



**International Human Rights  
Instruments**

Distr.: General  
22 November 2010  
English  
Original: Spanish

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**Core document forming part of the reports of  
States parties**

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

[7 September 2009]

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\* 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.

\*\* Annexes may be consulted in the files of the Secretariat.

## Introduction

The Republic of Ecuador is honoured to submit to the Committee on Economic, Social and Cultural Rights its third periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights, in accordance with articles 16 and 17 of the Covenant and with the Committee's guidelines on the drafting of periodic reports.

Ecuador submitted its second periodic report in 2002; the Committee examined that report in June 2004 (E/C.12/1/Add.100, of 7 June 2004).

The report being submitted to the Committee is divided into two parts. The first is a common core document containing general information on Ecuador, its constitutional, political and legal structure, and its general framework for the protection of human rights.

The second part is Ecuador's report on the implementation of the International Covenant on Economic, Social and Cultural Rights.

The preparation and presentation of the common core document was based on the harmonized guidelines contained in document HRI/GEN/2/Rev.5 of 29 May 2008 and document HRI/GEN/2/Rev.6 of 3 June 2009. The reporting period covers from 2003 to August 2009.

The reports contain the information requested in the 2008 and 2009 guidelines, including statistical, constitutional, legal and judicial data on the protection of human rights, specifically economic, social and cultural rights.

The Office of the Under-Secretary for Human Rights and Public Defence Coordination of the Ministry of Justice and Human Rights of Ecuador was actively involved in the collection of data and the preparation, presentation and drafting of these reports, with the support and cooperation of the Directorate-General for Human Rights and Social Affairs of the Ministry of Foreign Affairs, Trade and Integration, pursuant to an order of the executive branch, which in September 2008 entrusted the Ministry of Justice and Human Rights with the task of preparing national reports to the various international and regional human rights bodies, in support of the Ministry of Foreign Affairs, which is the institution that oversees the Human Rights Coordination Commission.

Information was gathered with the active collaboration of more than 40 national institutions, along with contributions from some local institutions from the provinces of Guayas and Azuay and from the cities of Guayaquil and Cuenca. Civil society organizations were made aware of the contents of the report and were also asked to provide information for the preparation of the reports.

The common core document and the report under the International Covenant on Economic, Social and Cultural Rights include replies to the primary concerns and recommendations expressed by the Committee during its consideration of the second periodic report. Those points are discussed in greater detail in the introduction to the report under the Covenant.

Further information is provided in a series of annexes to the common core document, including the complete text of the 2008 Constitution of Ecuador and other documents the Committee might require.

The Committee should kindly note that much of the information in the reports has not been disaggregated by year, but has instead been prepared in accordance with developments in the social policy of the three different Governments that have governed Ecuador during the reporting period.

Ecuador has attached particular importance to economic, social and cultural rights in the past two years, starting with the implementation of the National Development Plan in June 2007 and the adoption of the latest Constitution, which was approved by a majority in a referendum in 2008 and entered into force in October of the same year.

The Government of Ecuador is pleased to provide the Committee on Economic, Social and Cultural Rights with updated information on the major advances Ecuador has made during the reporting period in the progressive implementation of economic, social and cultural rights. Particular attention has been paid to these rights by the current national Government and in the new 2008 Constitution, which establishes these rights as the foundation for the normal and full development of the people and for creating a new form of civil coexistence, in celebration of diversity and harmony with nature, making *sumak kawsay* (“good living”) possible.

The Government of Ecuador wishes to acknowledge the contributions of all the national institutions that collaborated in the drafting of these reports.

Quito, August 2009

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. General information about Ecuador.....	1–105	6
A. Demographic, economic, social and cultural characteristics of Ecuador.....	10–44	7
B. Constitutional, political and legal structure of the State.....	45–105	22
II. General framework for the protection and promotion of human rights.....	106–143	40
A. Acceptance of international human rights norms .....	110–112	41
B. Legal framework for the protection of human rights at the national level.....	113–135	42
C. Framework within which human rights are promoted at the national level.....	136–140	49
D. Reporting process at the national level .....	141–142	51
E. Other related human rights information.....	143	51
III. Information on non-discrimination and equality .....	144–148	51

### List of tables

Table 1 National population by urban and rural area, 2001 .....	8
Table 2 Rural and urban population by age group and sex, 2001 .....	8
Table 3 Projected population by urban and rural area, 2010.....	8
Table 4 Projected rural and urban population by age group and sex, 2010.....	9
Table 5 Population density, 2001.....	9
Table 6 Dependent population .....	10
Table 7 Languages of indigenous nationalities, 2001 .....	11
Table 8 Population of Ecuador, 2001 .....	12
Table 9 Birth statistics, 2007.....	12
Table 10 Death statistics, 2007 .....	14
Table 11 Criteria for estimating “housing quality deficit” .....	15
Table 12 Housing quality deficit, 2005–2006 .....	16
Table 13 Homes with ample living space, 2005–2006.....	16
Table 14 Distribution of homes with ample living space, according to number of household members, 2005–2006 .....	16
Table 15 Pattern of household expenditure .....	17
Table 16 Poverty and extreme poverty lines, 2006 .....	18
Table 17 Poverty and extreme poverty as measured by consumption, 2006.....	18
Table 18 Percentage of inhabitants with basic unmet needs, 2006.....	18
Table 19 Malnutrition, 2005–2006 .....	19
Table 20 Major communicable and non-communicable diseases, 2007 .....	19
Table 21 Leading causes of death, 2007.....	20

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Table 22	Percentage of children enrolled in school .....	20
Table 23	Economically active population .....	21
Table 24	Constitutional organization of central Government .....	24
Table 25	Territorial jurisdiction .....	37
Table 26	Electoral register, 2009 .....	38
Table 27	Electorate disaggregated by sector .....	39
Table 28	Cases received by the Electoral Court, 2009 .....	39
Table 29	Composition of the National Assembly, 2009–2013 .....	39
Table 30	National budget .....	50

## I. General information about Ecuador

1. The Republic of Ecuador became a free and independent South American State following its separation from Gran Colombia in 1830. Since that time, it has been governed by 19 Constitutions. The Constitution of the Republic approved by referendum on 27 September 2008 is the one that currently governs the institutions and powers of the State. It also recognizes a broad framework of rights and guarantees for persons under the jurisdiction of the State and for Ecuadorians abroad. It is important to note that the new Constitution has brought with it a period of political, institutional, regulatory, economic and social transformation, requiring new or amended laws and policies and the reform of out-of-date institutions.

2. Following the signing of the Brasilia Accords with Peru on 26 October 1998, the surface area of the country was established at 256,369.6 km<sup>2</sup>. Ecuador also has ownership without sovereignty of a 1 km<sup>2</sup> stretch of land in Tiwinza inside the Peruvian rainforest, a place which is particularly symbolic because of the border conflict with Peru in 1995. The country borders Colombia to the north, Peru to the south and east, and the Pacific Ocean to the west.

3. The national territory is divided geopolitically into 24 provinces,<sup>1</sup> of which 1 is located in the islands region, 7 in the continental coastal region, 10 in the continental highlands region and 6 in the continental Amazon or trans-Andean region. The regions are determined mainly by the geography and climate of the country, which has nine climate zones.

4. The islands region is an archipelago of volcanic origin located in the Pacific Ocean, 1,050 km away from the continental coastal region. It includes 13 large islands, 6 small islands and 107 islets, which comprise the equatorial climate zone of the country<sup>2</sup> and cover an area of 8,010 km<sup>2</sup>.

5. The coastal region is located on the western border of the country, and from the coastline to the border with the highlands the geography of the region includes savannah, lush jungle and dense forest, which explains why the dry,<sup>3</sup> tropical,<sup>4</sup> monsoon tropical,<sup>5</sup> humid tropical<sup>6</sup> and mesothermal<sup>7</sup> climate zones are all found in the region. Of the seven provinces in the coastal region, only Esmeraldas, Manabí, Santa Elena, Guayas and El Oro are located on the coast, while Santo Domingo de los Tsáchilas and Los Ríos are located between the coastal provinces and the highlands. The coast covers an area of 68,323.6 km<sup>2</sup>; however, when the islands region is included, the country's total coastal surface area is 70,000 km<sup>2</sup>.

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<sup>1</sup> The regions of Ecuador comprise: the coast, the highlands, the east and Galápagos. The provinces of the coast comprise: Esmeraldas, Manabí, Santo Domingo de los Tsáchilas, Santa Elena, Guayas, Los Ríos and El Oro. The provinces of the highlands include: Carchi, Imbabura, Pichincha, Cotopaxi, Tungurahua, Bolívar, Chimborazo, Cañar, Azuay and Loja. The east has six provinces: Sucumbíos, Napo, Orellana, Pastaza, Morona-Santiago and Zamora-Chinchipec. The islands region consists of Galápagos province.

<sup>2</sup> Average temperatures of 23° C with irregular precipitation at an annual rate of approximately 1,500 mm.

<sup>3</sup> Average temperatures of 23–24° C with annual precipitation between 126 and 500 mm.

<sup>4</sup> Average temperatures of 26° C with annual precipitation between 500 and 1,000 mm.

<sup>5</sup> Average temperatures of 23–27° C with annual precipitation between 1,000 and 2,000 mm.

<sup>6</sup> Temperature of 25° C for most of the year, with annual precipitation between 3,000 and 6,000 mm.

<sup>7</sup> Occurs at altitudes between 500 and 1,500 m where the rainy season lasts all year round, with annual precipitation between 2,000 and 4,000 mm.

6. The highlands region is located in the mountainous corridor of the Andes mountain range, and its geographical features include hot and cold valleys, mountainous forests, mountain junctions, high plains and snow-capped mountains. It includes the semi-humid mesothermal,<sup>8</sup> dry mesothermal<sup>9</sup> and high plains<sup>10</sup> climate zones and covers a surface area of 63,515.9 km<sup>2</sup>.

7. Lastly, the Amazon or trans-Andean region is located in the eastern continental area of the country, and is covered by the Amazon rainforest. From the slopes of the Andes to the jungle, the geographical features of this region include thick, lush jungle and large rivers that are formed from Andean meltwater and forest rains and that feed into the Amazon River. The region includes the mesothermal and humid tropical climate zones and covers a surface area of 115,744.9 km<sup>2</sup>.

8. On 9 January 2000, the United States dollar was adopted as the currency of Ecuador, at an exchange rate of 25,000 sucres to US\$ 1. The change took effect immediately, but it was not until the Economic Transformation of Ecuador Act was enacted on 29 February 2000 that it was established that, as soon as the Act came into force, the Central Bank of Ecuador must take all sucres out of circulation and exchange them for United States dollars at a fixed and unchangeable rate of 25,000 sucres to the dollar. Issuing new sucres was also prohibited, except for small denominations that could be circulated as change for existing sucres. The process of changing the currency was completed on 13 September 2000.

9. As an active member of the international community, Ecuador is a member of the main international organizations, including the United Nations, the Organization of American States (OAS), the Rio Group, the Union of South American Nations (UNASUR), the Andean Community of Nations (CAN), the World Trade Organization (WTO), the Southern Common Market (MERCOSUR), the International Monetary Fund (IMF), the Inter-American Development Bank (IDB), the Latin American Reserve Fund (LARF), the Organization of the Petroleum Exporting Countries (OPEC), and the Latin American Energy Organization (OLADE).

## **A. Demographic, economic, social and cultural characteristics of Ecuador**

10. The most recent population census of the country dates from 2001 and covers the decade 1990–2001; the next decennial census is planned for the year 2010. For this reason, the demographic information is based either on the 2001 census or on projections for 2010 made by the National Statistics and Census Institute.

11. The 2001 census established that the country has 12,479,924 inhabitants, a figure predicted to rise to 14,204,900 in 2010. The 2001 census established that the average annual population growth rate during the period 1990–2001 was 2.05 per cent, while projections for the five-year period 2005–2010 estimated the annual growth rate at 1.45 per cent.

12. The 2001 census showed that of the 12,479,924 inhabitants, 7,431,355 live in urban areas and 4,725,253 live in rural areas, disaggregated by region as follows.

<sup>8</sup> Average temperatures of 12–20° C, with annual precipitation between 500 and 2,000 mm.

<sup>9</sup> Average temperatures of 12–20° C with annual precipitation less than 500 mm.

<sup>10</sup> Average temperatures of 4–8° C with light but prolonged precipitation at an annual rate of 800–1,000 mm.

Table 1  
National population by urban and rural area, 2001

<i>Region</i>	<i>Total</i>	<i>%</i>	<i>Urban</i>	<i>%</i>	<i>Rural</i>	<i>%</i>
Highlands	<b>5 460 738</b>	44.9	3 013 139	40.5	2 447 599	51.8
Coast	<b>6 053 223</b>	49.8	4 207 540	56.6	1 848 683	39.1
Amazon	<b>548 419</b>	4.5	194 766	2.6	353 653	7.5
Islands	<b>18 640</b>	0.2	15 910	0.2	2 730	0.1
Non-delimited zones	<b>72 588</b>	0.6			72 588	1.5

*Source:* National Statistics and Census Institute (INEC).

13. Based on this information, the urban and rural population can be disaggregated by age group and sex as follows.

Table 2  
Rural and urban population by age group and sex, 2001

<i>Sector</i>	<i>Sex</i>	<i>0–20</i>	<i>21–40</i>	<i>41–60</i>	<i>61–80</i>	<i>81–97</i>	<i>Total</i>
Urban	Female	1 598 069	1 254 518	629 605	255 957	67 244	<b>3 805 393</b>
	Male	1 596 889	1 154 008	596 063	223 899	55 103	<b>3 625 962</b>
Rural	Female	1 146 501	633 570	344 302	169 061	39 428	<b>2 332 862</b>
	Male	1 188 023	635 744	355 747	175 701	37 176	<b>2 392 391</b>
<b>Total</b>		<b>5 529 482</b>	<b>3 677 840</b>	<b>1 925 717</b>	<b>824 618</b>	<b>198 951</b>	<b>12 156 608</b>

*Source:* INEC.

14. On the other hand, the projections for 2010 estimate that of the 14,204,900 inhabitants, 9,410,481 will live in urban areas and 4,794,419 in rural areas, disaggregated by region as follows.

Table 3  
Projected population by urban and rural area, 2010

<i>Region</i>	<i>Total</i>	<i>%</i>	<i>Urban</i>	<i>%</i>	<i>Rural</i>	<i>%</i>
Highlands	<b>6 229 844</b>	43.9	3 897 956	41.4	2 486 638	51.9
Coast	<b>6 994 114</b>	49.2	5 173 880	54.9	1 820 234	37.9
Amazon	<b>708 566</b>	4.9	318 261	3.4	390 305	8.1
Islands	<b>24 366</b>	0.2	20 384	0.2	3 982	0.1
Non-delimited zones	<b>93 260</b>	0.6			93 260	0.9

*Source:* INEC.

15. The projected disaggregation by age group and sex of the urban and rural population in 2010 is shown in the following table.



Table 4  
**Projected rural and urban population by age group and sex, 2010**

<i>Sector</i>	<i>Sex</i>	<i>0–19</i>	<i>20–39</i>	<i>40–59</i>	<i>60–79</i>	<i>80 and over</i>	<i>Total</i>
Urban	Female	1 761 747	1 620 276	919 337	374 402	62 971	<b>4 738 733</b>
	Male	1 825 199	1 602 133	879 864	319 739	44 813	<b>4 671 748</b>
Rural	Female	1 023 002	624 653	463 806	204 069	34 654	<b>2 350 184</b>
	Male	1 068 635	662 625	470 849	210 367	31 759	<b>2 444 235</b>
<b>Total</b>		<b>5 678 583</b>	<b>4 509 687</b>	<b>2 733 856</b>	<b>1 108 577</b>	<b>174 197</b>	<b>14 204 900</b>

*Source:* INEC.

