



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

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

Nineteenth periodic reports of States parties due in 2006

Addendum

ECUADOR*

[11 August 2006]

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* This document contains the seventeenth, eighteenth and nineteenth periodic reports of Ecuador, due on 4 January 2006, submitted in one document. For the thirteenth, fourteenth, fifteenth and sixteenth periodic reports, submitted in one document, and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/384/Add.8 and CERD/C/SR.1556, 1557 and 1580.

Introduction

1. Ecuador has been a State party to the International Convention on the Elimination of All Forms of Racial Discrimination since 22 September 1969 and in that time has submitted periodic reports under article 9, paragraph 1, of the Convention.

2. In accordance with paragraph 23 of the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/62/CO/2), Ecuador hereby submits, in a single document, its seventeenth, eighteenth and nineteenth reports on the legislative, judicial, administrative and other measures it has taken between 2000 and 2006 in application of the provisions of the Convention.

3. This report is intended as a response to the comments and recommendations concerning Ecuador's latest reports, made by the Committee at its sixty-second session. Among the most important points raised were the following:

(a) The inclusion of indigenous and Afro-Ecuadorian women in the political process and measures taken to eliminate double discrimination on grounds of ethnic origin and gender;

(b) Consistent statistical data on the ethnic composition of the Ecuadorian population;

(c) Strengthening of the institutions responsible for the advancement of the rights of indigenous and Afro-Ecuadorian peoples (the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE), the Council for Afro-Ecuadorian Development (CODAE) and the Ombudsman's Office), and an explanation of the interlinkages between them and the delimitation of their responsibilities;

(d) Practical application of the constitutional and legal provisions that outlaw racial discrimination;

(e) Data on access by indigenous and Afro-Ecuadorian populations to primary, secondary and university education and to programmes in their own languages in the mass media;

(f) Detailed information on land titles of indigenous and Afro-Ecuadorian communities and on the legalization of such titles;

(g) Precise figures on indicators relating to the enjoyment of economic, social and cultural rights by Ecuador's various ethnic groups;

(h) Information on the human rights mechanisms and programmes in place for the armed forces, the police and prison personnel;

(i) Chief causes of the lack of confidence in the ordinary judicial system; whether there has been any major change in that system to make it more accessible to ethnic minorities; and information on domestic remedies for acts of racial discrimination, legal avenues for obtaining compensation and the individual complaint procedure. The Committee also requests information on the functioning of the indigenous judicial system;

- (j) Measures to combat discrimination against migrants;
- (k) Information on the steps taken to implement the Durban Declaration and Programme of Action at the national level;
- (l) Involvement of civil society in the preparation of the next periodic report and publication of the report and of the Committee's comments thereon.

4. Ecuador's previous reports to the Committee have omitted any mention of the situation of the Roma, who are active members of Ecuadorian society and have a long history, and a description of the political, cultural and economic situation of the Roma people is therefore included in this report.

5. The Commission for Public Coordination of Human Rights, which was created in December 2002 as an inter-ministerial mechanism to ensure compliance with international human rights obligations, set up in August 2003 the Working Group against Racial Discrimination, the body that prepares the State party's reports on the Convention and follows up on the Committee's comments. The Working Group also coordinates local implementation of the Durban Declaration and Programme of Action. Thus it was this Working Group, which includes civil society organizations working to combat racial discrimination, that prepared the consolidated reports now submitted to the Committee, thereby giving effect to the Committee's recommendation in paragraph 22 of its concluding observations on the State party's previous report (CERD/C/62/CO/2).

6. Ecuador's sixteenth report and the Committee's comments thereon, together with the present report, have been published on the web page of the Commission for Public Coordination of Human Rights, at www.mmrree.gov.ec (follow links *Política exterior* > *Política multilateral* > *Derechos humanos*).

I. GENERAL

7. Ecuador is situated in north-western South America, bordering Colombia in the north, Peru in the south and east and the Pacific Ocean in the west; it has an area of 254,000 km². Ecuador is a social, sovereign, unitary, independent, democratic, multicultural and multi-ethnic State based on the rule of law. Its Government is republican, presidential, elected, representative, accountable, alternating and participatory, with a decentralized administration. Sovereignty resides in the people, whose will is the basis for authority, which is exercised through government bodies and the democratic means provided for in the Constitution. The flag, the coat of arms and the national anthem, as instituted by law, are the symbols of the State.

8. The territory of Ecuador is inalienable and irreducible. It includes the territory of the *Real Audiencia* (Royal Court) of Quito, as modified by treaties currently in force, the adjacent islands, the Galápagos Archipelago, the territorial waters and the corresponding subsoil and airspace. The capital is Quito. Administratively, Ecuador is divided into four geographical areas: the Coastal region, the Highland or Andean region, Amazonia and the Galápagos Archipelago, each of which has its own structure of provinces, cantons and parish councils.

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

10. There are 22 provinces. According to the latest census, carried out in 2001, Ecuador has a population of 12,156,608. The average annual rate of population growth between 1990 and 2001 was 2.1 per cent. The urban population accounts for 61 per cent of the total and the rural population 39 per cent.

11. The female population exceeds the male population by 1 per cent, accounting for 50.5 per cent of the total as compared with 49.5 per cent for men. According to data from 2001, the year of the latest census, there are 6,138,255 women and 6,018,353 men in Ecuador. Of the total population, 830,418 are indigenous, of whom 149,832 live in urban areas and 680,586 in rural areas. As of 2001 the total number of Afro-descendants was 271,372, of whom 178,555 live in urban areas and 92,817 in rural areas. Also according to the 2001 census, the mestizo population is 9,411,890 and the white population 1,271,051.

12. The overall illiteracy rate among the population aged 15 and over is 8.8 per cent. The illiteracy rate among men is 7.1 per cent and among women 10.4 per cent. In geographical terms, the average illiteracy rate in urban areas is 5.3 per cent and in rural areas 15.5 per cent. The rate among the indigenous population is 28.2 per cent, among Afro-Ecuadorians 10.3 per cent and among the mestizo population 8 per cent.

13. The 2001 census gives the following figures for school attendance: Afro-Ecuadorians, 6.3 years of schooling, the indigenous population, 3.3 years and mestizos, 7.4 years. According to data from the National System of Statistics and Censuses (SINEC), as of 2000 there were 5,908 single-teacher schools in Ecuador, out of a total of 14,711 public schools, i.e. 40.2 per cent of all public schools. Academic attainment levels in urban areas are as follows: primary, 77.7 per cent, secondary, 31.4 per cent and higher education, 24.8 per cent; and in rural areas, primary, 45.4 per cent, secondary, 15.2 per cent and higher education, 6.3 per cent. Academic attainment levels for the population as a whole are: primary, 65.7 per cent, secondary, 25.2 per cent and higher education, 18.1 per cent.

14. The annual inflation rate in Ecuador was 3.8 per cent as at November 2005. Ecuador currently has a large fiscal deficit, foreign currency reserves of US\$ 1.2 million, reference lending interest rates of 14 per cent and borrowing rates of 5 per cent. These margins remain high in order to stimulate production, not least because Ecuador is a dollar economy.

