implementation of paragraph 22 of the concluding observations**

99. The following paragraphs contain information on measures to prevent racial discrimination in the media.

100. In article 1 (on equality and non-discrimination), the Organic Act on Communication, which is currently being debated in the National Assembly, bans all forms of discrimination or exclusion by anyone in the communication sector and promotes a pluralistic approach to diversity and respect for human rights in the content provided, in accordance with article 5 of the Durban Declaration and Programme of Action.

101. Article 2 of the Act concerns compliance with good practices, explicit, transparent and public deontological procedures, as set forth in ethical codes, and in compliance with the Constitution, the law and international instruments. Article 5 of the Act specifies what is regarded as discriminatory content. This denotes any distinction, exclusion or restriction on grounds of ethnicity, place of birth, age, sex, cultural identity, civil status, language, religion, ideology, political affiliation, legal record, socioeconomic standing, sexual orientation, state of health, disability or physical difference, or on the fact that a person is a migrant or a carrier of HIV, or on any other grounds, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of human rights recognized in the Constitution, or which constitutes incitement to or advocacy of discrimination.

102. Article 6 of the same Act prohibits the dissemination of discriminatory content which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of human rights recognized in the Constitution and international instruments and it prohibits the dissemination, via the media, of messages which constitute advocacy of discrimination and incitement to engage in violent practices or acts based on any kind of discriminatory message.

103. Article 8 of the Act lists the administrative disciplinary measures which apply in the event of discriminatory content being disseminated. If there is evidence to suggest that the discriminatory acts might entail criminal responsibility, the case must be referred to the Office of the Prosecutor-General for due investigation and analysis. Article 11 of the Act prohibits the dissemination of any message constituting direct incitement to or express encouragement of national, racial or religious hatred.

104. Disciplinary action was taken against a police superintendent in connection with the detention and alleged mistreatment of 23 young Afro-descendants by the police in La Carolina park in the north of Quito on 13 April 2008. The police force is receiving training to counter discriminatory attitudes and a documentary film *Sospechosos* (Suspects) has been produced.

105. In addition, in view of the provisions of article 4 of the Convention, which calls on States to condemn all propaganda as well as all organizations based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin that promote racial hatred and discrimination, Ecuador defined and incorporated racial hate crimes in articles 212.4 to 212.8 of the Criminal Code, in a revised version published in the *Registro Oficial*, Supplement 555 of 24 March 2009<sup>4</sup> pursuant to article 11 (2) of the 2008 Constitution.

106. Since 27 April 2009, the Criminal Code has contained a section entitled “The crimes of genocide and ethnocide”, in the light of past racial discrimination, which seeks to ensure harmonious relations within society.

107. Article 212-4 of the Criminal Code provides for a prison sentence ranging from 6 months to 3 years for the perpetration of the punishable offence of incitement to and/or the commission of an act of racial discrimination, including the propagation of ideas of racial superiority or hatred, and assisting or participating in racist activities.

108. Article 19 of the Constitution states that the law shall regulate the amount of informative, educational and cultural content in media programmes and shall encourage the provision of slots for the dissemination of independent national productions. It likewise prohibits the broadcasting of advertisements inciting violence, discrimination, racism, drug taking, sexism, religious or political intolerance and any infringement of rights.

109. Article 5 of the Radio and Television Broadcasting Act provides that one of the duties of the National Radio and Television Broadcasting Council is to ensure respect for freedom of information, expression, thought and programming, and it makes assisting racist activities, including the financing thereof, a punishable offence. The purpose of this Act is to give effect to the right to freedom of expression, without detracting from the right to information, related to quality. In other words, rather than opposing these rights, it seeks to make them interdependent.

110. The same article 5 refers to government-sponsored initiatives in the public media, such as the radio programme *Vive Patrimonio* (Living heritage) broadcast by the Heritage Ministry every Saturday, which looks at aspects of the Ecuadorian cultural heritage. The

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<sup>4</sup> *Registro Oficial*, Supplement 555 of 24 March 2009, revision of the Criminal Code.

review *Diálogo Social* (Social Dialogue) has a section devoted to enhancing the appreciation of ancestral knowledge and the publication *ABC Ciudadano* (A citizen's ABC), an educational document intended for work with civil society, deals with the subjects of identity and the plurinational State. The video *Cimarrones en los Andes* presents the collective rights of peoples and nationalities. In addition, the local government of Quito has produced ethnic education journals describing the history and contributions of Quito residents of African descent.

111. In May 2011, the Government, acting through the Heritage Ministry and the Secretariat for Peoples, Social Movements and Citizen Participation, allocated radio frequencies and equipment to the 14 indigenous nationalities mentioned in paragraph 10 of this report, namely Awá, Chachi, Épera, Tsáchila, A'i-Cofán, Secoya, Siona, Waorani, Shiwiar, Zápara, Achuar, Andoa, Kichwa Amazónica and Shuar, who now have their own broadcasting systems and frequencies.