16. With regard to population density, only the figures from the 2001 census are available.

Table 5  
**Population density, 2001**

<i>Regions and provinces</i>	<i>Population</i>	<i>%</i>	<i>Surface area (km<sup>2</sup>)</i>	<i>%</i>	<i>Density (inhabitants per km<sup>2</sup>)</i>
<b>National total</b>	<b>12 156 608</b>	<b>100</b>	<b>256 371.6</b>	<b>100</b>	<b>47.4</b>
Highlands region	5 460 738	44.9	63 515.9	24.8	86
Azuay	599 546	4.9	7 994.7	3.1	75
Bolívar	169 370	1.4	3 926.0	1.5	43.1
Cañar	206 981	1.7	3 141.6	1.2	65.9
Carchi	152 939	1.3	3 749.7	1.5	40.8
Cotopaxi	349 540	2.9	5 984.5	2.3	58.4
Chimborazo	403 632	3.3	6 470.4	2.5	62.4
Imbabura	344 044	2.8	4 614.6	1.8	74.6
Loja	404 835	3.3	10 994.9	4.3	36.8
Pichincha	2 388 817	19.7	13 270.1	5.2	180
Tungurahua	441 034	3.6	3 369.4	1.3	130.9
Coastal region	6 056 223	49.8	68 323.6	26.7	88.6
El Oro	525 763	4.3	5 817.3	2.3	90.4
Esmeraldas	385 223	3.2	15 895.7	6.2	24.2
Guayas	3 309 034	27.2	20 566.0	8	160.9
Los Ríos	650 178	5.3	7 150.9	2.8	90.9
Manabí	1 186 025	9.8	18 893.7	7.4	62.8
Amazon region	548 419	4.5	115 744.9	45.1	4.7
Napo	79 139	0.7	12 483.4	4.9	6.3
Morona-Santiago	115 412	0.9	23 796.8	9.3	4.8
Pastaza	61 779	0.5	29 325.0	11.4	2.1
Sucumbíos	128 995	1.1	18 008.3	7	7.2
Zamora-Chinchiipe	76 601	0.6	10 456.3	4.1	7.3
Orellana	86 493	0.7	21 675.1	8.5	4
Islands region	18 640	0.2	8 010.0	3.1	2.3

<i>Regions and provinces</i>	<i>Population</i>	<i>%</i>	<i>Surface area (km<sup>2</sup>)</i>	<i>%</i>	<i>Density (inhabitants per km<sup>2</sup>)</i>
Galápagos	18 640	0.2	8 010.0	3.1	2.3
Non-delimited zones	72 588	0.6	775.2	0.3	93.6

*Source:* INEC.

17. This list does not include the provinces of Santo Domingo de los Tsáchilas and Santa Elena, as they did not become provinces until November 2007.

18. Bearing in mind the tables showing the number of inhabitants in urban and rural areas according to the 2001 census and the projection for 2010, disaggregated by age group and sex, the following table shows the dependent population under 15 and over 65 years of age according to the 2001 census and the projection for 2010.

Table 6  
**Dependent population**

<i>Age</i>	<i>2001 census</i>		<i>Projection for 2010</i>	
	<i>Population</i>	<i>%</i>	<i>Population</i>	<i>%</i>
0	237 209	1.95	285 768	2.01
1	266 605	2.19	285 218	2
2	284 185	2.34	285 543	2.01
3	269 024	2.21	285 974	2.01
4	279 837	2.30	286 441	2.01
5	262 860	2.16	285 906	2.01
6	266 900	2.20	286 608	2.01
7	277 441	2.28	287 382	2.02
8	286 682	2.36	288 122	2.02
9	268 238	2.21	288 720	2.03
10	273 966	2.25	289 285	2.03
11	266 301	2.19	289 927	2.04
12	274 810	2.26	289 462	2.03
13	266 624	2.19	287 354	2.02
14	259 338	2.13	284 143	2
15	253 057	2.08	280 842	1.97
<b>Total</b>	<b>4 293 077</b>	<b>35.31</b>	<b>4 586 695</b>	<b>32.22</b>
65	74 947	0.62	66 346	0.46
66	50 486	0.42	63 645	0.44
67	43 489	0.36	61 012	0.42
68	43 371	0.36	58 282	0.41
69	31 738	0.26	55 523	0.39
70	56 701	0.47	52 960	0.37
71	35 598	0.29	50 539	0.35
72	39 862	0.33	48 104	0.33
73	33 639	0.28	45 598	0.32
74	28 886	0.24	43 045	0.3

Age	2001 census		Projection for 2010	
	Population	%	Population	%
75	42 738	0.35	40 549	0.28
76	30 791	0.25	38 116	0.26
77	23 513	0.19	35 575	0.25
78	27 578	0.23	32 862	0.23
79	18 329	0.15	30 054	0.21
80 and over	231 958	1.94	174 197	1.22
<b>Total</b>	<b>813 624</b>	<b>6.74</b>	<b>896 407</b>	<b>6.24</b>
<b>Accumulated total</b>	<b>5 106 701</b>	<b>42.05</b>	<b>5 483 102</b>	<b>38.46</b>

Source: INEC.

19. With regard to the country's diversity it is important to note that the inhabitants include indigenous nationalities, indigenous peoples, Afro-Ecuadorians, the Montubio people and communes. Apart from the indigenous nationalities all the inhabitants of Ecuador speak Spanish which is why the Constitution recognizes Spanish as the official language of Ecuador.

20. However because the 2001 census established that there are 499,292 speakers of Quechua, the Constitution recognizes Spanish Quechua and Shuar as official languages for intercultural relations and it recognizes the other ancestral languages for official use by indigenous nationalities. The 2001 census concluded that the following population groups speak an official ancestral language.

Table 7  
**Languages of indigenous nationalities, 2001**

Nationality	Language	Province	Number of speakers
Awá	Awapít	Esmeraldas, Carchi and Imbabura	2 350
Chachi	Chá palaa	Esmeraldas	7 131
Epera (Catio)	Siapedie	Sucumbíos	112
Tsáchila	Tsa'fiqui	Santo Domingo de los Tsáchilas	2 021
Cofán	A'ingae	Sucumbíos	989
Secoya	Paicoca	Sucumbíos	135
Sioni	Paicoca	Sucumbíos	265
Waorani (Huaó)	Huaó Tiro	Orellana, Pastaza and Napo	1 678
Shiwiar	Shiwiar Chicham	Pastaza	720
Zápara	Zápara	Pastaza	192
Achuar	Achuar Chicham	Pastaza and Morona-Santiago	3 641
Andoa	Andoa		Not counted
Amazon Quechua	Andoa		Not counted
Shuar	Shuar Chicham		48 989
	Unknown		15 027

Source: INEC.

21. A variable was included in the 2001 census to determine the ethnic groups of the country on the basis of a question that asked inhabitants which of the following categories they felt they belonged to: mestizo, indigenous mulatto, Afro-Ecuadorian, white or other. The answers to this question gave the following results:

Table 8

**Population of Ecuador, 2001**

How the people of Ecuador classify themselves, 2001

<i>Population group category</i>	<i>Population</i>	<i>Percentage</i>
Indigenous	830 418	6.83
Afro-Ecuadorian	271 372	2.23
Mestizo	9 411 890	77.42
Mulatto	332 637	2.74
White	1 271 051	10.46
Other	39 240	0.32

*Source:* INEC.

22. The 2001 census does not provide information on which religion the people of Ecuador follow. However both the 1998 Constitution and the current Constitution recognize freedom of religion for the country's inhabitants. The projections for 2010 do not include information on the languages inhabitants speak, the ethnic groups they belong to or their religion.

23. Statistics on births and deaths are taken from a study on vital and health statistics conducted by the National Statistics and Census Institute in 2007. Using the results of this study it is possible to disaggregate the information on births and deaths by province age group of the mother or of the deceased person, and sex.

Table 9

**Birth statistics, 2007**

<i>Province</i>	<i>Sex</i>	<i>Mother's age group</i>								<i>Unspecified</i>	<i>Total</i>
		<i>12-14</i>	<i>15-19</i>	<i>20-24</i>	<i>25-29</i>	<i>30-34</i>	<i>35-39</i>	<i>40-44</i>	<i>45-49</i>		
Azuay	Female	21	1 251	2 122	1 517	995	570	183	21	156	<b>6 836</b>
	Male	30	1 257	2 228	1 586	946	574	179	15	159	<b>6 974</b>
Bolívar	Female	8	377	573	463	252	176	81	15	9	<b>1 954</b>
	Male	1	412	630	449	307	187	96	18	12	<b>2 112</b>
Cañar	Female	11	444	544	374	214	123	58	9	1	<b>1 778</b>
	Male	8	489	625	389	219	143	63	15	0	<b>1 957</b>
Carchi	Female	12	258	418	300	190	112	30	8	21	<b>1 349</b>
	Male	4	284	463	349	205	91	36	5	12	<b>1 449</b>
Cotopaxi	Female	13	850	1 432	982	695	397	189	39	3	<b>4 600</b>
	Male	21	948	1 454	1 079	661	423	183	37	2	<b>4 808</b>
Chimborazo	Female	12	863	1 512	1 091	699	447	218	28	1	<b>4 871</b>
	Male	9	919	1 592	1 114	750	482	206	42	0	<b>5 114</b>
El Oro	Female	44	1 383	1 769	1 284	774	434	117	15	147	<b>5 967</b>
	Male	40	1 413	1 897	1 423	809	440	132	21	157	<b>6 332</b>

Province	Sex	Mother's age group								Unspecified	Total
		12-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49		
Esmeraldas	Female	30	1 001	1 444	1 062	645	400	119	27	103	<b>4 831</b>
	Male	21	1 072	1 573	1 119	627	384	130	27	127	<b>5 080</b>
Guayas	Female	198	6 461	10 097	8 661	5 170	2 676	715	106	2 249	<b>36 333</b>
	Male	263	6 967	10 815	9 058	5 438	2 787	755	107	2 395	<b>38 585</b>
Imbabura	Female	8	851	1 366	1 065	703	424	176	28	39	<b>4 660</b>
	Male	17	810	1 472	1 056	674	430	162	24	44	<b>4 689</b>
Loja	Female	20	875	1 461	1 031	641	409	178	36	5	<b>4 656</b>
	Male	22	879	1 547	1 093	755	437	181	22	7	<b>4 943</b>
Los Ríos	Female	66	1 748	2 398	1 824	1 079	549	168	22	44	<b>7 898</b>
	Male	80	1 947	2 582	1 908	1 035	562	168	26	40	<b>8 348</b>
Manabí	Female	134	3 085	4 446	3 132	1 660	834	236	57	461	<b>14 045</b>
	Male	139	3 323	4 541	3 273	1 728	832	239	57	455	<b>14 587</b>
Morona-Santiago	Female	12	347	513	339	232	161	69	18	0	<b>1 691</b>
	Male	15	368	512	353	238	147	67	12	2	<b>1 714</b>
Napo	Female	7	265	414	289	170	101	49	14	3	<b>1 312</b>
	Male	8	313	445	304	200	115	59	19	6	<b>1 469</b>
Pastaza	Female	10	206	282	197	137	88	24	4	10	<b>958</b>
	Male	6	221	273	227	160	87	24	5	11	<b>1 014</b>
Pichincha	Female	90	4 802	8 180	6 629	4 425	2 229	682	83	290	<b>27 410</b>
	Male	103	5 059	8 535	7 080	4 666	2 419	681	84	332	<b>28 959</b>
Tungurahua	Female	12	903	1 411	1 058	741	376	128	16	36	<b>4 681</b>
	Male	10	922	1 504	1 139	696	380	149	23	31	<b>4 854</b>
Zamora-Chinchipe	Female	7	231	294	190	119	101	45	3	3	<b>993</b>
	Male	9	251	316	196	138	74	27	6	3	<b>1 020</b>
Galápagos	Female	2	25	58	44	48	12	3	1	2	<b>195</b>
	Male	1	29	67	68	24	17	3	0	3	<b>212</b>
Sucumbíos	Female	19	425	520	350	246	132	69	7	35	<b>1 803</b>
	Male	23	467	535	339	229	121	49	6	32	<b>1 801</b>
Orellana	Female	10	285	397	249	164	109	59	13	15	<b>1 301</b>
	Male	11	348	428	328	196	116	50	11	14	<b>1 502</b>
Non-delimited zones	Female	5	116	139	92	53	20	15	1	3	<b>444</b>
	Male	5	109	150	97	40	28	15	4	5	<b>453</b>
Foreigner	Female	0	0	0	0	0	0	0	0	2	<b>2</b>
	Male	0	0	1	1	0	0	0	0	2	<b>4</b>
	<b>Female</b>	<b>751</b>	<b>27 052</b>	<b>41 790</b>	<b>32 223</b>	<b>20 052</b>	<b>10 880</b>	<b>3 607</b>	<b>571</b>	<b>3 638</b>	<b>140 564</b>
<b>Total per sex</b>	<b>Male</b>	<b>846</b>	<b>28 807</b>	<b>44 185</b>	<b>34 028</b>	<b>20 741</b>	<b>11 276</b>	<b>3 658</b>	<b>586</b>	<b>3 851</b>	<b>147 960</b>
<b>Total</b>		<b>1 597</b>	<b>55 859</b>	<b>85 975</b>	<b>66 251</b>	<b>40 793</b>	<b>22 156</b>	<b>7 265</b>	<b>1 157</b>	<b>7 489</b>	<b>288 542</b>

Source: INEC.