15. Ecuador's external debt amounts to US\$ 10,336,000,000, according to figures provided by the Central Bank up to November 2005.

16. The nominal standard minimum wage is US\$ 150 per month and annual per capita income is around US\$ 2,502. As of November 2005, the overall unemployment rate was 9.71 per cent and underemployment stood at 47.12 per cent (of an economically active population (EAP) of 4,553,746).

17. In compliance with the obligations it assumed upon ratification of the Convention, Ecuador has amended its legislation to incorporate a range of initiatives into its domestic legal order as State policies aimed at rooting out racial discrimination and other practices that militate against dignified and equitable living conditions for its people, representing as they undoubtedly do an obstacle to the social, political and economic development of the country.

18. Under article 17 of the Constitution of Ecuador, adopted in 1998, the State shall guarantee to all its inhabitants, without discrimination of any kind, the free and effective exercise and enjoyment of the human rights established in the Constitution and the international declarations, covenants, conventions and other instruments currently in force. It shall take steps to ensure the effective enjoyment of those rights, through ongoing and periodic plans and programmes. In addition, under article 19 of the Constitution, “The rights and guarantees established in the Constitution and international instruments do not exclude others deriving from the nature of the individual and necessary to his or her full moral and material development.”

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

19. Ecuador defines the following racist acts as offences:

- Punishable by 6 months’ to 3 years’ imprisonment: dissemination or incitement by any means, acts of violence or funding of racial discrimination;
- From 2 to 5 years’ imprisonment where acts of violence result in bodily injury;
- From 16 to 25 years’ special long-term imprisonment where such acts result in death;
- Penalties are increased where the perpetrators are institutions or State officials.¹

20. Neither the ordinary courts nor the prosecution service report any complaints of such offences, possibly because some racial prejudices and racist behaviour, particularly towards the indigenous and Black communities, are not manifested openly and are therefore difficult to categorize as offences under the law. This may go some way to addressing the Committee’s concern regarding the causes of ethnic minorities’ lack of confidence in the ordinary legal system (CERD/C/62/CO/2, para. 17).

21. The Ecuadorian State has taken special measures to ensure the proper development and protection of minorities susceptible to racial discrimination, including the creation and strengthening of State bodies and public-private bodies involving both State and civil society.

22. As requested in paragraph 10 of the Committee’s concluding observations (CERD/C/62/CO/2), an explanation follows of the interlinkages, objectives and missions, as well as the delimitation of the responsibilities, of the various national institutions responsible for the advancement of the indigenous and Afro-Ecuadorian peoples: the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE), the Council for Afro-Ecuadorian Development (CODAE), the Development Project for Indigenous and Black Peoples of Ecuador (PRODEPINE) and the Ombudsman’s Office.

23. CODENPE's mission is to promote and facilitate the comprehensive sustainable development with identity of the nationalities and peoples of Ecuador through policy formulation, joint management, participation, coordination, equality and the supply of resources, thereby enhancing their quality of life.

24. The main objectives are:

(a) To design a new model of sustainable comprehensive development with identity for the nationalities and peoples of Ecuador;

(b) To establish State policies and legislative reforms on the basis of consensus with the nationalities and peoples;

(c) To strengthen the nationalities and peoples by consolidating their own community governments and organizational structures, ensuring respect for their identity and culture;

(d) To ensure that CODENPE is an institution that encourages participation and is representative of the nationalities and peoples, and has the capacity required for coordination, planning and implementation.

25. CODAE's main objective is to promote State policies for the development of the Afro-Ecuadorian people, publicize Afro-Ecuadorian rights, values, culture and history and encourage ethnic education. However, its operating mechanisms are still in the formative stage owing to a succession of internal crises caused by a lack of agreement among the Afro-Ecuadorian organizations themselves. The State's annual budget allocation to CODAE for 2006 was US\$ 996,535.

26. While CODENPE and CODAE were established within the executive branch, the legislature set up a Special Standing Committee on Indigenous Peoples and other Ethnic Groups, which includes Afro-Ecuadorians.

27. The PRODEPINE project, which was wound up in August 2004, worked on the sustainable development with identity strategy with Ecuador's 12 nationalities and peoples, in the three regions of the country (the coast, the highlands and Amazonia). The project reached 19 of the country's 22 provinces, 108 of the 213 cantons and 434 of the 788 rural parishes.

28. Population coverage was around 1,440,000, including 1,346,000 indigenous people and 94,000 Afro-Ecuadorians, in 4,748 base communities, 57 per cent more than the target initially set. The project outcomes indicate a concentration of resources in the highlands, where the majority of the indigenous population lives.

29. The PRODEPINE project achieved the following results:

(a) It built up the technical, administrative and managerial capacity of indigenous and Afro-Ecuadorian organizations at the local, regional and national levels, with a view to encouraging them to play a more active part in the formulation of government policies and improve the provision of economic services to these communities;

(b) It allowed democratic integration of the indigenous and Black peoples by incorporating their own vision of development and harnessing their existing resources and human and social capital;

(c) It systematized and improved access to land and water resources for project beneficiaries;

(d) It increased local capacity, to allow community members to participate in identifying, designing and implementing production and social infrastructure projects;

(e) It facilitated financial resources for investment in production by rural communities, families and individuals; and

(f) It strengthened State institutions in order to create sufficient capacity for policy formulation and for planning and coordination of activities on behalf of the target population.

30. CODENPE has established a number of other executive units, including:

(a) The Cotopaxi Rural Development Project (PRODECO), which is being implemented with European Union cooperation, to support the development of the communities affected by the 1998 earthquake. It is currently working with 50 of the poorest communities in Cotopaxi province;

(b) The Ecuadorian Nationalities and Peoples Information and Research System (SIDENPE), a decentralized project of CODENPE, whose purpose is to carry out research and update information on the characteristics and current overall situation of Ecuador's indigenous peoples (www.codenpe.gov.ec). In setting up this project and creating the CODENPE website, the State hopes to address the concerns expressed by the Committee on paragraph 9 of its comments (CERD/C/62/CO/2), insofar as the system will provide consistent statistical data on the ethnic composition of Ecuador's indigenous population. The CODENPE website provides disaggregated data on the 13 indigenous nationalities and the 14 peoples comprising the Quechua nationality (e.g., language, population, location and socio-political organization);

(c) The Project to Strengthen Alternative Indigenous Municipalities (FORMIA), which helps improve technical and administrative management in Ecuador's 37 indigenous municipalities;

(d) The Indigenous Peoples' Development Fund (FODEPI) was established by the State within the Office of the President in January 2003. It has a public social mission and administrative, financial and operational autonomy, comprises representatives of the State and of the indigenous peoples and has sufficient capacity to administer its resources. The Fund coordinates its work with CODENPE and its objectives include the following:

- To develop and approve projects making use of reimbursable resources and geared towards the development of the community and of production among the indigenous peoples and their members;

- To encourage the development of financial systems and technical, business and financial capacity among the indigenous peoples.

The funds themselves are constituted as a capital sum that must be maintained, may not be spent and must be placed in secure, profitable investments. Returns on these investments are to be used to finance projects that reflect the Fund's objectives. The Fund consists of a board comprising the Office of the President, the Ministry of the Economy and Finance, the National Finance Corporation, the Confederation of Indigenous Nationalities (CONAIE) and CODENPE.