112. With regard to article 5 (d) (i) and (ii) of the Convention, on the right to freedom of movement and residence within the border of the State, and the right to leave any country, including one's own and to return to one's country, article 416 (6) of the new Constitution states that: "It [The Constitution] advocates the principle of universal citizenship, the free movement of all inhabitants of the planet and the progressive ending of the status of alien", while 416 (7) reads: "It demands respect for human rights, especially migrants' rights, and promotes the full exercise thereof through the honouring of obligations accepted by the signing of international human rights instruments". Article 40 of the Constitution recognizes "the rights of persons to migrate", for which the State will offer assistance, support, confidentiality and protection, while article 42 prohibits all forms of arbitrary displacement and ensures the right of any person to return to his or her place of origin voluntarily, safely and in dignity.

113. Article 66 (14) of the Constitution establishes the "right to travel freely throughout the national territory and to choose a place of residence, and freely to enter and leave the country, the exercise of which shall be regulated by law. Any prohibition on leaving the country may be ordered only by the competent court".

114. Ecuador has a compassionate and non-discriminatory approach to asylum. It advocates the equal treatment of all asylum seekers regardless of their cultural, social, economic or ethnic condition.

115. Refugee status is determined by domestic and international law. Anti-discrimination measures are closely related to the relevant provisions of the Constitution, namely articles 41 and 42. Asylum seekers and refugees have complete freedom to exercise their rights without any restrictions whatsoever.

116. The Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP) have contributed US\$ 8.9 million over several years towards humanitarian assistance for refugees fleeing the armed conflict in Colombia, most of whom are located along the northern border of Ecuador.

117. Mining Act No. 045 of 29 January 2009 established a new institutional framework for the management of the public mining sector by setting up the Mining Regulation and Management Agency (ARCOM) and the National Institute for Geological, Mining and Metallurgical Research (INIGEMM). These are institutions governed by public law, with legal personality. They are administratively, technically, economically and financially independent and have their own assets. They are attached to the Ministry of Non-renewable Natural Resources in matters relating to the administration, regulation, oversight and management of the strategic mining sector.

118. Since 2010 the State-owned company Petroecuador has assumed the payment of compensation amounting to 616,917.75 dollars for damage caused to third persons in the Amazon region, especially in the Auca, Libertador, Cuyabeno and Shushufindi oil fields.

119. Between 2008 and 2010, 43 agreements were signed on social compensation for a total amount of 10,278,261.09 dollars for the consequences of hydrocarbon extraction. This money was channelled into the education sector, for the improvement of the buildings and technological equipment of local primary and secondary schools, and the health sector, for the construction of health centres and sub-centres and the setting-up of community health teams offering primary health care to the Kichwa indigenous populations of Sacha and Shushufindi.

120. In order to combat racial prejudice leading to racial discrimination in the media, Ecuador has adopted the plurinational plan for the elimination of racial discrimination and ethnic and cultural exclusion, section 2.3 of which concerns means of eliminating negative stereotypes of indigenous peoples, people of African descent, Montubios and groups which have traditionally been the victims of racism in the media. It also fosters a positive change in society's attitude to this sector of the Ecuadorian community, in keeping with paragraph 146 of the Durban Programme of Action.

121. With regard to the measures adopted to rid textbooks of any expression conveying stereotypes or degrading images, references, names or opinions concerning groups protected by the Convention, and replacing them with images, references, names and opinions conveying the message of the intrinsic dignity of all human beings. Ecuador, through the Council for the Advancement of the Nations and Peoples of Ecuador (CODENPE) has produced a number of publications on themes such as the *Diálogo de Saberes, Sobre los temas de Sumak Kawsay, la Pachamama, el Enfoque de la Interculturalidad y del Estado Plurinacional* (the intercultural and plurinational State). Furthermore, policy 2.6 of objective 2 in the National Development Plan sets out to "Promote scientific research and knowledge, greater appreciation of ancestral knowledge and know-how, and technological innovation", while policy 3.5 aims to "Recognize, respect and further the practice of ancestral and alternative medicine and the use of its knowledge, medicinal products and tools".

#### **IV. Conclusion**

122. The following conclusions may be drawn:

(a) Ecuador has made substantial progress towards honouring its obligations under the International Convention on the Elimination of all Forms of Racial Discrimination through the adoption of a new Constitution and legal texts, such as the National Plan for Good Living, the Plurinational Plan for the elimination of racial discrimination and ethnic and cultural exclusion, and many other public policies and measures described in this report;

(b) Considerable challenges, however, need to be addressed, such as improving the administration of justice in cases involving offences related to racism, xenophobia and other forms of discrimination, for which the country is investing effort and resources to reform the judicial system;

(c) There is a need to foster a culture of respect for diversity, mainly on the part of the media and in the daily practices of citizens, but when discriminatory patterns have historical roots and have become entrenched in society, dismantling them will require a long-term effort, which the country is prepared to make and on which it has already embarked;

(d) Ecuador is also aware of the need to persevere in the promotion of interculturalism, in both the public and the private sector, while fully respecting diversity, and in the promotion of the rights of all population groups and the harmonious coexistence of all citizens in its territory;

(e) Lastly, the Ecuadorian Government assures the Committee that it is fully committed to taking all the requisite measures to achieve these national objectives in accordance with its obligations towards the international community.

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