Table 10  
Death statistics, 2007

Province	Sex	Age group of the deceased						Unknown	Total
		0	1-4	5-14	15-49	50-64	65 and over		
Azuay	Female	48	33	24	180	187	1 013	11	<b>1 946</b>
	Male	68	26	48	448	271	866	11	<b>1 738</b>
Bolívar	Female	24	9	14	55	37	258	0	<b>397</b>
	Male	24	15	13	92	57	273	0	<b>474</b>
Cañar	Female	17	8	10	56	64	262	2	<b>419</b>
	Male	23	7	12	124	81	293	5	<b>545</b>
Carchi	Female	25	4	5	31	38	197	0	<b>300</b>
	Male	23	9	10	71	38	181	0	<b>332</b>
Cotopaxi	Female	43	32	12	102	86	524	0	<b>799</b>
	Male	64	42	28	241	141	487	0	<b>1 003</b>
Chimborazo	Female	79	43	24	156	143	721	0	<b>1 166</b>
	Male	30	17	16	340	226	555	0	<b>1 184</b>
El Oro	Female	28	12	17	152	141	487	0	<b>847</b>
	Male	30	17	16	340	226	555	0	<b>1 184</b>
Esmeraldas	Female	29	22	14	106	78	254	4	<b>507</b>
	Male	40	22	27	362	128	344	2	<b>925</b>
Guayas	Female	508	110	120	1 215	1 138	3 810	0	<b>6 901</b>
	Male	732	132	166	2 706	1 699	4 157	0	<b>9 592</b>
Imbabura	Female	21	29	16	115	113	543	3	<b>840</b>
	Male	38	28	16	191	133	543	1	<b>950</b>
Loja	Female	45	23	13	125	130	584	7	<b>927</b>
	Male	52	26	30	236	154	618	6	<b>1 122</b>
Los Ríos	Female	67	33	22	205	200	628	0	<b>1 155</b>
	Male	85	28	33	635	317	786	0	<b>1 884</b>
Manabí	Female	82	39	50	346	310	1 347	0	<b>2 174</b>
	Male	106	39	66	837	524	1 501	0	<b>3 073</b>
Morona-Santiago	Female	14	5	7	23	24	63	1	<b>137</b>
	Male	9	9	9	40	25	55	0	<b>147</b>
Napo	Female	9	9	9	33	23	67	0	<b>150</b>
	Male	11	12	12	59	23	67	0	<b>184</b>
Pastaza	Female	7	2	3	11	8	40	0	<b>71</b>
	Male	9	9	4	37	15	47	1	<b>122</b>
Pichincha	Female	381	115	112	767	709	3 078	4	<b>5 166</b>
	Male	508	148	143	1 719	971	2 880	33	<b>6 402</b>
Tungurahua	Female	53	35	16	120	118	757	0	<b>1 099</b>
	Male	65	29	39	271	191	753	0	<b>1 348</b>
Zamora-Chinchiipe	Female	4	8	3	16	14	35	1	<b>81</b>
	Male	7	8	7	47	9	59	2	<b>139</b>

Province	Sex	Age group of the deceased							Total
		0	1-4	5-14	15-49	50-64	65 and over	Unknown	
Galápagos	Female	2	0	0	2	2	2	0	<b>8</b>
	Male	2	0	0	6	3	13	0	<b>24</b>
Sucumbíos	Female	3	7	6	36	13	41	0	<b>106</b>
	Male	10	10	8	140	46	74	1	<b>289</b>
Orellana	Female	11	7	2	28	9	38	0	<b>95</b>
	Male	16	14	12	76	31	38	0	<b>187</b>
	Female	2	1	3	19	7	30	0	<b>62</b>
Non-delimited zones	Male	2	1	2	37	14	39	0	<b>95</b>
Foreigner	Female	0	0	0	5	2	3	0	<b>10</b>
	Male	0	0	0	26	7	6	0	<b>39</b>
	<b>Female</b>	<b>1 502</b>	<b>586</b>	<b>502</b>	<b>1 904</b>	<b>3 594</b>	<b>14 792</b>	<b>33</b>	<b>24 913</b>
<b>Total per sex</b>	<b>Male</b>	<b>2 027</b>	<b>692</b>	<b>741</b>	<b>8 968</b>	<b>5 297</b>	<b>15 316</b>	<b>62</b>	<b>33 103</b>
<b>Total</b>		<b>3 529</b>	<b>1 278</b>	<b>1 243</b>	<b>12 872</b>	<b>8 891</b>	<b>30 108</b>	<b>95</b>	<b>58 016</b>

Source: INEC.

24. The information gathered by the National Statistics and Census Institute through the 2001 census established that life expectancy at birth increased from 68.9 years of age in 1990 to 73.8 years of age in 2001. With regard to the fertility rate the census showed that the average number of children per woman decreased from 2.9 to 2.7 over the period 1990–2001. In urban areas the average number of children per woman decreased from 2.5 to 2.4, while in rural areas it decreased from 3.6 to 3.3. The census results show a difference between urban and rural populations of almost one child per woman in 1990, while in 2001 that difference had been reduced.

25. On the other hand the total fertility rate decreased from 4.1 children per woman in 1990 to 3.1 in 2001. A fall of 24.4 per cent. The fall was more pronounced in rural areas than in urban areas. In rural areas the average number of children decreased by 27.3 per cent from 5.5 to 4.0 while in urban areas it fell by 18.2 per cent, from 3.3 to 2.7 children per woman. The difference between the average number of children per woman in urban compared to rural areas in 2001 was thus more than one child.

26. With regard to information on the size of homes the 2007 Survey of Living Conditions provided data on the “housing quality deficit”; this category indicates the condition of housing in terms of space, basic services and construction materials. The survey also included a category called “ample living space in homes”, under which a home is considered to have ample living space if it contains more than two rooms. The criteria, data and variants are as follows.

Table 11  
Criteria for estimating the “housing quality deficit”

Type	Dimensions/ overcrowding	Basic services	Construction materials
Not deficient	Three or fewer persons per bedroom	Lighting: public or private electric company	Floor: floorboards, parquet, polished timber, treated wooden planks, floating floor, ceramic, tiles, vinyl, marble, faux marble

<i>Type</i>	<i>Dimensions/ overcrowding</i>	<i>Basic services</i>	<i>Construction materials</i>
Deficient	More than three persons per bedroom	Water: mains, public fountain or tap	Walls: concrete, breeze block, brick, asbestos/cement (Fibrolit), wood
		Sanitation services: toilet and sewer or toilet and septic tank	Roof: concrete, slab, cement, asbestos (Eternit), zinc, tile
		Lighting: solar panels, candles, oil lamps, gas or none	Floor: cement, brick, boards, untreated wooden planks, cane, earth, pambil palm, stone
		Water: other piped source, delivery cart/tricycle, well, river, spring, stream or rain	Walls: adobe/rammed earth, wattle and daub (covered cane and reed), cane, reed, plastic, zinc
		Sanitation services: toilet and cesspit, latrine or none	Roof: palm thatch, leaves, wood, canvas, plastic

Source: INEC.

Table 12  
**Housing quality deficit, 2005–2006**

<i>Area</i>	<i>Overcrowded housing</i>	<i>Basic services</i>	<i>Construction materials</i>	<i>Quality deficit</i>
National	972 827	1 316 561	2 338 651	2 463 916
Urban	572 372	433 181	1 316 196	1 403 199
Rural	400 455	883 380	1 022 455	1 060 717

Source: INEC.

Table 13  
**Homes with ample living space, 2005–2006**

<i>Area</i>	<i>Homes</i>
National	1 593 162
Urban	1 140 487
Rural	452 675

Source: INEC.

Table 14  
**Distribution of homes with ample living space, according to number of household members, 2005–2006**

<i>Household members</i>	<i>National (%)</i>	<i>Urban (%)</i>	<i>Rural (%)</i>
1	5.7	5.1	7.6
2	14.4	14.5	14.1
3	21.8	22.2	20.7
4	32.9	33.7	30.6



<i>Household members</i>	<i>National (%)</i>	<i>Urban (%)</i>	<i>Rural (%)</i>
5	25.1	24.5	27

*Source:* INEC.

27. Another important point to mention besides the demographic and housing situation is the pattern of household expenditure. Information on this can be obtained from the Survey of Living Conditions conducted by the National Statistics and Census Institute in 2005–2006.

Table 15  
**Pattern of household expenditure**

<i>Expenditure</i>		<i>National</i>	<i>Urban</i>	<i>Rural</i>
	%	27.9	25	38.5
Food and non-alcoholic drinks	dollars	590 866	416 036	174 831
Alcoholic drinks, tobacco and narcotics	%	1.8	1.6	2.2
	dollars	36 168	27 205	9 963
Clothing and footwear	%	4.8	4.8	4.5
	dollars	100 842	80 500	20 342
Housing, water, electricity, gas and other fuels	%	15.9	16.6	13.1
	dollars	336 900	277 255	59 646
Furniture, household items	%	4.6	4.8	4.1
	dollars	97 956	79 348	18 608
Health	%	5.3	5.2	6
	dollars	112 940	85 842	27 098
Transport	%	13.2	14	10.3
	dollars	280 347	233 373	46 974
Communications	%	3.1	3.4	2
	dollars	85 348	56 084	9 264
Leisure and culture	%	4.5	4.8	3.5
	dollars	95 792	80 010	15 782
Education	%	3.6	4.1	1.9
	dollars	76 364	67 640	8 724
Restaurants and hotels	%	9.7	9.9	8.8
	dollars	205 308	165 546	39 761
Miscellaneous goods and services	%	5.7	5.8	5
	dollars	120 333	97 425	22 908
	%	<b>100</b>	<b>100</b>	<b>100</b>
<b>Total expenditure</b>	<b>dollars</b>	<b>2 120 163</b>	<b>1 666 264</b>	<b>453 899</b>

*Source:* INEC.

28. This information, however, should be viewed in the context of certain poverty indicators, such as the poverty and extreme poverty lines and poverty and extreme poverty in Ecuador as measured by consumption. The following information was obtained by the National Statistics and Census Institute through the 2005–2006 Survey of Living Conditions.

Table 16  
**Poverty and extreme poverty lines, 2006**

<i>Daily food basket</i>	<i>Extreme poverty</i>	<i>Poverty</i>
Daily	1.06	1.89
Fortnightly	15.96	28.3
Monthly	31.92	56.6

*Source:* INEC.

Table 17  
**Poverty and extreme poverty as measured by consumption, 2006**

<i>Sphere</i>	<i>% of population in extreme poverty</i>	<i>% of population in poverty</i>
National	12.8	38.3
Urban	4.8	24.9
Rural	26.9	61.5

*Source:* INEC.

29. The information obtained through the surveys shows that in Bolívar province there are 108,577 persons, or 60.6 per cent of the province's population, living in poverty; throughout the entire Amazon region there are 382,687 persons, or 59 per cent of the region's population, living in poverty; and in Carchi province there are 89,292 persons, or 54.6 per cent of the province's population, living in poverty. These areas of the country thus have the highest levels of poverty as measured by consumption.

30. The three provinces with the lowest poverty levels as measured by consumption are Pichincha, with 509,186 persons, or 22.4 per cent of its population, living in poverty; Azuay, with 176,310 persons, or 26.6 per cent of its population, living in poverty; and El Oro, with 165,279 persons, or 20.1 per cent of its population, living in poverty.

31. Other important poverty indicators include poverty as measured by basic unmet needs, which calculates people's access to health care, nutrition, education, housing, urban services and employment opportunities, and the Gini coefficient. This indicator can be calculated from the information available in the 2005–2006 Survey of Living Conditions.

Table 18  
**Percentage of inhabitants with basic unmet needs, 2006**

National	<b>Total</b>	<b>45.8</b>
	Urban	24.8
	Rural	82.2
Regional	Coast	51.4
	Highlands	36.9
	Amazon	71

*Source:* INEC.

32. With regard to malnutrition among children under 5 years of age, the Survey of Living Conditions conducted by the National Statistics and Census Institute in 2005–2006 provides information on general and chronic malnutrition among this population group, which is currently estimated at 1,439,502 children, disaggregated as follows.

Table 19  
**Malnutrition, 2005–2006**

Sample		Chronic malnutrition (as measured by height for age)		General malnutrition (as measured by weight for age)	
		Number of children	%	Number of children	%
<b>National total</b>		<b>260 600</b>	<b>18.1</b>	<b>123 728</b>	<b>8.6</b>
Sex	Male	139 296	18.7	64 828	8.7
	Female	121 304	17.5	58 900	8.5
Area	Urban	108 360	12.7	58 166	6.8
	Rural	152 240	26.1	65 563	11.2
Region	Highlands	146 654	23.8	55 342	9
	Coast	92 146	12.5	61 729	8.4
	Amazon	21 800	24.5	6 657	7.5

Source: INEC.

33. According to the 2001 census, the national infant mortality rate was 14.9 per thousand, while the figures for urban and rural areas were 11.2 and 20.1 per thousand respectively. According to the vital statistics of the National Statistics and Census Institute, the maternal mortality rate for 2005 was 85.0 per thousand.

34. With regard to contraceptive use by women aged between 15 and 49, according to the fifth Survey of Living Conditions, conducted by the National Statistics and Census Institute in 2005–2006, out of a total of 3,095,866 women who knew about contraceptive methods, 1,528,788, or 49 per cent, used them.

35. According to the 2007 epidemiological indicators from the Ministry of Health, there are 1,858 confirmed cases of HIV and 555 confirmed cases of AIDS in the country. Furthermore, among an estimated population of 13,605,485, the Ministry of Health has registered the following numbers of cases and infection rates for the most common communicable and non-communicable diseases, as well as the 10 leading causes of death.

Table 20  
**Major communicable and non-communicable diseases, 2007**

Type of disease	Disease	Cases
Acute respiratory infections	Acute respiratory infections	1 703 083
Food- and water-borne	Diarrhoeal diseases	516 567
	Food poisoning	10 199
	Salmonella	7 298
Vector-borne	Classical dengue	10 253
	Plasmodium vivax malaria	6 935
Chronic communicable	Pulmonary tuberculosis BK+	3 448
	HIV	1 858
Preventable through vaccination	Hepatitis B	236
	Pertussis	125
Zoonoses	Taeniasis (tapeworm infection)	216

Type of disease	Disease	Cases
Chronic non-communicable	High blood pressure	67 570
	Diabetes	25 894
Due to external causes	Domestic accidents	21 530
	Automobile accidents	12 880
	Violence and ill-treatment	9 566
Mental health	Depression	9 776

Source: INEC.

Table 21  
Leading causes of death, 2007

Rank	Disease	Cases	Incidence per 100 000 inhabitants
1	Acute respiratory infections	1 703 083	12 517.6
2	Acute diarrhoeal diseases	516 567	3 796.8
3	Other venereal diseases	91 960	675.9
4	High blood pressure	67 570	496.6
5	Diabetes	25 894	190.3
6	Chicken pox	17 721	130.2
7	Classical dengue	10 253	75.4
8	Food poisoning	10 199	75
9	Victims of violence and ill-treatment	9 566	70.3
10	Salmonella	7 298	53.6

Source: INEC.

36. The following table provides information on enrolment in primary and secondary schools. This information was gathered through the Survey of Living Conditions conducted by the National Statistics and Census Institute in 2005–2006.

Table 22  
Percentage of children enrolled in schools

		National	Urban	Rural
Enrolment in primary schools				
	%	71.3	59.8	87.9
State schools	Population	1 407 201	692 796	714 406
	%	24.3	36.7	6.7
Private schools	Population	480 023	425 911	54 113
	%	4.3	3.5	5.5
Municipal, provincial, and State-funded religious schools	Population	85 397	40 741	44 656
Enrolment in secondary schools				
	%	64.3	60.6	72.9
State schools	Population	895 777	591 248	304 529
Private schools	%	30.2	34.8	19.4

		<i>National</i>	<i>Urban</i>	<i>Rural</i>
	Population	420 640	339 569	81 071
Municipal, provincial, and State-funded religious schools	%	5.5	4.5	7.7
	Population	76 290	44 077	32 212

*Source:* INEC.

37. According to the National System of Educational Statistics of the Ministry of Education, in the period 2005/06 there were 411,120 students enrolled in first grade, while the number of dropouts was 47,494; the dropout rate was therefore 11.6 per cent. In the period 2006/07, the same statistics showed that there were 2,039,168 pupils and 96,619 teachers; the teacher-student ratio was therefore 21 to 1.

38. According to data from the National Statistics and Census Institute, the literacy rate fell during the period 2005/08. In 2005 and 2006 it was 91 per cent, and in 2007 and 2008 it was 89.70 per cent. Aleida Rivera, deputy coordinator of the “Yes I Can” (“*Yo sí puedo*”) programme,<sup>11</sup> determined in May 2008 that the illiteracy rate in the country was 7.2 per cent.

39. The urban employment and unemployment surveys conducted by the National Statistics and Census Institute in 2008 established that the economically active population consisted of 6,536,310 inhabitants, of whom 385,777 were unemployed; the unemployment rate was therefore 5.9 per cent.

40. The same surveys conducted for the period 2007/08 gave the following breakdown of the economically active population.