31. The Ombudsman's Office is the institution responsible for defending fundamental rights and is viewed as the principal guarantor of constitutional freedoms and safeguards. The Office has two departments at the national level which ensure the defence and enjoyment of the rights of the indigenous peoples and Afro-Ecuadorians.

32. The primordial and essential function of the Ombudsman's Office is the defence and protection of human rights. To that end, a Human Rights Protection Council was established, bringing together direct representatives of vulnerable groups, social sectors and the indigenous and Afro-Ecuadorian peoples. The Council deals with the following areas, through special units:

- (a) Women;
- (b) Children and young people;
- (c) Older people and persons with disabilities;
- (d) The indigenous peoples;
- (e) The Afro-Ecuadorian peoples;
- (f) Peasant workers;
- (g) Consumers.

33. Under the terms of its constituting instrument, the Council deals with complaints arising in the specialist area of any of these units, advises the Ombudsman's Office on policy formulation and implementation and on the consideration and drafting of notices of public censure of those with material or intellectual responsibility for facts or behaviour that violate human rights, and monitors implementation of Ecuador's National Human Rights Plan.

34. The Statute of the Deputy Ombudsman for the Indigenous Peoples was adopted on 14 January 2000. This office commenced operations in January 2001 and is basically responsible for reviewing cases or allegations of violations in this area. The unit's name was later changed to National Department for the Indigenous Peoples (DINAPIN). The Ombudsman's Office also established, on 6 September 2000, a National Department for the Defence of the Afro-Ecuadorian Peoples, with headquarters in Guayaquil and similar functions to the Department for the Indigenous Peoples.

35. The Department for the Indigenous Peoples has acted on a number of complaints from indigenous street traders to prevent removal and confiscation of their stalls and, through mediation, has concluded important agreements with the city of Quito in this regard. The Department has also dealt with complaints of racist acts against indigenous culture, again reaching amicable settlements upholding the collective rights of the complainants.
36. The Department dealt with 289 cases of racial discrimination between 2001 and 2005. This addresses the concern expressed by the Committee in paragraph 11 of its comments (CERD/C/62/CO/2), regarding special measures in favour of the indigenous and Afro-Ecuadorian populations, through competent bodies such as the Ombudsman's Office.
37. At the local (i.e. municipal) level, forums for ethnic development have been created, as in the Quito Metropolitan District, which, like the cantonal authority of Puerto Quito, has a Department of Sustainable Human Development, with units dealing with indigenous and Afro-Ecuadorian diversity.
38. With reference to paragraphs 12 and 20 of the Committee's concluding observations (CERD/C/62/CO/2), the State party can report that the Standing Committee on the National Human Rights Plan - a bipartite State-civil society body - has since 2003 been conducting human rights training in all 22 provinces under the National Human Rights Plan. This training aims to create a culture of tolerance and non-discrimination through implementation of the operational plans on the Afro-Ecuadorian people, migrants, foreigners and refugees, sexual minorities and human rights education.
39. The police force has introduced human rights as a subject in all police training courses at all levels.
40. The general training programme of the General Alberto Enríquez Gallo Police School includes human rights as a cross-cutting subject in which every student must obtain a pass. Human rights courses last three years, at 60 hours per year, and are classroom-based. The same applies at the National Police Headquarters School, which has a 45-hour classroom-based academic course for commanders and senior advisers.
41. An 80-hour, classroom-based human rights course is offered to junior police officers and for promotion there is a 40-hour distance-learning human rights course. For specialist and further training on human rights, 70-hour courses are offered to second lieutenants, lieutenants and captains.
42. One component of the National Human Rights Plan is the operational plan on human rights in prisons, prepared with the help of the National Prisoners' Committee and civil rights organizations. In January 2006, in cooperation with civil society, the Standing Committee on the National Human Rights Plan published two manuals, one on due process in prisons and another on training for teams working in detention and social rehabilitation centres, as well as a leaflet entitled *Los Derechos son de Todos y Todas* ("Rights are rights for all"), which have grown out of training given to senior staff in prisons around the country, including police officers, specialists such as doctors, psychologists, social workers, educators and workshop supervisors,

and custodial personnel. The beneficiaries of the training will be 3.96 per cent indigenous, 9.13 per cent white, 11.63 per cent Black and 75.89 per cent mestizo - i.e. the total prison population.

43. In response to paragraph 21 of the Committee's comments (CERD/C/62/CO/2), mention must be made of Ecuador's work on the Durban Programme of Action. The State party has taken a number of steps to create forums for direct participation by the indigenous and Afro-Ecuadorian population, in order to permit the full enjoyment and exercise of their rights. The National Human Rights Plan adopted in 1998 makes specific reference to the rights of these groups (arts. 8 and 11), and the Durban Programme of Action has played a supplementary - albeit a highly important - role in reinforcing Ecuador's own programme.

44. The State party will now give details of its implementation of the Durban Programme of Action since its adoption in 2001.

45. Legislative measures (Durban Programme of Action, para. 67). As mentioned in the previous report, Ecuador's new Constitution explicitly prohibits all forms of discrimination, including racial and related forms of discrimination (art. 23, para. 3): "All persons shall be considered equal and shall enjoy the same rights, freedoms and opportunities, without discrimination on grounds of birth, age, sex, ethnic group, colour, social origin, language, religion, political affiliation, financial status, sexual orientation, state of health, disability or difference of any other nature." This is one of the most comprehensive non-discrimination clauses to be found at the constitutional level. Ecuador has also amended its Criminal Code to define racist activities as an offence. Homosexuality was decriminalized in Ecuador in 1997.

46. National action plans (Durban Programme of Action, para. 66). In line with its National Human Rights Plan, adopted as a State policy in 1998, Ecuador has been working since 1999 to adopt sectoral operational plans, involving actors at the local, provincial and national levels in the following themes to do with racial discrimination, xenophobia and other related forms of intolerance:

- (a) Operational plan on indigenous peoples' rights;
- (b) Operational plan on the Black population's rights;
- (c) Operational plan on migrants, foreigners, refugees and stateless or displaced persons;
- (d) Operational plan on women's rights;
- (e) Operational plan on sexual diversity;
- (f) Operational plan on children's and young people's rights;
- (g) Operational plan on the rights of persons with disabilities;
- (h) Operational plan on older people's rights;

- (i) Operational plan on prisoners' rights;
- (j) Operational plan on consumers' rights;
- (k) Operational plan on workers' rights;
- (l) Operational plan on human rights education.

47. These operational plans are the product of wide consultations with all the sectors of society involved in each area, and particularly human rights and civil society organizations, which took the lead in drafting and publicizing each document. Each plan was directed by a sectoral subcommittee comprising representatives of the State and civil society and the texts were refined as the consultations progressed. Yet only eight plans have been put into effect since 2003, approval by the other subcommittees having been delayed for various reasons, notably a lack of consensus and the involvement of the relevant social sectors in other work that has been given higher priority:

- (a) Operational plan on the Black population's rights;
- (b) Operational plan on workers' rights;
- (c) Operational plan on sexual diversity (gays, lesbians, transgenders and bisexuals);
- (d) Operational plan on older people's rights;
- (e) Operational plan on foreigners, migrants, refugees and stateless or displaced persons;
- (f) Operational plan on consumers' rights;
- (g) Operational plan on human rights in prisons;
- (h) Operational plan on human rights education.

48. All these plans, particularly those relating to the Black population, foreigners and migrants, incorporate the recommendations of the Durban Programme of Action (paras. 68, 69, 71 and 72).

49. The National Human Rights Education Plan provides for human rights education as a means of preventing all forms of discrimination and intolerance. The plan's cross-cutting themes cover all human rights and all groups at risk of or subject to any form of discrimination.

50. In the State party's view, considerable progress has been made on raising awareness of efforts to combat discrimination, as a result of concrete measures provided for by each operational plan - measures that must be implemented gradually, for the National Human Rights Plan is an instrument for short-, medium- and long-term action geared towards preventing and eradicating human rights violations and discriminatory and intolerant practices of all kinds from all sectors of Ecuadorian society.

51. The sectoral operational plans are approved, evaluated and adjusted by the Standing Committee for Follow-Up to the National Human Rights Plan, a national joint standing body comprising nationally elected representatives of the State and civil society, which oversees implementation of the National Plan and also national implementation of the Durban Programme of Action.

52. Ratification of international instruments. Ecuador has ratified all the international instruments against racism, discrimination, xenophobia and other related forms of intolerance mentioned in paragraphs 78 and 82 of the Durban Programme of Action, including the Rome Statute of the International Criminal Court.

53. At the Andean regional level, Ecuador advocated the elaboration and adoption of the Andean Charter for the Promotion and Protection of Human Rights, which devotes an entire chapter to discrimination and intolerance and the protection of all the human, civil, political, economic, social, cultural and collective rights of groups at risk of or subject to discrimination. This initiative is also a major step forward by the Andean nations in implementing the Durban Programme of Action.

54. Ecuador is aware that other measures specified in the Durban Programme of Action have yet to be initiated, but considers that what it has achieved to date, despite its economic problems and the difficulty of reaching national agreement, represents significant progress along the arduous path to the elimination of discrimination and intolerance.

55. With regard to paragraph 16 of the Committee's comments (CERD/C/62/CO/2), the State party wishes to report the establishment, in 2005, of (a) an Indigenous Peoples and Afro-Ecuadorians Unit within the Ministry of the Interior; and (b) a task force comprising officials of the International Labour Organization (ILO), representatives of CODENPE, the Ministry of Labour and Human Resources and the Ministry of Foreign Affairs, a representative of civil society and another member representing the universities, with the specific task of evaluating the implementation of the ILO Indigenous and Tribal Peoples Convention (No. 169), and particularly articles 13 to 19 on the indigenous and Afro-Ecuadorian peoples' title to land.

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

57. With regard to Afro-Ecuadorians' access to land and legalization of title, handover of ownership to a number of Afro-Ecuadorian municipalities, through the ancestral land title procedure, was completed on 29 May 1996, as follows:²

Municipality	Hectares	Families benefiting
Arenales	2 293.63	48
Río Onzole	10 218.66	276
Río Bogotá	1 416.30	28
La Peñita	319.00	13
Playa de Oro	10 400.00	50
Total	24 697.59	217

58. On the question of remedies available to claim compensation for environmental depletion in indigenous and Afro-Ecuadorian peoples' traditional lands, the Constitution establishes (art. 84, para. 5) the right to "obtain compensation for socio-environmental harm" caused by projects or programmes to prospect for or extract non-renewable resources to be found on their lands. Chapter 6 of the Constitution sets forth the relevant constitutional, judicial and legal safeguards and remedies. Article 43 of the Environmental Management Act establishes the procedure for determining compensation for environmental damage and harm.

59. With reference to the Committee's concern regarding the indigenous and Black communities' share in the social and environmental benefits of exploitation of the subsoil resources, these communities benefit from improved road infrastructure, more diverse and improved agricultural production, job creation, a rise in income and reinforcement of community self-administration, leading to greater involvement in the work of the State.

60. Even so, there are oil drilling programmes that appear not to have been subject to consultation with the indigenous communities, most notably block 23, in the community of Sarayacu, Pastaza province, where the Compañía General de Combustibles is drilling. In this regard, the State has complied with the provisional measures granted by the Inter-American Court of Human Rights in its decision of 6 July 2004, namely to investigate the allegations made by the community of Sarayacu and to guarantee the inhabitants' right to freedom of movement within the drilling zone.

Economic, social and cultural rights of vulnerable groups

61. In response to the recommendation contained in paragraph 13 of the Committee's comments (CERD/C/62/CO/2), the State of Ecuador reports that, in allocating resources, it has given priority to those groups considered to be at risk of racial discrimination - indigenous peoples, Afro-descendants, women and children - by introducing, inter alia, a "human development voucher" and a Social Agenda, with the aim of eliminating the great economic and social inequalities brought about by the increase in poverty resulting from the inequitable relations and yawning gulf between social classes currently faced by Latin American countries, and by external factors such as structural adjustment and foreign debt payments.

62. One of the State's commitments under the Millennium Development Goals is to halve the number of people living in extreme poverty. To that end, the State proposes, as a poverty-reduction mechanism, the protection and enhancement of human capital by defending the assets of the poor through social protection programmes and initiatives. The following are some of the actions envisaged.

63. Social Support Network. This is basically a set of subsidies, in cash or kind, made available to families living in extreme poverty through what is known as the Human Development Voucher, which gives poor families a monthly cash allowance. The programme pushes families to meet a number of commitments in terms of school attendance and health care for children aged under 16. The programme currently has 1,140,762 beneficiaries from three groups - mothers, older people and people with disabilities - and a budget of US\$ 160 million.

64. Rolling initiatives and other programmes in health, education and nutrition, targeting the most vulnerable sectors:

(a) The School Meals Programme (PAE) aims to provide food supplements to children of school age (6-15) and incentives to stay in school rather than dropping out. The programme currently reaches 1,450,000 poor children in State schools and has a budget of US\$ 17 million;

(b) The National Preschool Education Programme (PRONEPE) targets children aged 3 to 6 in rural and marginal urban areas. The programme benefits 35,000 children and has a budget of US\$ 115,000;

(c) Redes Amigas (Networks of friends) aims to enhance the quality of basic education in rural areas. The programme benefits 2,184 schools and has a budget of US\$ 11 million;

(d) The National Food and Nutrition Programme (PANN) aims to guarantee proper nutrition for children aged under 2 and pregnant women. The programme benefited 124,807 under-two-year-olds and 99,788 pregnant women in 2003 and has a budget of US\$ 5.7 million;

(e) The expanded immunization programme aims at universal vaccination against polio, tetanus and measles. In 2003, 5,264,991 vaccinations were given, with a budget of US\$ 10 million;

(f) The free maternity programme offers pregnant women timely antenatal care free of charge. In 2003 there were 1,578,000 beneficiaries;

(g) The Comprehensive Micronutrients Programme aims to reduce the prevalence of anaemia and iodine and vitamin A deficiency in pregnant women and children aged under 1. It reached nearly 1 million children and 22,532 pregnant women in 2003 and has a budget of US\$ 840,000;

(h) The Child Rescue Operation (ORI) promotes the comprehensive development of children aged up to 6, by concentrating on diet, health and skills development. The programme reaches 60,000 children and has a budget of US\$ 25 million;

(i) The Alimentate Ecuador food programme (formerly the Food and Community Development Programme (PRADEC)) aims to supplement the diet of children aged 2 to 5, older people and people with disabilities. It reached 248,088 children in 2003, 69,291 older people and 28,729 people with disabilities.