Table 23

**Economically active population**

<i>Occupational group</i>	<i>2007</i>	<i>2008</i>
Armed forces	80.80	72.60
Public-sector managers	308.70	226.00
Science professionals	820.80	824.80
Professional and mid-level technicians	726.50	677.70
Office workers	685.00	677.80
Workers in the trade and services sector	2 453.30	2 195.70
Agricultural workers	293.40	305.10
Workers and craft workers	1 386.40	1 329.70
Machinery operators	732.10	699.40
Unskilled workers	2 282.20	2 260.10
Unspecified	231.00	731.00

*Source:* INEC.

<sup>11</sup> The “Yes I Can” (“*Yo sí puedo*”) literacy programme was designed by Cuban educators who have been working in the country with regional governments since 2005. The programme is designed to teach a person to read in three months and one week.

41. The aforementioned surveys found that 2,123,564 inhabitants, or 32.5 per cent of the economically active population, were employed in the formal sector, while 3,318,181, or 50.8 per cent, were employed in the informal sector.

42. In 2008, according to *Cifras Económicas del Ecuador* (Economic Figures for Ecuador), published by the Central Bank of Ecuador in May 2009, gross domestic product (GDP) was US\$ 23.53 billion, in year 2000 dollars, and was projected to reach \$23.998 billion in 2009. This means that there was a year-on-year change (in year 2000 dollars) of 6.52 per cent in 2008 and a predicted change of 3.15 per cent in 2009.

43. In the same publication, the Central Bank of Ecuador concluded that per capita GDP in 2008 was \$1,704 (in year 2000 dollars), while the projection for 2009 was \$1,714. Per capita GDP in current dollars was predicted to be \$3,649 in 2009.

44. The same publication shows that in 2008 the consumer price index stood at 123.21, while in 2009 it was projected to be 123.20. It also indicates that in 2008 the external public debt was \$10.045 billion and was predicted to reach \$10.048 billion in 2009. Domestic public debt was \$4.134 billion in 2008 and was expected to reach \$3.050 billion in 2009.

## **B. Constitutional, political and legal structure of the State**

45. Article 1 of the Constitution establishes that Ecuador is a constitutional State that guarantees rights and justice. It is organized as a social, democratic, sovereign, independent, unitary, intercultural, plurinational and secular republic and is governed in a decentralized way.

46. With respect to the supremacy of the Constitution, article 424 establishes that the Constitution is the supreme law which prevails over all other domestic legislation; accordingly, Government regulations and actions must be consistent with the Constitution, failing which they will be without effect.

47. Interculturality and plurinationality, elements of a single, unitary State, are reflected in the Constitution through the incorporation of the principle of *sumak kawsay* (“good living”), which serves as a framework for interpreting certain rights and as a guideline for public policy on inclusion, equity and resource management, as well as in the recognition of self-determination of peoples, communities and nationalities and other forms of social organization for the purpose of self-determination processes.

48. With regard to the inclusion of *sumak kawsay*, Title II of the Constitution, on rights, includes a chapter on rights related to good living, which include the right to water, a healthy and ecologically balanced environment, communication, information, culture, science, education, habitat, housing, health, work and social security. Title VII, on good living, establishes various guarantees and guidelines aimed at promoting inclusion and equity and a sustainable use of natural resources which is respectful of other living beings.

49. The rights of communities, peoples and nationalities are recognized in chapter 4 of Title II. Article 56 establishes that indigenous communities, peoples and nationalities, Afro-Ecuadorian and Montubio peoples and communes form part of the State. Article 57 recognizes, inter alia, the following rights: (a) to maintain, develop and strengthen their identity, sense of belonging, ancestral traditions and forms of social organization; (b) to retain the indefeasible property of their communal lands, which shall be inalienable, not subject to attachment and indivisible; (c) to prior, free and informed consultation on plans and programmes to locate, exploit and market non-renewable resources found on their lands; (d) to maintain and develop their own forms of society and social structures and methods of establishing and exercising authority in their legally recognized territories; and (e) to develop, strengthen and fully realize an intercultural, bilingual education system.

50. In addition, in Title IV (chap. 1, sect. 2), on participation and government structure, article 96 recognizes all forms of social organization to be expressions of the people's sovereignty, able to carry out processes of self-determination, and to influence decisions, public policy and social control of all levels of government and public and private bodies providing public services. Article 97 provides that such organizations may develop alternative forms of mediation and dispute settlement, request reparations, formulate economic, political, environmental, social, cultural or any other proposals and demands that could contribute to good living, exercise their right to resist and demand the recognition of new rights.

51. The republican form of the State is provided for in Title IV, on participation and government structure, and in Title V, on the territorial organization of the State. In this respect, it is necessary to refer to: (a) the organization of social participation; (b) central Government institutions; (c) autonomous decentralized administrations and special regimes; and (d) the system of powers.

52. In addition to the participation rights provided for in Title II, Title IV establishes guidelines for organizing participation in the running of the State. Article 95 provides that citizens, individually or collectively, shall participate actively in decision-making, planning and management of public affairs, and in public scrutiny of State institutions and their representatives, in an ongoing process of building citizen power.

53. The article also establishes that participation shall be guided by the principles of equality, autonomy, public consultation, respect for difference, public scrutiny, solidarity and interculturality; and, furthermore, that participation shall be exercised through mechanisms of representative, direct and community democracy.

54. Title IV also contains provisions relating to article 1 of the Constitution on the establishment of a democratic State and the coordination of public participation in the republican form of government. Article 100 of the Constitution establishes that every level of government in the State shall be governed by democratic principles, for which purpose participatory bodies shall be established consisting of elected representatives of the governor's office and society in the territorial jurisdiction of the relevant level of government.

55. Under this article, participation in Government bodies shall be exercised in order to: (a) formulate national, local and sectoral plans and policies with the agreement of administrations and citizens; (b) improve the quality of public investment and set development agendas; (c) prepare administrations' participatory budgets; (d) strengthen democracy by means of permanent transparency, accountability and social control mechanisms; and (e) promote citizen participation and improve communication processes.

56. Section 4 of Title IV, on direct democracy, establishes in article 103 that it is possible, by popular initiative, to submit to the legislature proposals to introduce, amend or abrogate legislation, including proposals for constitutional reform. If the legislature fails to act, the National Electoral Council may submit the proposals to popular vote. Under the terms of article 104, the President of the Republic may also call a referendum on any matters judged to be appropriate; autonomous, decentralized administrations may do likewise on matters of interest within their jurisdiction, as may citizens themselves on any issue. In addition, under article 105, it is possible for citizens in possession of their political rights to revoke the mandate of elected officials.

57. Section 5 of Title IV refers to political organizations. Article 108 recognizes political parties and movements as non-State public organizations that constitute expressions of the political plurality of the people based on philosophical, political and ideological concepts, inclusion and non-discrimination. In addition, it provides that their organization, structure and functioning shall be democratic and shall guarantee rotation of

power, accountability and gender parity on their boards. Article 109 provides that parties shall be organized nationally and that movements may correspond to any level of government, including the constituency for citizens living abroad. Accordingly, both must state their ideological principles, propose a programme of government and keep a record of members in the case of parties and supporters in the case of movements. Lastly, articles 110 and 111 establish that parties and movements shall be funded by contributions from their members or supporters and, if they comply with legal requirements, by State funds, which are subject to monitoring; their right to exercise political opposition is recognized at all levels of government.

58. With respect to political representation, section 6 of Title IV (art. 112) provides for political parties and movements to present candidates for elected posts. Article 113 deals with eligibility criteria for candidates, which disqualify, among others, persons who have contracts with the State; those who have been convicted and sentenced for, *inter alia*, unlawful enrichment or embezzlement of public funds; those who owe alimony payments; those who have exercised executive authority in *de facto* administrations; and members of the Armed Forces and the National Police on active duty. In addition, article 114 provides that elected officials may be re-elected only once to the same post. Article 115 guarantees the promotion of elections in order to encourage debate and the dissemination of proposals, with fair and impartial State support. Article 116 provides for the establishment of a multi-seat election system that upholds the principles of proportionality, voter equality, fairness, parity and rotation between men and women. Article 117 prohibits electoral law reform in the year preceding elections.

59. With respect to State institutions, chapters 2 to 6 of Title IV deal with the five main branches of government, while chapter 2 of Title V establishes the territorial organization of the State and chapter 3 provides for the autonomous decentralized administrations. The table below sets out the composition of the five branches of central Government, namely: (a) the legislature; (b) the executive; (c) the judicial and indigenous justice branch; (d) the transparency and social control branch; and (e) the electoral branch.

Table 24

**Constitutional organization of central Government**

<i>Branch and body</i>	<i>Composition</i>	
Legislature	National Assembly	Office of the President Office of the Vice-President Committees Specialized standing committees on civil and criminal affairs on labour and social security on tax, fiscal and financial affairs on economic development and production on territorial organization and autonomous administrations on State reform and public administration



<i>Branch and body</i>	<i>Composition</i>		
			on international relations and public security
			on social participation
			on health and the environment
			on public procurement and transparency
			on supervision and political oversight
Executive	Office of the President and Office of the Vice-President	President of the Republic Vice-President of the Republic General Secretariat of Public Administration National Secretariat of Planning and Development Vice-President of the Republic	
	Ministries and secretariats of State	Ministry of the Coordination of Social Development Ministry for the Coordination of the Natural and Cultural Heritage	Ministry of Education Ministry of Labour Ministry of Economic and Social Inclusion Ministry of Health Ministry of Urban Development and Housing General Secretariat of the Office of the President Ministry of Culture Ministry of Sport Ministry of the Environment Ministry of Tourism Ministry of the Coastal Region General Legal Secretariat

<i>Branch and body</i>	<i>Composition</i>
	<p>Ministry for the Coordination of Strategic Sectors</p> <p>Ministry of Mines and Oil</p> <p>Ministry of Renewable Energy and Electricity</p> <p>Ministry of Transport and Public Works</p> <p>National Secretariat for Migrants</p>
	<p>Ministry for Policy Coordination</p> <p>Ministry of the Interior and the Police</p> <p>Secretariat for Peoples, Social Movements and Citizen Participation</p>
	<p>Ministry for the Coordination of Economic Policy</p> <p>Ministry of Finance</p> <p>Ministry of Foreign Affairs, Trade and Integration</p> <p>National Secretariat of Science and Technology</p>
	<p>Ministry for the Coordination of Internal and External Security</p> <p>Ministry of the Interior and the Police</p> <p>Ministry of Foreign Affairs, Trade and Integration</p> <p>Ministry of Defence</p> <p>Ministry of Justice and Human Rights</p> <p>National Secretariat for Water</p>
	<p>Ministry for the Coordination of Production</p> <p>Ministry of Agriculture, Livestock, Aquaculture and Fisheries</p> <p>Ministry of Industry and Competitiveness</p> <p>Ministry of Foreign Affairs, Trade and Integration</p> <p>Technical Secretariat for Risk Management</p>
Judiciary and the indigenous justice system	<p>National equality councils, Armed Forces and National Police</p> <p>Indigenous justice exercised by the authorities of communities, peoples and nationalities on the basis of their ancestral traditions and own law, within their territory and with guarantees concerning the participation of women in decision-making.</p>

<i>Branch and body</i>	<i>Composition</i>
	<p>Courts</p> <p>National Court of Justice</p> <p>Office of the President</p> <p>Plenary session of the National Court</p> <p>Civil, Commercial and Family Division</p> <p>First Criminal Division</p> <p>Second Criminal Division</p> <p>Administrative Litigation Division</p> <p>First Labour Court</p> <p>Second Labour Court</p> <p>Tax Court</p> <p>Provincial courts</p> <p>Tribunals and courts</p> <p>Magistrates' courts</p> <p>Administrative bodies</p> <p>Council of the Judiciary</p> <p>Subsidiary bodies</p> <p>Notarial Service</p> <p>Judicial Auctioneers</p> <p>Sequestrators</p> <p>Others determined by law</p> <p>Independent bodies</p> <p>Public Defender's Office (<i>Defensoría Pública</i>)</p> <p>Prosecutor-General's Office (<i>Fiscalía General del Estado</i>)</p>
Transparency and social control	<p>Council for Citizen Participation and Social Control</p> <p>Ombudsman's Office (<i>Defensoría del Pueblo</i>)</p> <p>Office of the Comptroller-General</p> <p>Offices of superintendents</p>

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<i>Branch and body</i>	<i>Composition</i>
Electoral branch	National Electoral Council Electoral Court
Constitutional Court	

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*Source:* Constitution of Ecuador.

60. Chapter 2 deals with matters relating to the National Assembly. Article 119 provides that members of the Assembly shall be of Ecuadorian nationality, have reached the age of majority and be entitled to exercise their political rights. Article 118 provides for a unicameral assembly based in Quito, with members serving four-year terms, and consisting of 15 members elected in a nationwide constituency, 2 in each province, and 1 additional member for every 200,000 inhabitants or fraction thereof over 150,000 inhabitants, calculated on the basis of the previous national census. Under article 123, the Assembly shall meet, without requiring to be convened, on 14 May of the year of the election, and sit in ordinary session throughout the year, with two recesses of 15 days each, during which periods it may sit in extraordinary session. The sessions of the Assembly shall be public, except as otherwise provided by law.

61. Article 120 establishes the functions of the Assembly, the most relevant of which are: (a) to swear in the President and Vice-President of the Republic following their election by popular vote; (b) to declare the President's mental or physical incapacity to perform the duties of his or her office and to decide to remove the President from office; (c) to review the annual reports of the President and to comment on them; (d) to participate in the constitutional reform process; (e) to enact, codify, revise and repeal laws and to give generally legally-binding interpretations of laws; (f) to introduce, modify or abolish taxes by law; (g) to approve or reject international treaties, where appropriate; (h) to supervise the acts of the executive, electoral and transparency and social control branches of government and those of other government organs; (i) to approve the State budget, set the public debt limit and oversee its implementation; (j) to grant amnesties for political offences and pardons on humanitarian grounds.

62. In accordance with article 122, the highest body of the legislative administration shall consist of the president and the two vice-presidents of the National Assembly and four members elected by the Assembly in plenary session. Article 124 provides that a party or movement representing 10 per cent of the Assembly's membership may form a legislative caucus, and that a caucus may also be formed by parties and movements that join together for that purpose. Article 126 provides for the establishment of specialized standing committees to perform the Assembly's work; their number, composition and powers shall be regulated by law.

63. Article 127 establishes the disqualifications to which members of the Assembly are subject, and article 128 provides that members fall within the jurisdiction of the National Court of Justice and that they may not be held civilly or criminally responsible for any opinions expressed or any decisions or acts made in the exercise of their functions either inside or outside the National Assembly. However, the article also establishes that, in order to bring criminal proceedings against a member, the Assembly's prior authorization shall be required, except in cases unrelated to the performance of their duties.

64. Article 129 provides that the National Assembly may proceed with the impeachment of the President or Vice-President of the Republic only in the case of offences against the

security of the State, extortion, bribery, embezzlement of public funds, unlawful enrichment or genocide, torture, enforced disappearance, abduction or homicide for political reasons or reasons of belief. Article 130 provides for the possibility of removing the President from office for assuming functions not assigned by the Constitution, following a ruling by the Constitutional Court, or on account of a serious political crisis or internal disturbance.

65. With respect to legislative procedure, article 132 establishes that the Assembly shall adopt as laws general rules of common interest and that laws shall be required for the following purposes: (a) to regulate the exercise of constitutional rights and guarantees; (b) to define offences and establish the corresponding penalties; (c) to introduce, modify or abolish taxes; (d) to assign duties, responsibilities and powers to the autonomous decentralized administrations; (e) to modify the political and administrative structure of the country, except at the parish level; and (f) to vest in public regulatory and oversight bodies the power to introduce general rules in matters within their competence. Under article 133, laws shall be either organizational laws or ordinary laws, organizational laws being those which (a) regulate the organization and functioning of institutions established under the Constitution; (b) regulate the exercise of constitutional rights and guarantees; (c) regulate the organization, competences, powers and functioning of autonomous decentralized administrations; and (d) relate to political parties and the electoral system. All other laws are ordinary laws that cannot take precedence over organizational laws.

66. Under article 134, the initiative to propose bills lies with: (a) members of the Assembly who have the support of 5 per cent of the Assembly or a legislative caucus; (b) the President of the Republic; (c) the other branches of government within their respective spheres of competence; (d) the Constitutional Court, Attorney General's Office (*Procuraduría General del Estado*), Prosecutor-General's Office (*Fiscalía General del Estado*), Ombudsman's Office (*Defensoría del Pueblo*) and Public Defender's Office (*Defensoría Pública*) in matters within their mandates; and (e) citizens in possession of their political rights and social organizations with the support of 0.25 per cent of registered voters. These bills, in accordance with articles 137 to 139, shall be debated twice and made widely available in order to enable those persons affected by the bills to explain their reasons and arguments before the Assembly. Once a bill has been passed, it shall be sent to the President for signature or veto. If the President expresses an outright objection to the bill, it may be reconsidered only after one year; if the objection is partial, the President shall submit an alternative text, which the Assembly may accept, or it may ratify the original bill, although a ruling by the Constitutional Court is necessary if the President's objection is made on grounds of unconstitutionality.

67. Lastly, article 140 provides for the possibility for the President to submit to the National Assembly emergency bills on economic matters. They are considered in the normal way but under an expedited procedure and must be passed, amended or rejected within 30 days of their submission.

68. With respect to the executive branch, chapter 3, article 141, provides that the President of the Republic is the Head of State and Government and is therefore responsible for public administration. In addition, the executive branch is considered to consist of the Office of the President, the Office of the Vice-President, the ministries of State and the other bodies and institutions necessary for the stewardship, planning, implementation and evaluation of national public policies.

69. Under article 144, the President's term of office shall begin within 10 days of the establishment of the National Assembly. The President shall swear the oath of office before the Assembly, serve for four years and may be re-elected for one additional term. Article 145 establishes the reasons for termination of office, including: (a) expiry of the term; (b) resignation; (c) removal from office in accordance with the Constitution; (d) physical or

mental incapacity; (e) dereliction of the office, as confirmed by the Constitutional Court; and (f) recall of mandate.

70. Article 147 establishes the powers of the President of the Republic, which are, inter alia:

- (a) To uphold and enforce the Constitution, international treaties, laws and other legal provisions within his or her sphere of competence;
- (b) To present, on taking office, an outline of policies to be pursued;
- (c) To formulate and direct the executive's public policies;
- (d) To submit to the National Planning Council the draft National Development Plan for approval;
- (e) To direct the public administration in a decentralized way and issue decrees relating to recruitment, organization, regulation and oversight;
- (f) To establish, modify and abolish ministries, entities and coordination bodies;
- (g) To present annually before the National Assembly a progress report on the National Development Plan and the proposed objectives for the following year;
- (h) To submit the draft national budget to the National Assembly for approval;
- (i) To appoint and remove from office ministers of State and other public officials he or she is empowered to appoint;
- (j) To define foreign policy, sign and ratify international treaties, and appoint and remove from office ambassadors and heads of mission;
- (k) To participate with legislative initiatives in the process of formulating laws;
- (l) To issue the necessary regulations for the implementation of laws;
- (m) To call a referendum in accordance with the requirements provided for by the Constitution;
- (n) To convene the National Assembly for special sessions;
- (o) To exercise supreme command of the Armed Forces and National Police and to appoint senior officers.

71. Article 148 provides for the possibility for the President to dissolve, one time only and within three years of taking office, the National Assembly for assuming functions for which it has no Constitutional mandate, subject to a prior favourable ruling by the Constitutional Court.

72. With respect to ministers, article 151 establishes that they shall be politically, civilly and criminally responsible for acts and contracts undertaken in the exercise of their duties, regardless of any vicarious liability of the State. Disqualifications for the office of minister are set forth in article 152; they include being related to the President or Vice-President, having a contract with the State and being members of the security forces on active duty. Article 154 establishes two responsibilities for ministers of State in addition to those established by law, namely: (a) to exercise control over the public policies for which they are responsible; (b) to present to the National Assembly reports due in areas for which they are responsible.

73. With respect to the national equality councils, article 156 establishes that they are responsible for the full application and exercise of the rights enshrined in the Constitution and international human rights instruments and for the formulation, mainstreaming, enforcement, follow-up and evaluation of public policies dealing with gender, ethnic,

generational, intercultural, disability and human mobility issues, in accordance with the law and in coordination with the supervisory and implementing agencies and with rights-protection bodies at every level of government. In accordance with article 157, membership of the councils shall be divided equally between representatives of civil society and the State and shall be chaired by the President of the Republic.

74. Chapter 4 of Title IV regulates the judiciary and the indigenous justice system. Articles 167 to 170 contain provisions on the principles of the administration of justice, including:

- (a) Internal and external independence;
- (b) Administrative, economic and financial independence of the judiciary;
- (c) Jurisdictional unity;
- (d) Access to justice free of charge;
- (e) Public trial;
- (f) Orality, concentration, adversarial procedure and freedom to file, prosecute and terminate a lawsuit;
- (g) Procedural simplicity, uniformity, effectiveness, immediacy, promptness and economy;
- (h) Due process;
- (i) Judicial appointments made on the basis of equality, equity, integrity, open, competitive and merit-based selection processes, right of challenge and citizen participation.

75. Article 171 deals with indigenous justice and establishes that the authorities of the indigenous communities, peoples and nationalities shall exercise jurisdictional functions on the basis of their ancestral traditions and own law, within their territory and with guarantees concerning the participation of women in decision-making. In addition, it establishes that indigenous authorities shall apply their own rules and procedures for the resolution of internal conflicts, provided they do not run counter to the Constitution or the human rights recognized in international instruments. Lastly, it provides that the State shall guarantee that the rulings of indigenous courts are respected by public institutions and authorities, although such rulings shall be subject to review for constitutionality.

76. Articles 172 to 176 establish the principles of the judiciary, which include:

- (a) The administration of justice in accordance with the Constitution, international human rights instruments and the law;
- (b) Due diligence;
- (c) The responsibility of judges for delays, negligence, miscarriages of justice or violations of the law;
- (d) Legal challenges to administrative acts;
- (e) Ineligibility of members of the judiciary to engage in private legal practice;
- (f) Specialized administration of justice for children and adolescents;
- (g) Competitive and merit-based selection of judicial staff.

77. Article 177 provides that the judiciary shall consist of judicial, administrative, auxiliary and independent bodies. Article 178 establishes that the following are judicial bodies: (a) the National Court of Justice; (b) provincial courts of justice; (c) tribunals and

courts established by law; and (d) magistrates' courts. The Council of the Judiciary is the administrative authority for oversight, monitoring and discipline; the notarial service, judicial auctioneers and sequestrators are auxiliary bodies; and the Public Defender's Office and Prosecutor-General's Office are independent bodies.

78. Article 181 vests the Council of the Judiciary with the following powers:

- (a) To formulate and implement policies to improve and modernize the judicial system;
- (b) To review and approve the draft budget of the judiciary;
- (c) To direct the selection process for judges and other judicial staff, and to handle appraisals, promotion and disciplinary matters through public procedures and reasoned decisions;
- (d) To administer and professionalize the judiciary by establishing and running training colleges;
- (e) To ensure transparency and efficiency in the judiciary.

79. Article 182 establishes that the National Court of Justice shall have national jurisdiction, be based in Quito and consist of 21 judges organized in specialized divisions and enjoying a non-renewable, nine-year term of office, with one third of its membership being renewed every three years. The President of the Court, who shall represent the judiciary, shall be elected from among the judges of the National Court and shall serve for three years. The article also provides for alternate judges subject to the same rules as full members.

80. Article 183 establishes that, in order to serve as a judge on the National Court, a person must be of Ecuadorian nationality, be in possession of their political rights, hold a legally recognized national law degree and have a minimum of 10 years' experience as a lawyer, judge or law teacher, and a good reputation and record of conduct. The Council of the Judiciary shall appoint judges on the basis of a competitive examination, merit, right of challenge and social control, while working towards gender parity.

81. Article 184 vests the National Court with the following powers, independently of those assigned to it by law: (a) to hear appeals in cassation, appeals for review and other remedies established by law; (b) to develop a system of case law based on precedent established in three rulings; (c) to try cases brought against public officials who enjoy immunity; and (d) to submit bills on the administration of justice. With respect to (b), article 185 establishes that rulings issued by the Court's specialized divisions that restate on three occasions the same opinion on the same point shall be referred to the Court in plenary session for its consideration and agreement within 60 days. If the view is validated, the opinion shall constitute a binding precedent.

82. With respect to the provincial courts, article 186 provides that they shall be established in each province and shall consist of the number of judges deemed to be necessary for the dispatch of the business of the court. Judges shall be drawn from the judicial service, practising lawyers or university teachers and shall be divided among specialized divisions that correspond to those of the National Court. It also establishes that the Council of the Judiciary shall decide on the number of courts necessary to meet the needs of the population, taking account of the fact that in each canton there should be at least one judge specialized in family, children's and adolescents' matters or youth offenders, in accordance with the needs of the population, and that in those places where there is a social rehabilitation centre, there shall be at least one court upholding prisoners' rights.



83. As a guarantee of jurisdictional unity, article 188 establishes that members of the Armed Forces and National Police shall be tried by the ordinary courts, that disciplinary offences shall be subject to their own rules of procedure and that cases to which special jurisdiction is applicable shall be regulated by law in accordance with administrative responsibility and rank.

84. Articles 191 to 193 deal with matters relating to the Public Defender's Office. Its purpose is to ensure full and equal access to justice for persons whose vulnerability or economic, social or cultural situation prevents them from retaining defence counsel to protect their rights. Accordingly, the Office provides professional, appropriate, efficient and effective legal services at no charge, counselling people on their rights and upholding those rights, whatever the issue and wherever required. The Office is an administratively and financially independent body, which shall have human and material resources and working conditions equivalent to those of the Prosecutor-General's Office. These articles also establish that university faculties of jurisprudence, law and legal studies shall establish and maintain free advice and defence services for persons with low incomes and for priority groups.

85. With respect to the Prosecutor-General's Office, article 194 establishes that it shall operate as a decentralized, administratively and financially independent body, with the Prosecutor-General as its head and legal representative. Article 195 provides that the Office shall direct, ex officio or at the request of the interested party, pretrial and criminal investigations, bringing criminal proceedings in accordance with the principle of opportuneness and minimum penal intervention, paying special attention to the public interest and the rights of victims. Where there are grounds for so doing, it shall bring charges against the presumed offenders before the competent judge and conduct the prosecution in the criminal trial.

86. To enable it to perform these functions, article 195 provides that the Office shall organize and oversee a specialized system combining investigations, forensic medicine and forensic science with civilian and police investigators, as well as a scheme to protect and assist victims, witnesses and participants in criminal proceedings. With respect to the victim and witness protection scheme, article 198 provides that the Office shall coordinate the work of the public bodies with an interest in the concerns and objectives of the scheme, as well as the participation of civil society organizations. The article also provides that the scheme shall be governed by the principles of accessibility, responsibility, complementarity, opportuneness, effectiveness and efficiency.

87. With regard to the transparency and social control branch of government, provided for in chapter 5 of Title IV, article 204 establishes that this branch shall promote and encourage monitoring of public-sector entities and bodies and natural and legal persons in the private sector performing services or activities in the public interest, in order to ensure that they conduct their activities responsibly, transparently and fairly. To that end, the transparency and social control branch shall encourage citizen participation, protect the exercise and enforcement of rights and prevent and fight corruption. In this regard, the article provides that the branch shall consist of the Council for Citizen Participation and Social Control, the Ombudsman's Office, the Office of the Comptroller-General and the offices of superintendents; these bodies shall have legal personality and administrative, financial, budgetary and organizational independence.

88. Article 205 provides that representatives of the transparency and social control branch shall serve for five years, fall within the jurisdiction of the National Court and be subject to impeachment by the National Assembly. In addition, it establishes that senior officials shall be Ecuadorian nationals, in possession of their political rights and recruited through merit-based, public competitive examination and an application process that is subject to citizen oversight and right of challenge.

89. Article 206 provides that members of the transparency and social control branch institutions shall establish a coordinating body and elect annually a chairperson. The powers of the coordinating body are:

- (a) To formulate public policies on transparency, monitoring, accountability, the promotion of citizen participation and preventing and combating corruption;
- (b) To coordinate the institutions' action plans, without undermining their independence;
- (c) To coordinate the formulation of the national anti-corruption plan;
- (d) To submit to the National Assembly proposals for legal reforms in its areas of competence;
- (e) To report annually to the National Assembly on activities relating to the performance of its functions.

90. Under article 207, the purpose of the Council for Citizen Participation and Social Control is to promote and encourage the exercise of participation rights by driving the process of establishing social control mechanisms in matters of public interest and appointing the relevant authorities in accordance with the Constitution and the law. The article also provides that the Council shall consist of seven full members and seven alternate members, who shall elect from among the full members a chairperson, who shall be its legal representative and serve for two and a half years. Under the article, members shall be elected from among candidates put forward by social and citizens' organizations, following a procedure to be organized by the National Electoral Council that involves a merit-based, public competitive examination and an application process subject to citizen oversight and right of challenge.

91. Under article 208, the powers and duties of the Council are, inter alia:

- (a) To promote citizen participation, encourage public consultation processes and foster training in citizenship, values, transparency and the fight against corruption;
- (b) To establish accountability mechanisms for public-sector institutions and entities;
- (c) To investigate complaints about acts or omissions affecting citizen participation or resulting in corruption;
- (d) To publish reports that determine whether there is evidence of liability, make the necessary recommendations and initiate the corresponding legal proceedings;
- (e) To act as a party to proceedings in cases which are brought as a result of its investigations;
- (f) To request from any State body or official the information necessary for investigations or trials;
- (g) To appoint the heads of the Attorney General's Office and the offices of superintendents from a shortlist put forward by the President of the Republic;
- (h) To appoint the heads of the Ombudsman's Office, the Public Defender's Office, the Prosecutor-General's Office and the Office of the Comptroller-General, on completion of the corresponding challenge and monitoring process;
- (i) To appoint the members of the National Electoral Council, Electoral Court and Council of the Judiciary, on completion of the corresponding recruitment process.

92. With respect to the Office of the Comptroller-General, article 211 defines the Office as the technical body responsible for overseeing the use of State resources and the

performance of State institutions and private corporations receiving public funding. Its functions, provided for in article 212, are: (a) to direct the administrative oversight system, with internal and external audit controls and internal monitoring of public-sector bodies or private bodies receiving public funding; (b) to determine culpable administrative and civil liability and evidence of criminal liability relating to areas and activities subject to its control; (c) to establish rules relating to the performance of its functions; and (d) to advise State bodies and entities when requested.