65. Rolling initiatives and other programmes to provide training and loans to small production units. Work training initiatives and programmes, innovative models of job creation, microfinance and local development:

(a) The Prolocal programme aims to reduce rural poverty by facilitating access to job opportunities, production and income generation. The programme benefited 855,104 poor people in 2003, with a total budget of US\$ 3.7 million;

(b) A programme of solidarity loans for production offers credit and training to augment the income of families living below the poverty line. In 2003, 17,500 microcredits were granted in an average amount of US\$ 353;

(c) The housing voucher programme facilitates house acquisition, construction and improvement through financial credit. The programme built 37,738 new homes in 2003 and improved 10,448;

(d) The PRODEPINE project aims to improve the standard of living of the indigenous and Afro-descendant population by offering production loans and building production infrastructure. The programme benefited some 361,000 families in 2003 and has a budget of US\$ 5 million;

(e) The Ministry of Labour job training and vocational training programme organized 3,219 training events in 2003, attracting 55,295 participants.

66. Emergency Social Investment Funds (FISE). Over and above these lines of action reflected in the Government's various poverty-reduction projects, there are also a number of institutions, such as the Emergency Social Investment Fund and the Solidarity Fund, which seek to improve the quality of life and standard of living of Ecuador's poorest people by carrying out basic infrastructure projects in the areas of education, health, sanitation and roads, or funding specific social investment projects.

67. The Emergency Social Investment Fund programme, now in its third phase, is in substance, approach and purpose a poverty-reduction programme, and the latest proposal also presented itself as part of a vision for local development.

68. The Fund, which is now in its third phase, with Inter-American Development Bank (IADB) financing, reaches at least 500 communities in the 220 poorest parishes of Ecuador, as selected on the criteria of poverty, basic unmet needs index and regional balance. The beneficiary population comprises some 900,000 residents of those parishes.

69. The range of projects is as follows:

- Education: basic education schools;
- Health: dispensaries, health subcentres and centres;
- Water: small drinking-water projects;
- Sanitation: drainage and latrines;
- Roads: small repair and improvement projects on country roads, mule tracks, bridges and walls;
- Welfare: childcare and senior care centres, hostels.

Gender perspective

70. As regards paragraph 15 of the Committee's comments (CERD/C/62/CO/2), concerning the double discrimination (i.e. gender and ethnic discrimination) suffered by many indigenous and Black women, there are a number of points to be made.

71. There are 6,100,000 women in Ecuador, of whom just over 3 million live in the coastal region, just under 3 million in the highlands and more than 250,000 in Amazonia. Some 3 per cent are Black and 8 per cent indigenous, and more than 1 million are aged between 10 and 18. Of those who speak an indigenous language or live in homes where indigenous languages are spoken, 52 per cent have basic unmet needs; 75 per cent live in rural areas, although poverty in the cities is spreading at a dizzying rate.³

72. In terms of women's social involvement - essential for democratic governability and social and political participation on an equal footing - there has certainly been a proliferation in the variety of faces of the women's movement, as represented by indigenous women, young women, Afro-descendant women, working-class women, women sex workers and lesbian women, as well as the more traditional sectors, not to mention the enormous variety of organizations and branches of the movement in the country as a whole.

73. The National Council for Women (CONAMU) was established by Executive Decree No. 764 (*Official Gazette*, Supplement No. 182, 28 October 1997). According to its terms of reference (art. 41), CONAMU's vision is to change Ecuadorian women's lives; its mission is to formulate public policies to promote and protect women's human rights and achieve gender equality.

74. The Equal Opportunities Plan 2005-2009 promoted by CONAMU is organized around four sets of rights, which form the basis of the diverse women's agenda and of the rights-based approach that informs the Plan as a whole.

75. The set of rights relating to promotion and protection of cultural and intercultural rights and the right to education, quality of life and autonomy recalls the need to integrate the intercultural perspective into public policy and link it with the diverse women's agenda.

76. Moreover, consultations on the Equal Opportunities Plan threw into stark relief the need to include measures to prevent, punish and eliminate violence against indigenous, Afro-descendant and peasant women, adolescents and girls, having due regard to human rights imperatives and tackling the issue through the core ethnocultural groupings that might help drive positive change in women's, adolescents' and girls' lives within their communities.

77. The Indigenous Women's Conference organized in March 2004 as part of the process of elaborating the Plan was attended by six peoples and three nationalities and looked mainly at the topic of violence, as one of the biggest problems holding indigenous women back in development and access to opportunities, and highlighted the need for training in women's rights.

78. In the area of education, attention was drawn to the need to address the issues of sexual harassment and abuse and early pregnancy as matters of priority, as well as the importance of measures to combat cultural violence against indigenous women in public spaces of various kinds. Mention was also made of the need to expand and improve health services, from an intercultural perspective, to provide care for indigenous women who are victims of violence.

79. The Equal Opportunities Plan 2005-2009 sets out various policy guidelines aimed at guaranteeing indigenous women's exercise of their rights, chiefly with regard to access to justice, education, health and environmental rights.

80. On the question of indigenous women's access to justice, the Plan refers to the need for the State to create intercultural models for the prevention and elimination of gender violence and a reduction of the high level of impunity for offences against diverse women. In this regard it highlights the importance of guaranteeing human rights principles taking account of customary law and collective rights, through discussion and motions in proceedings coordinated by the institutions responsible for Ecuador's indigenous peoples and nationalities.

81. There is also a proposal for establishing intercultural models of access to basic social services in mainly indigenous or Afro-descendant areas of the country. As to education, the Plan proposes developing whatever affirmative action policies are needed to keep girls from indigenous and Afro-Ecuadorian peoples in the education system. It further establishes the need to train women using a range of educational approaches, taking account of the actual situation in each region and encouraging attendance by women from indigenous and Afro-descendant peoples. During the 2004/05 educational year, the intercultural bilingual system applied by the Ministry of Education benefited 56,410 indigenous women and girls in 19 provinces, including 7,580 adult women in literacy classes, 39,550 girls in basic education, 9,148 adolescents in intermediate education and 123 in higher education.

82. Lastly, on environmental rights, the Plan recommends positive initiatives to reduce the impact of environmental damage by the energy, mining and agro-industrial sectors, particularly in areas with large numbers of indigenous peoples and nationalities and Afro-Ecuadorian populations.

Afro-Ecuadorian people

83. The Afro-Ecuadorian people is made up of families of African descent in urban and rural communities, who have kept their own culture and share a common history, which they wish to preserve and develop and transmit to future generations.

84. Afro-Ecuadorians can be found in nearly every province of Ecuador. They originally settled in Esmeraldas, Imbabura, Carchi and Loja; more recently - in the 1960s as a result of internal migration - they have also settled in the provinces of Guayas, Pichincha, El Oro, Manabí, Sucumbíos and Orellana.

85. In accordance with paragraph 9 of the Committee's concluding observations (CERD/C/62/CO/2), comprehensive information is provided below on the ethnic makeup of

Ecuador's minority racial groups. According to data from 2005 provided by the National Institute of Statistics and Censuses, Afro-Ecuadorians account for 5 per cent of the total population, i.e. around 604,009 inhabitants. Afro-descendant organizations, however, estimate that the figure is nearer 900,000. The data from both sources varies because many survey respondents do not accept their own race.⁴

86. The majority (68.7 per cent) of Afro-Ecuadorians live in urban areas. According to Afro-descendant organizations, more than 154,000 Afro-Ecuadorians live in Guayaquil, principally along the Gran Estero del Salado, the most marginalized area of the city. Quito has more than 44,000 and there are smaller groups in Esmeraldas, Ibarra, Cuenca, Lago Agrio, Santo Domingo and Machala. Around one in three Afro-descendants live in Ecuador's two biggest cities, Quito and Guayaquil.⁵

87. Racial discrimination can be objective or subjective. Objective discrimination is reflected in economic, social, cultural and political marginalization, while subjective discrimination takes the form of prejudices, stereotyping and linguistic usage that undermine the dignity and equality of black people.

88. During the 1990s, the demands of Afro-descendant organizations centred around the enjoyment of economic, social, political, territorial and cultural rights. Their first success came with the 1998 Constitution, which recognized Afro-descendants as a people within the meaning of ILO Convention No. 169 (1989), thereby establishing 15 collective rights as well as the right to create traditional settlements, known as Afro-Ecuadorian administrative districts.⁶

89. In response to the Committee's recommendation in paragraph 13 of its comments (CERD/C/62/CO/2), indicators are provided below reflecting this ethnic group's enjoyment of economic, social and cultural rights.

90. According to the sixth population census and the fifth housing census, carried out in 2001, 73.8 per cent of Afro-descendants have unmet basic needs.

91. The 2001 census gives the following figures for Afro-Ecuadorians in the area of education: illiterate, 1,288; primary education, 111,324; secondary education, 53,900; post-baccalaureate education, 1,090; higher education, 11,162; postgraduate education, 113.

92. The State budget allocation for the financial year 2002 to ensure the operation of the Council for the Development of Afro-Ecuadorian Peoples (CODAE) was 0.51 per cent, 100 per cent of which was used; the accrued value is 0.57 per cent. CODAE's budget for 2006 is US\$ 996,535 (*Source*: CODAE).

Employment

93. Some 812 Afro-Ecuadorians work as legislators and senior government officials or managers. There are 132 Afro-descendants working as directors and chief executives of State or private enterprises.

94. According to the sixth census, Afro-Ecuadorians account for 412 chief executives of companies employing between 5 and 9 staff, 162 physicists, chemists, mathematicians and engineering science professionals, 349 life science and health professionals, 2,118 teaching professionals, 436 other professionals, 233 chemical and physical science technicians, 133 life science and health associate professionals, 703 teaching associate professionals and 446 other associate professionals.

95. There are 3,016 office clerks, 388 customer services clerks, 6,002 personal and protective services workers, 8,819 models, sales persons and demonstrators, 15,131 skilled agricultural workers, 128 subsistence agricultural and fishery workers, 8,057 extraction and building trades workers, 4,984 metal, machinery and related trades workers, 806 precision, handicrafts, printing and related trades workers, 3,391 other craft and related trades workers, 418 stationary-plant and related operators, 1,352 machine operators and assemblers, 3,377 drivers and mobile-plant operators, 19,833 unskilled sales and services workers, 11,657 agriculture, fisheries, forestry and related labourers, 9,737 persons of unknown occupation and 1,041 new workers.

96. There are 876 Afro-descendants in the Ecuadorian police force, 845 men and 31 women, with the following ranks: (a) men: 2 first non-commissioned officers (NCOs), 10 second NCOs, 23 first sergeants, 22 second sergeants, 26 corporals, 172 lance-corporals and 590 constables; (b) women: 1 first sergeant, 3 second sergeants, 1 corporal, 6 lance-corporals and 20 constables.

Electoral rights

97. Political participation among this sector of the population has increased over the past four years. The Supreme Electoral Tribunal reports that 2.15 per cent of the total number of candidates were Afro-Ecuadorian in 2000, while in the 20 October 2002 elections, out of the total number of candidates in the coastal region, 8 per cent were Afro-Ecuadorians, with 1.5 per cent in the highlands and 0.5 per cent in Amazonia. Of these, only 0.25 per cent of the Afro-Ecuadorian population was elected at the national level.⁷

98. Afro-Ecuadorian representation among ministers, under-secretaries and provincial department heads in 2002 was 0.5 per cent and in 2003, 0.15 per cent.

99. Racist allusions continue to be found in everyday speech and indeed in certain parts of the media, reflected either in terms that discriminate against vulnerable groups or in a tendency to stereotype Afro-descendants and indigenous peoples in a negative and derogatory fashion.

100. As already mentioned, however, in accordance with its obligations under the Durban Declaration and Programme of Action, the State has undertaken to educate the Ecuadorian population by means of campaigns such as the National Human Rights Plan, in order to eliminate all forms and practices of racial discrimination.

Indigenous communities and peoples in Ecuador

101. According to the latest population census, carried out in November 2001, Ecuador's indigenous peoples account for 6.8 per cent of the total population, amounting to 830,418, of

whom 404,748 are men and 425,670 women. Of these, 149,832 live in urban areas and 680,586 in rural areas. However, according to data from CODENPE, obtained from a nationwide survey carried out by PRODEPINE, as of 2005 the indigenous population, which consists of 13 nationalities and 27 peoples, comprised an estimated 1,214,308 inhabitants, or around 10 per cent of the country's total population.

102. As with Afro-descendants, the data from both these sources varies greatly, partly because many of the survey respondents do not accept their own race, but also because the census took language as the only criterion of ethnic identity, thereby excluding those who consider themselves indigenous but no longer speak their ancestral tongue.

103. The Constitution recognizes the indigenous populations as ancestral peoples, belonging to self-identifying nationalities. Definitions are given below of some of the terms relating to these groups, based on information provided by CODENPE.

Indigenous nationalities

104. Indigenous nationalities are ancient peoples or groups of peoples predating the foundation of the Ecuadorian State, who traditionally live in a specific area and have their own language and a cultural identity distinct from those of other sectors of society. They are governed by their own institutions and authorities and by their own law and customary law.

105. The nationalities comprise a number of peoples, centres and organizations, which differ one from the other but also share certain basic characteristics.

Indigenous peoples

106. Indigenous peoples are traditional groupings comprising communities or centres with common cultural and historic identities, living in a specific area and having a shared language but various dialects. They are governed by their own institutions, authorities, law and customary law and social, economic, cultural and political structures. The indigenous peoples belong to one of the nationalities as described in the preceding paragraph.