93. Under article 213, the offices of superintendents are technical bodies with powers of oversight, audit and scrutiny of economic, social and environmental activities and services performed by public and private entities to ensure compliance with legislation and respect for the general interest; they may therefore act *ex officio* or at the request of the public.

94. Articles 214 to 216 contain provisions relating to the Ombudsman's Office. The Office is a statutory body with national jurisdiction, legal personality and administrative and financial independence. It has a decentralized structure, with delegates in each province and abroad. It is required to protect and safeguard the rights of the inhabitants of Ecuador and to defend the rights of Ecuadorians abroad.

95. Its responsibilities include:

(a) To present, *ex officio* or at the petition of the party concerned, applications for protective remedies, habeas corpus, access to public information and habeas data, bring actions for non-compliance and citizens' actions, and file complaints about the poor quality or improper provision of public or private services;

(b) To order rights protection measures that shall be of immediate and compulsory application, and seek legal remedies and sanctions from the appropriate authority in cases of non-compliance;

(c) To investigate and adjudicate on actions or omissions by natural or legal persons providing public services, within its sphere of competence;

(d) To oversee and encourage respect for due process and prevent or immediately halt any form of torture or cruel, inhuman or degrading treatment.

96. The electoral branch of government is dealt with in chapter 6. Article 217 establishes that it shall guarantee the exercise of political voting rights and those rights relating to the political organization of citizens. It consists of the National Electoral Council and the Electoral Court, which is based in Quito and has its own legal personality, national jurisdiction and administrative, financial and organizational independence. The article also provides that the Council and the Court shall be governed by the principles of autonomy, independence, openness, transparency, equity, interculturality, gender parity and integrity.

97. Articles 218 and 219 contain provisions relating to the National Electoral Council. They establish that the Council shall consist of five full members and five alternate members, who shall serve for six years, and that its membership shall be partially renewed every three years; the Chairperson shall be elected from among the members, shall be the legal representative of the electoral branch and shall serve for three years. To be eligible to be a Council member, a person must be an Ecuadorian national and in possession of their political rights.

98. In addition to its statutory functions, the Electoral Council has the following powers:

(a) To organize, conduct, monitor and guarantee elections in a transparent manner;

(b) To convene elections, count the votes, declare the results and swear the winners into office;

- (c) To appoint the members of decentralized electoral bodies;
- (d) To monitor election advertising and expenditure and to review and verify the accounts presented by political organizations and candidates;
- (e) To guarantee the transparency and legality of the internal elections of political organizations;
- (f) To propose bills within areas of its competence;
- (g) To maintain an up-to-date register of political organizations and their boards and check registration procedures;
- (h) To ensure that political organizations comply with the law and with their rules and statutes;
- (i) To implement, administer and monitor State funding of election campaigns and the fund for political organizations;
- (j) To hear and rule on administrative appeals or complaints relating to the decisions of decentralized bodies during elections and to impose appropriate penalties;
- (k) To organize and establish the electoral register in Ecuador and abroad.

99. The Electoral Court, under article 220 of the Constitution, consists of five full members and five alternates, who shall serve for six-year terms, with membership being partially renewed every three years. Eligibility requirements for members are the same as those for judges in the National Court; the President of the Electoral Court is elected from among its members to serve for three years. Article 221 establishes the following powers, in addition to those provided for by law: (a) to hear and rule on electoral appeals against acts of the National Electoral Council and decentralized bodies, and contentious issues concerning political organizations; (b) to impose penalties for non-compliance with rules on funding, advertising, electoral spending and other breaches of electoral rules; and (c) to decide on its own organizational arrangements and to set and implement its budget. The Court's judgements and decisions are final and immediately enforceable, and constitute electoral case law.

100. Articles 222 to 224 provide for common standards of political and social control, including, in particular, the possibility of impeaching members of the Council and the Court for breaches of their duties and responsibilities; oversight of electoral bodies, guaranteeing political organizations and candidates the power to inspect and monitor electoral work and advertising; and the appointment of members of the Council and the Court by the Council for Citizen Participation and Social Control, under the terms previously referred to.

101. With respect to decentralized, autonomous administrations and special regimes, and the rules on jurisdiction, as defined in Title V of the Constitution, it should be pointed out that, under articles 238 to 240, decentralized autonomous administrations enjoy political, administrative and financial independence and are governed by the principles of solidarity, subsidiarity, territorial equity, integration and citizen participation. The Constitution also provides that the relevant law should establish the national system of jurisdictions, which shall be mandatory and progressive and should define compensation policies and mechanisms regarding territorial disparities in the development process. The above-mentioned articles define the following decentralized autonomous administrations: (a) rural parish councils; (b) municipal councils; (c) metropolitan councils; (d) provincial councils; and (e) regional councils. In addition, the articles provide that the autonomous, decentralized regional councils of metropolitan districts, provinces and cantons shall have legislative powers within their spheres of competence and territorial jurisdictions.

102. The following table shows the territorial jurisdiction, organization, institutional structure and powers of the different administrations.

Table 25

**Territorial jurisdiction**

<i>Territorial jurisdiction</i>	<i>Institutional structure and organization</i>	<i>Powers</i>
Regional	Regional Governor	Highest official, presides over the Council with a casting vote
	Deputy Governor Regional Council	(i) To plan regional development through the formulation of land use plans; (ii) to manage river basin plans; (iii) to control regional traffic and transport; (iv) to plan, construct and maintain the regional road network; (v) to grant legal personality to, register and monitor regional social organizations; (vi) to identify research and innovation policies in the area of technological awareness, development and transfer; (vii) to promote productive activities at the regional level; (viii) to promote regional food security; (ix) to manage international cooperation to enable it to properly discharge its mandate
Provincial	Prefect	Highest official, presides over the Council with a casting vote
	Deputy Prefect Provincial Council	(i) To plan provincial development through the formulation of land use plans; (ii) to plan, construct and maintain the provincial road network; (iii) to carry out public works in river basins and microbasins; (iv) to manage the environment at the provincial level; (v) to plan, build and maintain irrigation systems; (vi) to promote agricultural activities; (vii) to promote productive activities at the provincial level; (viii) to manage international cooperation to enable it to properly discharge its mandate
Cantonal	Mayor	Highest official, presides over the Council with a casting vote
	Deputy Mayor Cantonal Council	(i) To plan cantonal development through the formulation of land use plans; (ii) to monitor land use; (iii) to plan, construct and maintain the urban road network; (iv) to provide public services including drinking water supply, a sewage system, waste water treatment, solid waste management and environmental sanitation; (v) to introduce, modify or abolish taxes and special contributions to fund improvements; (vi) to plan, regulate and monitor cantonal traffic and public transport; (vii) to plan, construct and maintain physical infrastructure and equipment in the areas of health and education, and in public spaces; (viii) to preserve, maintain and disseminate the canton's architectural, cultural and natural heritage; (ix) to delimit, regulate,

<i>Territorial jurisdiction</i>	<i>Institutional structure and organization</i>	<i>Powers</i>
		authorize and monitor the use of beaches, river banks and beds, lakes and lagoons; (x) to guarantee public access to and use of beaches, river banks, lakes and lagoons; (xi) to manage fire prevention, protection, rescue and suppression services; (xii) to manage international cooperation to enable it to properly discharge its mandate
Metropolitan	Mayor	Highest official, presides over the Council with a casting vote
	Metropolitan Council	The same powers as cantonal councils and those of regional and provincial administrations which are applicable to it
Parish	Parish Council	(i) To plan parish development and land use; (ii) to plan, construct and maintain physical infrastructure, equipment and public spaces at the parish level; (iii) to plan and maintain the parish rural road network; (iv) to promote the development of community productive activities, the preservation of biodiversity and the protection of the environment; (v) to manage, coordinate and administer public services delegated or devolved to it by other levels of government; (vi) to promote the organization of citizens in communes, outlying villages and other rural settlements which are basic territorial units; (vii) to manage international cooperation to enable it to properly discharge its mandate; (viii) to oversee the delivery and quality of public services

*Source:* Constitution of Ecuador.

103. Political system indicators have been obtained from information provided by the National Electoral Council. The tables below provide details on the electoral register used in the elections held on 26 April 2009 for President and Vice-President of the Republic, members of the National Assembly, prefects, mayors and members of municipal councils, when the following organizations were registered: 13 political parties and 37 political movements at the national level, 4 political movements abroad and 201 provincial movements. They also give details on the register for the elections held on 14 June, when members of the Andean Parliament and parish councils were elected.

Table 26  
**Electoral register, 2009**

<i>Voters</i>	<i>Male voters</i>	<i>Female voters</i>	<i>Polling boards</i>	<i>Polling boards for male voters</i>	<i>Polling boards for female voters</i>
10 529 765	5 254 739	5 275 026	45 246	22 442	22 804

*Source:* National Electoral Council.

Table 27  
**Electorate disaggregated by sector**

<i>Citizens</i>	<i>Military personnel</i>	<i>Police personnel</i>	<i>Foreigners resident in Ecuador</i>	<i>Ecuadorians resident abroad</i>	<i>Persons between the ages of 16 and 18 years</i>	<i>Illiterate persons</i>	<i>Persons with dual nationality</i>
9 111 162	55 066	39 501	86 426	13 381	507 534	715 972	723

*Source:* National Electoral Council.

104. The following table provides details of cases received by the Electoral Court, updated on 22 July 2009, relating to the elections held on 26 April and 14 June 2009.

Table 28  
**Cases received by the Electoral Court, 2009**

<i>Action</i>	<i>Pending</i>	<i>Resolved</i>	<i>Total</i>
Challenge	0	118	<b>118</b>
Complaint	3	41	<b>44</b>
Appeal	2	104	<b>106</b>
Violation	373	72	<b>445</b>
Other	1	5	<b>6</b>
Application for a protective remedy	0	11	<b>11</b>
Appeal: violations	0	1	<b>1</b>
<b>Total</b>	<b>379</b>	<b>351</b>	<b>730</b>

*Source:* National Electoral Council.

105. On the basis of the results declared by the Electoral Council and the credentials presented in July 2009, the composition of the National Assembly on taking office in 2009 was as follows.

Table 29  
**Composition of the National Assembly, 2009–2013**

<i>Party</i>	<i>Members</i>
Movimiento Patria Altiva Í Soberana	59
Partido Sociedad Patriótica “21 de Enero”	19
Partido Social Cristiano	11
Partido Renovador Institucional Acción Nacional	7
Movimiento Municipalista	5
Movimiento Popular Democrático	5
Movimiento de Unidad Plurinacional Pachakutik	4
Partido Roldosista Ecuatoriano	3
Partido Izquierda Democrática	2
Other	9
<b>Total</b>	<b>124</b>

*Source:* National Electoral Council.

## II. General framework for the protection and promotion of human rights

106. The Quito Declaration of Independence, which laid the foundation for the development of a national strategy for independence, held that the purpose of the State is to guarantee the freedom of its inhabitants. On this premise — particularly since the Constitution of 1979 — the thrust of constitutional lawmakers and the provisions of the supreme law has been to establish a bill of rights serving to underpin the actions of the State and orient the formulation of laws and public policy. Accordingly, the Constitution of 2008 declares, among other founding declarations in its preamble, that, given their heritage of social struggle for liberation from domination, the people of Ecuador resolves to establish: (a) a new form of living in community with others in diversity and in harmony with nature, the aim of which is to attain *sumak kawsay* (“good living”); (b) a society that respects, in all its aspects, the dignity of individuals and groups; and (c) a democratic country that is committed to Latin American integration, to peace and to solidarity with all the peoples of the world.

107. In recognition of these resolutions, article 3 of the Constitution stipulates that the primary duties of the State are:

(a) To guarantee the effective enjoyment of the rights recognized in the Constitution and in international instruments, especially the rights to health, education, food, social security and water;

(b) To strengthen national unity in diversity;

(c) To plan for national development with a view to eliminating poverty and to promoting sustainable development and the equitable redistribution of the resources and wealth needed to attain good living;

(d) To promote the equitable and solidarity-oriented development of the entire territory by strengthening the processes of self-governance and decentralization;

(e) To protect the cultural and natural heritage of the country; and

(f) To guarantee inhabitants the rights to a culture of peace, to overall security and to live in a democratic society free from corruption.

108. Articles 10 and 11 subsequently establish the principles for giving effect to these rights, providing that individuals, communities, peoples, nationalities and groups are entitled to enjoy the rights guaranteed in the Constitution and in international instruments, while also providing that the exercise of these rights is governed, inter alia, by the following principles:

(a) The exercise, promotion and enforceability, individually and collectively, of rights before the authorities charged with their realization;

(b) Equality of the rights, duties and opportunities of all inhabitants, and prohibition of discrimination on the basis of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, criminal record, socio-economic status, migratory status, sexual orientation, health status, HIV status, disability, physical difference or any other personal or collective, temporary or permanent distinguishing feature;

(c) Affirmative action to promote genuine equality for rights-holders in a situation of inequality;



(d) Direct and immediate implementation of the rights recognized in the Constitution and in international human rights instruments by the competent authorities, without requirements or conditions;

(e) Full justiciability of rights: the absence of a rule may not be invoked to justify their infringement or repudiation, to dismiss judicial proceedings or to deny their recognition;

(f) Development of the content of rights through laws and regulations, judicial rulings and public policy, and incompatibility of any law that has the effect of restricting rights;

(g) Implementation and interpretation of the law or regulation in the manner most conducive to the realization of rights;

(h) The inalienable, inviolable, indivisible and interdependent nature and equal rank of principles and rights;

(i) Non-exclusion of the rights derived from the dignity of individuals, communities, peoples and nationalities and necessary for their full development, independently of those already recognized in the Constitution or in international human rights instruments.

109. The above-mentioned articles also establish the obligation of the State to create and maintain the necessary conditions for the full recognition and exercise of rights, in addition to the obligation of the State, its representatives, agents and any person exercising public authority to make reparation for violations of the rights of individuals, peoples, communities and nationalities as a result of the lack of or a deficiency in the provision of public services, or of the actions or omissions of its employees and public servants in the discharge of their duties. It is further recognized that the State shall be held liable for instances of arbitrary detention, judicial error, unjustified judicial delays or miscarriages of justice, violation of the right to the protection of the court and infringement of the principles and rules of due process of law, including the revision or quashing of a sentence.

## **A. Acceptance of international human rights norms**

110. As stated previously, the State has an obligation towards individuals, peoples, nationalities, communities and groups to guarantee the rights recognized in international human rights instruments, in accordance with the principles for their interpretation. In addition, paragraphs 7 and 9 of article 416, in Title VIII on international relations, stipulate that, in its relations with the international community, Ecuador shall respect human rights and, accordingly, shall promote their full exercise through the fulfilment of the obligations it has undertaken in signing the international human rights instruments. They also stipulate that international law shall be recognized as a standard of conduct. Furthermore, article 417 stipulates that, in respect of human rights treaties and other international human rights instruments, the principles of human-centredness, non-restriction of rights, direct applicability and the open-ended clause, which are included in the provisions of articles 10 and 11 mentioned previously, shall apply. Lastly, article 424, paragraph 2, of Title XI, on the supremacy of the Constitution, stipulates that the Constitution and the international human rights treaties ratified by Ecuador that recognize rights that are more favourable than those recognized in the Constitution shall take precedence over any other rule of law or decision by a public authority.

111. According to the information provided by the Ministry of Foreign Affairs, Trade and Integration, Ecuador is a party<sup>12</sup> to various United Nations human rights and related conventions, as well as to conventions of the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Geneva Conventions and other international humanitarian law treaties. However, it has not signed or ratified some of the conventions of the Hague Conference on Private International Law.<sup>13</sup>

112. This is the extent of the information provided by the Ministry of Foreign Affairs, Trade and Integration.

## **B. Legal framework for the protection of human rights at the national level**

113. As stated in the foregoing section, in addition to the rights envisaged in the Constitution, Ecuador recognizes those envisaged in international human rights treaties, and goes so far as to guarantee their direct application by any public authority or public servant, their justiciability and their unrestricted exercise. However, Title II of the Constitution recognizes an advanced list of new rights that are not found in international treaties, to wit:

- (a) Right to water;
- (b) Right to safe and permanent access to healthy, sufficient and nutritional food, preferably produced in the country and consistent with the various cultural identities and traditions of the people;
- (c) Right to live in a healthy and ecologically balanced environment that guarantees sustainability and good living;
- (d) Right to communication and information;
- (e) Right to a human-centred education that guarantees the holistic development of the person and promotes critical thinking, art and physical education, individual and community-based initiative, and the development of skills and abilities for creating and working;
- (f) Right to culture and science;
- (g) Right to habitat and housing;
- (h) Right to health;
- (i) Right to work and social security;
- (j) Participation rights;
- (k) Right to freedoms;
- (l) Right to protection.

114. Moreover, special rights have been accorded to groups considered to warrant priority attention, such as the elderly, young people, individuals or groups who are mobile, pregnant women, children and adolescents, persons with disabilities, persons with

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<sup>12</sup> See annex 2, list of international conventions relating to issues of human rights to which Ecuador is a party.

<sup>13</sup> See the partial list of major international conventions contained in appendix 2 of document HRI/GEN/2/Rev.6.

catastrophic illnesses, persons deprived of their liberty, customers and consumers, and communities, peoples and nationalities.

115. As has been mentioned, all public authorities and public servants have a duty to guarantee these and all other rights to persons. Nevertheless, the Constitution has set out a number of specific steps to be taken by the authorities in relation to rights. Thus, article 120, paragraph 6, and article 133, paragraph 2, stipulate that the National Assembly shall progressively develop the content of the rights through the enactment, codification and reform of organizational laws or the repeal of laws that are counterproductive to the effective enjoyment of rights. Furthermore, paragraphs 1 and 3 of article 147 stipulate that the President of the Republic has a duty to comply with and ensure compliance with the Constitution, international treaties, laws and regulations, and any other rule or principle that falls within his or her sphere of competence, and is consequently responsible for the design and orientation of policies that give effect to recognized rights. Further, article 172 stipulates that judges shall administer justice subject to the provisions of the Constitution, international human rights instruments and the law. In addition, throughout the provisions on principles relating to the administration of justice and the judicial branch, which were discussed previously, reference is made to the right of access to justice and the right to protection.

116. Likewise, article 204 stipulates that the transparency and social control branch of government shall be responsible for promoting and encouraging citizen participation and for protecting the exercise and realization of rights. The same applies to the electoral branch, which, according to article 217, is charged with guaranteeing the exercise of political voting rights and the rights related to the political organization of society. However, perhaps the most important institution — and the one directly entrusted with adjudicating on, interpreting and protecting the human rights recognized in the Constitution and international instruments — is the Constitutional Court, which is described in chapter 2 of Title IX, on the supremacy of the Constitution. Article 429 establishes that the Court is the highest authority for oversight, constitutional interpretation and the administration of justice in this area. In addition, article 436 stipulates that the powers of the Constitutional Court shall include the following:

(a) To act as the highest instance for the interpretation of the Constitution and the international human rights treaties ratified by the State, by means of rulings and judgements;

(b) To hear and rule on public applications for constitutional review of legislative acts issued by organs and authorities of the State, and to declare them unconstitutional if need be, thereby rendering them null and void;

(c) To declare of its own motion the unconstitutionality of a rule of law when, in a case submitted for its consideration, the rule pertaining to the case is found to be contrary to the Constitution;

(d) To hear and rule on applications for constitutional review of administrative acts with general effect issued by public authorities;

(e) To hear and rule on actions for non-compliance lodged in order to enforce compliance with decisions or reports by international human rights bodies when such decisions or reports are not enforceable through judicial channels;

(f) To hear and rule on applications for protective remedies, enforcement, habeas corpus, habeas data, access to public information and any other proceedings or cases selected by the Court for review;

(g) To initiate of its own motion an immediate review of the constitutionality of declarations of a state of emergency that entail the suspension of constitutional rights;

(h) To take cognizance of and punish failure to comply with constitutional rulings and judgements;

(i) To declare as unconstitutional the failure of State institutions or public authorities to comply, either in whole or in part, with constitutional provisions.

117. There are thus a variety of channels through which human rights may be invoked and a ruling issued by the authorities. However, it is difficult to cite specific cases that have set new precedents in respect of the rights recognized in the Constitution, since only 38 decisions and rulings have been issued by the Constitutional Court. These have included decisions on the constitutionality of international instruments, interpretative opinions on the transition period and the backlog of cases from the old Constitutional Tribunal. The same applies to the judgements handed down by the National Court of Justice.

118. As far as guarantees for the recognition, enjoyment, exercise, protection and reparation of rights are concerned, Title III of the Constitution establishes normative, public policy and procedural safeguards considered suitable for that purpose. With particular reference to normative safeguards, article 84 stipulates that the National Assembly and any body with law-making powers has an obligation to bring laws and any other legal norms formally and substantively into line with the rights recognized in the Constitution and international treaties and with the rights necessary for ensuring the dignity of the person or of communities, peoples and nationalities. It further stipulates that in no circumstances shall the reform of the Constitution, statutes, regulations or administrative acts jeopardize recognized rights.

119. In relation to safeguards for public policies, public services and citizen participation, article 85 stipulates that the design, implementation, evaluation and monitoring of public policies and public services that guarantee the rights recognized in the Constitution shall be governed by the following provisions: (i) the implementation of public policy and the provision of public goods and services shall be aimed at achieving good living and giving effect to all rights, and shall be formulated in keeping with the principle of solidarity; (ii) without prejudice to the primacy of collective over individual interests, when the effects of the implementation of public policy or the provision of public goods and services violate or threaten to violate constitutional rights, the policy or provision in question shall be reformulated or alternative measures adopted in order to reconcile it with the rights in question; (iii) the State shall ensure that the budget for the implementation of public policy and the provision of public goods and services is allocated equitably and in keeping with the principle of solidarity; and (iv) the participation of individuals, nationalities, peoples and communities in the design, implementation, evaluation and monitoring of public policy and public services shall be guaranteed.

120. With regard to procedural safeguards, articles 86 and 87 share a number of provisions, including the following:

(a) Any person, group of persons, community, people or nationality may bring an action provided for in the Constitution;

(b) Jurisdiction shall be determined by the place where the act or omission originates, or where it produces its effects;

(c) Proceedings shall be straightforward, expeditious, efficient and oral;

(d) Actions may be introduced in writing or orally, without the need to cite the rule that has been infringed or to secure legal representation;

(e) Procedural rules that delay the expeditious processing of the proposed action shall be invalid;

(f) The allegations made by the petitioner shall be presumed to be true if the public agency that has been summoned does not provide evidence to the contrary or does not supply information;

(g) The matter shall be determined by judicial decision; if the judge finds a violation of rights, he or she shall make a declaration to this effect and shall order full material and non-material reparation, specifying in detail the positive and negative obligations to be met by the person against whom the court decision has been handed down and the circumstances in which such obligations must be satisfied;

(h) Appeals against judgements at first instance may be lodged before the provincial court concerned;

(i) Judicial proceedings shall not be concluded until the judgement has been fully enforced;

(j) Failure by a public servant to comply with a judgement shall entail dismissal from office or employment, without prejudice to any civil or criminal liability incurred; and

(k) Protective measures may be ordered either together with or independently of constitutional remedies for the protection of rights, with the aim of avoiding or putting an end to the violation or threat of violation of a right.

121. Based on the foregoing, articles 88 to 94 provide for the following remedies: (a) application for a protective remedy; (b) action for a writ of habeas corpus; (c) application for access to public information; (d) action for a writ of habeas data; (e) action for non-compliance; and (f) application for a special protective remedy. The application for a protective remedy envisaged in article 88 is intended to provide direct and effective protection for the rights recognized in the Constitution and may be filed when these rights have been breached by action or omission on the part of any non-judicial public authority, by public policies that deny the enjoyment or exercise of constitutional rights, or by the actions of private individuals that cause serious prejudice, where public services delegated or licensed to the individual are not properly provided or where the injured party is in a subordinate position, lacks protection under the law or is subjected to discrimination.

122. The action for a writ of habeas corpus, which is provided for in articles 89 and 90, is aimed at restoring the freedom of persons being held illegally, arbitrarily or unlawfully, as well as protecting the life and physical integrity of persons deprived of their liberty. To that end, article 89 stipulates that, within 24 hours of the time an action is brought, the judge shall convene a hearing to be attended by the detained person, the official in charge of that person, the public defender and the person who ordered or was responsible for the detention, and at which the arrest warrant must be presented. Provision is also made for the hearing to be held in the place of detention. The article further stipulates that the matter shall be decided within 24 hours of the hearing and, in the event of a finding of unlawful or arbitrary deprivation of liberty, the detained person shall be released immediately. In addition, it stipulates that where there is confirmed evidence of any form of torture or inhuman, cruel or degrading treatment, an order shall be made to release the victim, provide comprehensive and specialized care and adopt, where possible, alternative measures to detention. Lastly, article 90 stipulates that when the place of detention is unknown and there is evidence of the involvement of any public official or any government employee or person acting with their authorization, support or consent, the chief of the National Police and the relevant minister shall be summoned to a hearing, the purpose of which shall be to ensure that the necessary measures are taken to locate the detained person and those responsible for the deprivation of liberty.

123. The application for access to public information, provided for in article 91, is aimed at guaranteeing access to public information in cases in which such access has been

expressly or tacitly denied, or when the information provided is incomplete or unreliable. Such an application may be made even if the refusal to provide information is based on the fact that it is classified as secret, restricted or confidential or in some other category. In addition, it stipulates that the information must have been declared to be restricted by the relevant authority, in accordance with the law, prior to the application for access to the information.

124. Article 92 concerns the action for a writ of habeas data, the purpose of which is to allow individuals or their authorized representatives to be aware of the existence of, and have access to, documents, genetic data, personal data banks or files and reports about themselves or their assets that are stored by public or private entities on physical or electronic media. The article also provides for the right of the individual to know the origin, use, purpose, destination and period of validity of the data file or databank containing their personal information. Lastly, it provides that the person to whom the data refer may request permission from the relevant authority to access the file free of charge and to update, correct, delete or invalidate the data, as well as to claim for any injury suffered.

125. The action for non-compliance is provided for in article 93, which states that its purpose is to ensure enforcement of the laws and regulations that make up the legal system, as well as compliance with the decisions or reports of international human rights bodies, provided that the law, regulation or decision to be enforced contains a clear, express and enforceable positive or negative obligation. The distinguishing feature of this action is that it must be brought before the Constitutional Court.

126. Lastly, article 94 provides for applications for a special protective remedy in the case of rulings or final judgements which, by action or omission, infringe the rights recognized in the Constitution. It is distinguished by the fact that it must be lodged before the Constitutional Court and is applicable in cases where ordinary and special remedies have been exhausted within the time limits fixed by law, unless failure to apply for such remedies is not attributable to negligence on the part of the person whose constitutional right has been infringed.

127. Another issue concerning rights has to do with the institutions that monitor the observance of rights, especially those relating to gender, age group, peoples, communities, nationalities, etc. As has been indicated, all State institutions at all levels are called on to respect and guarantee people's rights. However, there are some institutions whose functions are more closely related to guaranteeing rights. For example, the institutions attached to the executive branch include the national equality councils, which are responsible for ensuring the full realization and exercise of the rights recognized in the Constitution and in international human rights instruments. Accordingly, in carrying out their mandate, they promote the mainstreaming, implementation, monitoring and evaluation of public policies on gender, ethnic, generational, intercultural, disability-related and mobility-related issues. In order to meet their objectives, the councils are expected to coordinate with lead and implementing agencies and with rights-protection bodies at all levels of government.

128. In view of the fact that the councils are currently at the formative stage, it is not possible to provide details on their activities or on the process under way. However, in connection with the obligation of the councils to coordinate with the supervisory and implementing agencies and with rights-protection bodies, it is worth noting the existence of the Ombudsman's Office, the Ministry for the Coordination of the Natural and Cultural Heritage, the Ministry of Justice and Human Rights, the Ministry of the Environment, the Secretariat for Peoples, Social Movements and Citizen Participation, the National Secretariat for Migrants and the Truth Commission.

129. While the Ombudsman's Office was discussed previously in relation to the transparency and social control branch of government, it is important to draw attention to

the Ombudsman's Office Organization Act, which governs all matters relating to the powers, organization and functioning of this institution. As the Act dates from 1997, the powers of the Ombudsman's Office are mainly governed by the Constitution. Nonetheless, it is worth pointing out that the Ombudsman has unrestricted access to social rehabilitation centres and may observe judicial or administrative proceedings, publicly condemn violations of human rights and intervene as a party in environmental litigation. With regard to organization and functioning, article 1 of the Act states that the Office, which shall be headed by the Ombudsman, is a public agency based in Quito with functional, financial and administrative autonomy and a nationwide mandate. Article 9 states that the Ombudsman shall appoint a first and a second deputy to whom he or she shall delegate functions, duties and powers, and who shall discharge the duties of the Ombudsman in the event of his or her temporary absence or a vacancy in the position. In addition, article 10 provides that a branch of the Ombudsman's Office shall be established in each province and shall be headed by a commissioner who, in his or her respective territorial circumscription and acting on behalf of the Ombudsman, shall have the functions, duties and powers attributed to him or her by the Ombudsman.

130. Chapter 2 of the Act regulates the procedures of the Ombudsman's Office. It stipulates that any person who has a legitimate claim may, individually or collectively and without restriction, submit a complaint to the Ombudsman, either orally or in writing; the complaint must contain information on the complainant and a detailed account of the events. Chapter 2 also provides that, in the case of complaints concerning events that affect the person's life, health, or physical, moral or psychological integrity, the Ombudsman may initiate remedies or proceedings aimed at preventing serious harm and grave danger, and the competent authorities may not refuse to take cognizance of and rule on the matter. The Act also establishes the obligation of all public or private, legal or natural persons to cooperate with the Ombudsman's Office, including in the application of sanctions against public servants and private individuals who refuse to provide the information requested by the Office.

131. As to the ministries and secretariats mentioned previously, the powers of the Ministry of Justice and Human Rights, as well as of those of the National Secretariat for Migrants, deserve special mention. Pursuant to Executive Decree No. 748 of November 2007, the President of the Republic established the Ministry of Justice and Human Rights, granting it, inter alia, the following powers: (i) to support efforts aimed at improving the services provided by institutions in the justice system by expanding the scope of their coverage, imposing quality standards and requiring the coordinated implementation of management efficiency programmes in order to ensure that economic, financial, material and technological resources are used to best effect; (ii) to coordinate measures aimed at ensuring effective access to timely and high-quality justice as a fundamental right of all inhabitants of Ecuador; (iii) to establish support units to help the judiciary and the Public Prosecution Service (*Ministerio Público*) to resolve any conflicts in social rehabilitation centres and any other judicial conflicts that may concern the public administration; (iv) to promote the creation of appropriate mechanisms for disseminating human rights and legal and procedural information; (v) to coordinate, implement and monitor the programmes and projects of the various institutions involved in the social rehabilitation system, together with programmes and projects aimed at providing assistance and protection to juvenile offenders; (vii) to work together with the Council on Narcotic and Psychotropic Substances (CONCEP) on behalf of the central Administration to design and implement programmes to prevent and eradicate the use of narcotic and psychotropic substances.