Indigenous communities

107. Indigenous communities are the territorial base of the indigenous peoples. They comprise a group of families or relations living in a specific area or on specific communal land. Like the indigenous peoples and nationalities, indigenous communities have a shared language and history and their way of life is founded on collective practices of reciprocity and solidarity. Community lands are exempt from property tax, may not be attached and are indivisible and inalienable.

108. With reference to paragraph 14 of the Committee's concluding observations (CERD/C/62/CO/2), according to the 2001 census, Ecuador's indigenous population has the following level of educational attainment: primary education, 359,909; secondary education, 66,014; basic education, 66,547; intermediate education, 4,656; post-baccalaureate education, 1,785; higher education, 10,196; postgraduate, 174; not known, 45,137.

109. Although the indigenous peoples generally work in agriculture, they can also now be found in other employment in the public or private sector, e.g.: legislators and senior government officials, 148; armed forces, 890; directors and chief executives of enterprises, 957. The indigenous peoples are also represented in the following areas: physicists, chemists, mathematicians and engineering science professionals, 149; life science and health professionals, 213; teaching professionals, 2,062; other professionals, 392.

110. The indigenous population in unskilled employment can be broken down as follows: sales and services, 31,728; agricultural labourers, 89,713; labourers in mining, construction, manufacturing and transport, 8,973; not known, 998. Indigenous peoples account for 121 members of the police force, with the following breakdown by grade and sex: second sergeants, 3 men, 0 women; constables, 7 women, 111 men.⁸

111. In response to paragraph 19 of the Committee's comments (CERD/C/62/CO/2), the State party wishes to provide information on the functioning of the indigenous judicial system.

112. Under article 191 of the Constitution, the indigenous authorities are empowered to exercise judicial functions, applying their own laws and procedures in settling internal disputes in accordance with their own custom or customary law, provided these are not contrary to the Constitution or the law, i.e. they do not violate individuals' basic human rights. The Constitution also provides that the law shall ensure that those functions are compatible with the functions of the ordinary judicial system, by which is meant, not that indigenous justice shall prevail over ordinary justice, but that provision shall be made for the latter not to be applied where the former has already run its course, and vice versa.

113. The indigenous peoples have submitted to Congress a bill to bring indigenous justice into line with ordinary justice by precluding the kind of violations of offenders' physical integrity that could result from some of the punishments traditionally imposed under indigenous law and, among other important provisions, clearly establishing the scope of indigenous justice, whose objective is the full rehabilitation of offenders and their reintegration into the community; the legitimacy of the indigenous authority and the binding nature of its rulings; and human rights training for the indigenous communities.

114. The bill also provides that conflicts of jurisdiction between the indigenous and the ordinary judicial authorities shall be resolved by the Constitutional Court. Similarly, the Constitutional Court shall rule on claims by non-indigenous persons for violations of their fundamental rights by the indigenous authority.

115. An indigenous mediation system was set up a few years ago, in 2003, as a speedy and efficient means of resolving judicial problems arising in the communities, in full application of constitutional guarantees. In that context, PRODEPINE ran a community mediator training project until 2004, which produced 25 community mediators, who work in 43 indigenous communities in accordance with the current law on mediation.

116. With regard to indigenous populations' access to programmes in their own languages in the mass media, the Radio Corporation of the Ecuadorian Peoples (CORAPE), based in

Riobamba, coordinates the national radio network of the indigenous and Black communities. It broadcasts nationwide in the ancestral languages, most notably Quechua and Shuar, and employs indigenous radio operators, journalists and communicators.

117. As of 2002 there were 10 indigenous radio stations, 1 for each province with a large indigenous population. Radio is also used for bilingual intercultural education and for adult education, particularly literacy training. The National Human Rights Plan has also run campaigns on television (2000) and radio (from 2001 onwards) with slots on indigenous peoples' rights in Quechua and Shuar, and the Ministry of Foreign Affairs published the Andean Charter for the Promotion and Protection of Human Rights in those languages in 2004.

118. CODENPE, too, has media projects that are run directly by indigenous peoples of the highlands and Amazonia.

119. The System of Intercultural Bilingual Education had, as of 1998, 4,010 teachers of 10 nationalities, working in 16 provinces. For the Quechua, Hispano and Shuar nationalities, teaching is in Spanish and the ancestral languages, while for the Chachi, Achuar, Awa, Tsachila, Huaorani and Siona-Secoya nationalities, teaching is in the relevant ancestral language.

120. As of 2006 there were 1,983 bilingual schools in Amazonia, the highlands and the coastal region, 165 intermediate-level bilingual colleges in the same regions and 6 training institutes for bilingual primary school teachers (5 State, 1 private).⁹

Roma people

121. The Roma have lived in Ecuador since colonial times, travelling throughout the territory, but particularly in the provinces of Carchi, Imbabura, Cotopaxi, Pichincha, Tungurahua, Chimborazo, El Oro, Manabí and El Guayas. They are estimated to number 1,000 in all.¹⁰

122. The Roma's nomadic existence does not make it easy for them to take advantage of development, health, education, finance or housing projects. Their children speak a language different from Spanish.

123. Social and racial prejudice results in them being considered gypsies rather than Ecuadorians. They therefore suffer discrimination at work, as they are not paid the rates established by law, and with regard to the right to housing, their itinerant status makes it difficult for them to purchase or rent anywhere to use as a base.

124. As a first step towards recognition of the Roma people, the Ecuadorian State, through the Ministry of Welfare (Ministerial Decision No. 2467), granted them legal status in April 2001, pursuant to article 23, paragraph 19, of the Constitution, which establishes the right to free association for peaceful purposes. Thus the Roma people are recognized as a first-level association.

125. ILO Convention No. 169 recognizes various rights to indigenous and tribal peoples. As a State party to that Convention, Ecuador recognizes the Roma people as an ethnic minority, which allows them to assert their rights in the same way as other sectors of Ecuadorian society.

126. The Roma's fundamentally nomadic nature makes them a transnational people, and their consequent lack of a presence within the territory - as the majority of society would see it - prevents them from enjoying the rights established in the international conventions.

LEGISLATIVE, JUDICIAL AND ADMINISTRATIVE MEASURES RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

Constitutional measures

127. As a matter of fundamental principle, the current Constitution recognizes the equality of all persons before the law and establishes that they enjoy the same rights and freedoms guaranteed by the Constitution.

128. The Constitution of Ecuador also recognizes and guarantees the collective rights of the indigenous peoples, in particular the right to develop their own forms of organization, social arrangements and exercise of authority, effectively granting constitutional recognition of the indigenous peoples' right to maintain their own social structures, in accordance with their ancestral origins, and create rules, procedures and sanctions to deal with those who cause conflict within their peoples or communities. It also recognizes their right to designate or appoint authorities in accordance with their own custom and practice, i.e. in accordance with their own law or customary law.

Legislative measures

129. The indigenous and Afro-Ecuadorian peoples are now covered by codes and secondary legislation that have in some cases been amended and in others drafted as new legal texts in order to meet and secure their aspirations. Examples are the Education and Culture Act, the Teaching Profession and Pay Act, the Health Code, the Municipalities Act, the Mining Act, the Intellectual Property Act and the Environmental Management Act.