132. Furthermore, by means of Executive Decree No. 1317 of September 2008, the Ministry of Justice was given responsibility for coordinating the enforcement of judgements, protective measures, provisional measures, friendly settlements, recommendations and decisions emanating from the inter-American and universal human

rights systems, and any other obligations arising from international human rights commitments, for which purpose it was assigned the following functions: (i) to transmit decisions to the competent authority, instructing it to initiate investigations and determine individual responsibility for human rights violations; (ii) to coordinate with the Ministry of Finance regarding the payment of material and non-material reparation to victims of human rights violations; (iii) to coordinate with the relevant State agency on the measures to be taken in order to fully satisfy the obligations; (iv) to draft amendments to laws in order to bring the legal framework into line with international human rights standards; (v) to coordinate with the Ministry of Foreign Affairs on the implementation at the national level of any international instrument that entails international human rights obligations on the part of the State; (vi) to perform follow-up, monitoring and evaluation of compliance with national laws and policies on human rights, in order to incorporate the relevant data on this subject in Ecuador's reports to the treaty bodies.

133. The National Secretariat for Migrants endeavours to ensure that mobility and residence are experienced throughout the territory as true expressions of people's freedom, that fundamental rights continue to be guaranteed and that migrants' needs and expectations for the future continue to be met, so that migration can achieve its full potential for human, political, economic and cultural development in societies of origin and destination; that people's progress towards effective practices and policies of integration and coexistence that allow for the exercise of full and meaningful world citizenship free from discrimination, xenophobia and racism; and that the various problems arising from enforced human mobility are attenuated and effective solutions found to the different forms of vulnerability.

134. The Truth Commission was established by executive decree on 3 May 2007 to investigate and elucidate, and prevent impunity for, acts of violence and human rights violations alleged to have been committed by State officials between 1984 and 1988 or during other periods. The Truth Commission is composed of prominent human rights activists from civil society. It is mandated to carry out in-depth and independent investigations based on victim and witness testimony and on State archives, even when these are considered to be confidential or to concern matters of national security, and to corroborate and substantiate all denunciations, identify evidence of civil, criminal and administrative liability that warrant the attention of the authorities, promote recognition of the victims and establish the forms of redress. Lastly, the Commission is tasked with recommending legal and institutional reforms and effective mechanisms for preventing and punishing human rights violations.

135. With regard to accepting the jurisdiction or competence of regional human rights organizations, on 8 December 1977 Ecuador ratified the American Convention on Human Rights, and on 24 July 1984, in conformity with article 62, paragraph 1, of the Convention, recognized as legally binding the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the Convention. In this connection, and pursuant to article 68, Ecuador undertook to comply with the judgement of the Court in any case to which it is a party and to allow the enforcement of the Court's judgement regarding compensatory damages in accordance with domestic procedure governing the execution of judgements against the State. Article 41 of the American Convention on Human Rights provides that the Inter-American Commission on Human Rights shall be entrusted with promoting respect for and the defence of human rights in the hemisphere, and shall be empowered to take action on petitions submitted to it by persons who claim their rights have been violated. In conformity with articles 41 (b) and 43, the Commission shall hear petitions and make recommendations to States for the adoption of measures aimed at halting and making reparation for the violations and may request that States submit reports on measures they have implemented in order to assess their effectiveness. To date, eight cases have been decided by the Inter-American Court of



Human Rights; several other cases referred to the Inter-American Commission on Human Rights have been resolved by means of a friendly settlement or by the transmittal of the Commission's recommendations to the State.

### **C. Framework within which human rights are promoted at the national level**

136. As has been indicated, the Constitution prescribes a broad framework linking the activity of the public authorities to efforts to ensure respect for human rights and the participation of the individuals, peoples, communities and nationalities who are the subjects of these rights and who set up social organizations to promote and defend them. This is illustrated by the fact that the right to participation, which is governed by article 61 of Title II of the Constitution, entitles Ecuadorian men and women to participate in matters of public interest and to be consulted about or to review acts of the administration. Likewise, the previously mentioned provisions on public policy safeguards envisage the participation of individuals, communities, peoples, nationalities and civil society organizations in designing, implementing, evaluating and controlling public policy and public services. Thus, public institutions at various levels of government guarantee the possibility of participating in their activities for the purposes of information, consultation and the joint formulation or reform of policies, projects and plans.

137. In terms of promoting and providing training in human rights, and given the diversity of agencies that implement policies relating to rights, a number of institutional programmes exist at various levels of government. The institution mandated to promote human rights, both among the population and within the public sector, is the Ministry of Justice and Human Rights. The Ministry has a special office to advise individuals, peoples, communities and nationalities on how to exercise and assert their rights, offering face-to-face consultations and documentation, including handbooks and fact sheets on specific rights. The Ministry has also been carrying out media campaigns aimed at empowering citizens to assert their rights. As regards training in the public sector, a human rights module and handbook have been produced for use by judges and will serve as a basis for an official human rights module in the Judicial Training College run by the Council of the Judiciary. The same process has been undertaken in relation to a pilot project to impart human rights training to more than 2,000 police officers across Ecuador and to draft a handbook that will be incorporated in police guidelines and in the periodic further training courses they must complete. The Ministry will soon introduce a training module for the armed forces and security staff on the northern border, an area which has been particularly hard-hit by border clashes, insecurity and poverty.

138. Mention should also be made of programmes for training, media campaigns, specialized training courses, empowerment, guidance and participation in relation to such topics as human trafficking and smuggling and the rights of, inter alia, Afro-Ecuadorian peoples, indigenous peoples, communities and nationalities, children and young people, women, persons with disabilities and older persons. The programmes are sponsored and promoted at the national and international levels by institutions such as the Attorney General's Office, the Ministry of Foreign Affairs, Trade and Integration, the Office of the Vice-President, the Ombudsman's Office, the Ministry of the Environment, the Ministry of Tourism, the Ministry of Economic and Social Inclusion, the National Police, the National Secretariat for Migrants, the Ministry of Culture, public and private universities and schools, social organizations, neighbourhood boards, foundations, political movements and other public and private institutions.

139. Concerning bodies responsible for human rights, specific mention has already been made of the responsibilities of the National Assembly in this area, and of the duties of the

regional, provincial, cantonal, metropolitan and parish councils to promote the enjoyment and exercise of, inter alia, the rights to movement and mobility, habitat and housing, water and food, a healthy environment, public security, and science and culture. In addition, details were provided on the national bodies concerned with the protection and promotion of human rights, including the national equality councils, the Public Defender's Office and the Ombudsman's Office. However, note should be taken of the fundamental role assigned in article 158 of the Constitution to the Armed Forces and the National Police as institutions for the protection of citizens' rights, freedoms and guarantees.

140. With regard to national budget expenditure on efforts to ensure the realization of rights, this figure can be determined only for the social rights set out in national policies such as those on social welfare, urban development and housing, education, health and employment. Included below are the available data from the Ministry of Finance on annual budget spending for the social sector in 2008 and 2009.

Table 30  
National budget

	<i>Initial annual appropriation</i>	<i>Annual adjustment</i>	<i>Annual approved funding</i>	<i>Annual allocation</i>	<i>Annual funds received</i>	<i>Annual expenditure</i>
Annual budget spending/2008 expenditure by sector						
Social welfare	91 059 276.47	42 240 314.07	133 299 590.54	115 354 693.40	115 293 417.45	114 401 731.52
Urban development and housing	362 833 535.25	127 626 274.92	490 459 810.17	451 737 214.67	451 426 969.69	444 140 861.88
Education	213 211 154.37	252 692 546.20	465 903 700.57	304 004 557.31	303 210 502.17	295 240 689.76
Health	180 526 123.05	5 881 714.43	186 407 837.48	152 589 703.47	152 582 953.47	150 604 002.34
Employment	9 280 815.00	4 198 335.12	13 479 150.12	13 071 751.14	13 071 751.14	12 696 374.87
<b>Total</b>	<b>856 910 904.14</b>	<b>432 639 184.74</b>	<b>1 289 550 088.88</b>	<b>1 036 757 919.99</b>	<b>1 035 585 593.92</b>	<b>1 017 083 660.37</b>
Annual budget spending/2009 expenditure by sector						
Social welfare	144 411 428.32	74 219 045.14	218 630 473.46	85 634 579.42	73 717 627.63	68 355 583.45
Urban development and housing	382 648 734.77	-240 808 287.18	141 840 447.59	94 087 162.90	84 012 784.73	81 531 592.28
Education	411 203 312.80	-169 570 501.21	241 632 811.59	107 773 382.04	74 103 905.54	72 188 894.57
Health	243 763 058.63	-131 561 925.26	112 201 133.37	62 389 119.45	49 275 640.07	38 459 873.18
Employment	12 116 236.26	3 747 986.34	15 864 222.60	5 441 002.50	5 290 368.88	5 008 983.97
<b>Total</b>	<b>1 194 142 770.78</b>	<b>-463 973 682.17</b>	<b>730 169 088.61</b>	<b>355 325 246.31</b>	<b>268 400 326.85</b>	<b>265 544 927.45</b>

Source: Ministry of Finance.

## **D. Reporting process at the national level**

141. The task of submitting national reports to the international treaty-monitoring bodies is entrusted, pursuant to Executive Decree No. 317 of September 2008, to the Ministry of Justice and Human Rights. Article 2.7 of the Decree provides that the Ministry is to participate jointly with the Ministry of Foreign Affairs in the process of drafting and validating the reports by the State to the human rights committees and treaty bodies through a process of public coordination, with responsibility for presenting the reports before the treaty bodies falling to the Ministry of Foreign Affairs. Additionally, the last paragraph of article 2 provides that the Ministry of Justice and Human Rights shall be charged with promoting dialogue with civil society, especially human rights organizations, in order to discharge its duties and functions under the Decree.

142. These functions, which have been assumed recently by the Ministry, have been carried out within the framework of inter-agency coordination, on the grounds that the information presented to the committees can be verified only by the institution supplying it. Accordingly, the participation of State institutions at every level of government is necessary for ensuring the veracity and accuracy of the report. The Ministry of Justice and Human Rights, working together with the Ministry of Foreign Affairs, begins by convening a meeting of all the institutions concerned by the rights covered in the report, at which Ecuador's international obligations and the committees' requests are identified so that each institution can identify what information it can provide. This is followed by a process of compiling, systematizing and organizing the data and preparing a draft report, which is submitted to the participating institutions, as well as to civil society organizations at public meetings in the main cities of the country. The report is not submitted to the National Assembly for consideration, even though that body is always requested to provide information on legislative efforts to develop the rights recognized in the international instrument in respect of which the report is being prepared. After these consultations, comments and observations are analysed with a view to preparing the final report, with responsibility for submitting the report falling to the Ministry of Foreign Affairs.

## **E. Other related human rights information**

### **Follow-up to international conferences**

143. Ecuador participated in the Durban Review Conference, held in Geneva in April 2009, where it summarized progress in its efforts to eliminate racial discrimination.<sup>14</sup>

## **III. Information on non-discrimination and equality**

144. As mentioned previously, the Constitution sets out the principles governing the interpretation of rights, including, in article 11, paragraph 2, the principle of equality and non-discrimination. This article refers to certain innate and other attributes of individuals that form part of their identity and personality, such as nationality, ethnicity, religion, gender identity, sex or criminal record, but also makes an explicit reference to the prohibition of discrimination on the basis of any other personal or collective, temporary or permanent distinguishing feature that has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of the rights recognized in the Constitution or in international instruments. In addition, the article stipulates that all forms of discrimination

<sup>14</sup> See annex 3: Progress made by Ecuador in implementing the Durban Declaration and Plan of Action.

shall be punishable by law, and that the State shall undertake affirmative action to promote genuine equality for rights-holders in a situation of inequality. In addition, among the rights to freedom, it is worth highlighting the rights to formal equality, material equality and non-discrimination, which are referred to in article 66, paragraph 4.

145. On this basis, laws, policies, judicial rulings and any other pronouncement by the authorities must promote equality and affirmative action measures for rights-holders subjected to discrimination or to inequality in the exercise or enjoyment of their rights. At the legislative level, the Constituent Assembly and the Legislation and Oversight Commission — the institution entrusted with exercising the powers of the National Assembly until the establishment of the latter in August 2009 — drew up the basic laws for promoting equality, such as the Reform Act on Tax Equity in Ecuador, the Electoral and Political Organizations Act, the Organization Act Reforming the Organization Act on the Civil Service and Public Administration and Standardization and Harmonization of Public Sector Remuneration and the Labour Code, the Food Sovereignty Organization Act and the Act Reforming the Code of Criminal Procedure.

146. These laws are aimed at achieving the following: the equitable distribution of wealth through taxation, in keeping with the principle of proportionality whereby those with higher incomes pay more; access to the means of production by campesinos and others in the farming and fishing sector; the introduction of a system of alternatives to imprisonment and a redefinition of criminal offences to prevent people from being imprisoned because they are poor; and 12 weeks' paid maternity leave for working women and 10 days' paternity leave for men. One of the most important reforms was to include hate crimes in the Criminal Code, in conformity with article 81 of the Constitution, which stipulates that the law shall establish special, expedited procedures for the prosecution and punishment of domestic or sexual violence, hate crimes and offences perpetrated against children, adolescents, young people, persons with disabilities, older persons and persons who for some reason require greater protection, and which mandates the appointment of specialized prosecutors and defence counsel to represent such cases, in accordance with the law.

147. Accordingly, under the current Criminal Code, any person who has been attacked or offended for belonging to a particular group may lodge a complaint with the prosecution service. Specifically, the Code stipulates that murder accompanied by hatred or contempt on grounds of race, religion, national or ethnic origin, sexual orientation, gender identity, age, civil status or disability shall be punishable by 16 to 25 years' rigorous imprisonment (maximum regime). Another serious offence is public incitement to hatred or contempt, or any form of mental or physical violence against one or more persons on the basis of their skin colour, race, sex, religion, national or ethnic origin, sexual orientation or identity, age, civil status or disability, which shall be punishable by 6 months' to 3 years' imprisonment. Furthermore, anyone who commits hate-based acts of mental or physical violence shall be liable to a penalty of 6 months' to 2 years' imprisonment. It is important to draw attention to the definition as a criminal offence of acts committed by persons who, in the exercise of their professional, commercial or business activities, deny a service or payment to, or exclude, infringe, refuse to recognize or restrict the constitutional rights of, an individual on grounds of their skin colour, race, religion, national or ethnic origin, sexual orientation or identity, age, civil status or disability, as well as by public servants who deny or delay a procedure or service to an individual on the same grounds. Such acts shall be punishable by 1 to 3 years' imprisonment and, in the case of public servants, ineligibility to perform their duties for the duration of their imprisonment.

148. As to the issues of equality and non-discrimination, the activities promoted and implemented by the equality councils and the legal and public policy reforms under way should be taken into account. It should be mentioned, by way of conclusion, that various institutions have already undertaken affirmative action as provided for in the laws or the

Constitution, for example to guarantee employment to persons with disabilities, individuals belonging to peoples, communities or nationalities, and persons of diverse sexual orientations or political convictions, among others. This process is also taking place in the judiciary, the legislature, ministries and national secretariats.

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