130. The Afro-Ecuadorian and indigenous populations have submitted special draft legislation to ensure the realization of the rights established in chapter V of the Constitution, including a bill on the collective rights of the Black or Afro-Ecuadorian people; a bill on the Black people's administrative districts; a bill on the collective rights of the Afro-Ecuadorian people; and a bill to bring the functions of the indigenous justice system into line with the functions of the ordinary justice system.

131. To raise awareness of the scope of indigenous justice, CODENPE has organized a series of academic events, debates, forums, workshops and seminars on the indigenous peoples' human rights and indigenous diversity in Ecuador.

132. Until such time as secondary legislation is enacted permitting the full exercise of indigenous justice, the indigenous peoples are exercising their right to settle internal disputes in accordance with their own laws and customs, that is to say their customary law under article 191 of the Constitution, or through indigenous mediation as described above.

Other measures

133. The Department of Bilingual Intercultural Education (DINEIB), which was created by the Ministry of Education and Culture in 1988, is a decentralized technical, administrative and financial agency with responsibility for planning, implementing, administering and evaluating the bilingual education system for each of the country's indigenous nationalities and peoples.¹¹

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

135. The Government of former President Lucio Gutiérrez appointed an indigenous woman to the Cabinet for the first time, as Minister for Foreign Affairs, placed an indigenous man at the helm of the Ministry of Agriculture and Livestock and appointed indigenous people to more than 300 posts under a joint programme of the governing party and the Movimiento Pluricultural Pachakutic. That partnership lasted only six months, however. Similarly, the Government of former President Gustavo Noboa Bejarano appointed the indigenous Luis Maldonado to his Cabinet in 2002, as Minister of Welfare.

136. Afro-Ecuadorians have been given two international missions, one to the Bolivarian Republic of Venezuela and the other to the Permanent Mission of Ecuador to the United Nations Educational, Scientific and Cultural Organization (UNESCO).

137. The negotiations over the problems on the northern border have yielded concrete results. The Government has obtained a commitment to the effect that, in all action on the northern border, the development of human rights shall be guaranteed and the security of villagers living in that sector shall be the main priority.

Article 3

138. The Ecuadorian State is determined to root out all racially discriminatory practices from its territory, a position it has underscored in every one of its statements at the international level condemning all manifestations of racial segregation.

Article 4

Constitutional measures

139. As mentioned above, as a State party to the Convention, Ecuador has defined as a criminal offence any attempt to disseminate ideas that undermine the principle of the equality of citizens before the law or promote racial superiority, regardless of their provenance, whether natural or corporate persons or any other organization. Such propaganda is illegal, as are related activities, and criminal sanctions will be imposed on anyone taking part in or promoting such activities.

140. Where such acts are defined as offences in criminal law and are promoted or incited by national, regional or local authorities or institutions, those responsible shall be removed and

deprived of their political rights. Where such acts are promoted by public officials or employees, the special provisions of the Constitution applying to violations of constitutional guarantees shall apply.¹²

141. With these legal and constitutional measures Ecuador aims to implement article 4 of the Convention. However, this legislation is not sufficient to address discriminatory behaviour and racial prejudices that are not openly displayed or cannot be proved. To that end, Ecuador presses on with its efforts in education for non-discrimination and tolerance.

Article 5

Constitutional measures

142. The Constitution recognizes all the rights established in article 5 of the Convention, proclaiming everyone equal before the law and guaranteeing them due process, which means no one may be tried for an action or omission that is not duly defined as an offence. Anyone who is detained has the right to know exactly why they have been detained and the name of the authority ordering the detention. They also have the right not to be questioned, even as part of an investigation, without the presence and assistance of defence counsel. In order to ensure the prompt and efficient administration of justice, oral hearings have been introduced.

143. As regards equality of justice for all, article 191 of the Constitution recognizes the right of the authorities of the indigenous peoples and nationalities to administer justice among their peoples and within their territories in accordance with the particular legal system of each people or nationality, always provided such systems do not in any way violate individual human rights.

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

145. Everyone is free to choose a spouse and marry. Marriage is based on the free consent of the parties and equality of rights, obligations and legal capacity. Similarly, under article 38 of the Constitution, “a stable and monogamous union between a man and a woman with no marriage ties with any other person, who form a de facto household for the period and under the conditions and circumstances laid down by law, shall give rise to the same rights and obligations as those enjoyed by families constituted through marriage, including with respect to the legal presumption of paternity and the marriage partnership”.

146. Among some indigenous peoples, it is still the custom for the parents or grandparents, rather than the bridegroom, to choose the bride. In this regard, the Afro-Ecuadorian people abide in all cases by the law of the land.

Article 6

147. The Supreme Court, the high courts and the lower courts report that no cases relating to punishable acts of racial discrimination specifically against persons belonging to the Afro-Ecuadorian population and/or indigenous peoples have been registered or that any complaints of such acts have been brought under the Criminal Code.

Article 7

148. Over the past five years of the Republic's existence, the Ecuadorian State has created a range of mechanisms, all of which incorporate in their educational programmes the purposes and principles enshrined in the Charter of the United Nations and the Convention on the Elimination of All Forms of Racial Discrimination. The fact that Ecuador has many different peoples, all with their own cultures (language, dress, way of life, social structure, authorities, etc.), explains its main aim of promoting understanding, tolerance and friendship among the various peoples or ethnic groups, with a view to creating an intercultural society, as provided in the Constitution and other texts of Ecuador's legal system.

149. The main aim of the National Human Rights Plan, adopted in 1998, is the creation of a culture of tolerance, non-discrimination, pluralism and understanding among all Ecuador's inhabitants, through human rights education, values training and the publication of the international human rights instruments to which Ecuador is a party.

Notes

¹ See Criminal Code, chapter on "Offences relating to racial discrimination", supplementing chapter VIII of title II, on "Offences against constitutional guarantees and racial equality"; adopted by Decree No. 3194, *Official Gazette* No. 769, 8 February 1979.

² National Institute for Agrarian Development (INDA), 2000.

³ *Source*: Comprehensive System of Social Indicators (SIISE).

⁴ See secretariat of the Social Front, [Reference-CRC 3rd report, para. 6] SIISE, "Racismo y Discriminación Racial en Ecuador 2005", Quito, 2005, p. 13.

⁵ *Ibid.*

⁶ *Ibid.*, p. 12.

⁷ Data from the provincial electoral tribunals of Pichincha, Imbabura, Carchi, Esmeraldas, Guayas, Manabí, El Oro, Sucumbíos and Los Ríos.

⁸ National System of Statistics and Censuses (SINEC), Population and Housing Census, 2001.

⁹ *Source*: Department of Bilingual Intercultural Education, March 2006.

¹⁰ Alfredo Yankovich (President of the National Roma Association of Ecuador), "Historia del Pueblo Rom en el Ecuador", pp. 2-3.

¹¹ Executive Decree No. 203, of 15 November 1988.

¹² See Criminal Code, title II (note 1 above).
