



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Ninety-seventh session

#### Summary record of the 2668th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 20 October 2009, at 10 a.m.

*Chairperson:* Mr. Iwasawa

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(agenda item 6) (*continued*)

*Fifth periodic report of Ecuador (CCPR/C/ECU/5; CCPR/C/ECU/Q/5 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Ecuador took places at the Committee table.*
2. **The Chairperson** invited the Ecuadorian delegation to continue its replies to the questions asked by Committee members at the previous meeting.
3. **Ms. Artieda** (Ecuador), clarifying her explanation on the rights of persons in detention, said that it was the judge responsible for procedural safeguards who decided whether arrests and detention had been carried out in accordance with the law.
4. On the subject of combating human trafficking and exploitation (question No. 18), she explained that Ecuador had established a National Plan of Action based on three main pillars: prevention, punishment and restoration of victims' rights. Many preventive measures had been taken, in particular by the Ministry of Tourism, which organized information campaigns on sexual tourism, and by the National Police, which carried out inspections in public areas and shopping and recreational centres. Regarding positive action by the State, Congress had adopted an amendment to the Criminal Code in 2005 that classed human trafficking for sexual exploitation, labour exploitation, begging and child pornography as offences. Between March 2008 and January 2009, 22 preliminary investigations related to human trafficking had been carried out and, since 2006, 30 individuals who had perpetrated or aided and abetted human trafficking had been convicted. Thanks to the creation of the Anti-Trafficking Unit within the National Police, 194 trafficking victims had been rescued. Lastly, the Constitution adopted in October 2008 created a stable legal framework that allowed victims' rights to be restored. With regard to criminal proceedings, victims of trafficking for sexual exploitation could take legal action against a spouse or relative and the State took the necessary measures to protect foreign victims, even if they were in the country illegally. Ecuador financed a project of direct assistance to trafficking victims, in partnership with the International Organization for Migration, and ensured that minors could reintegrate into society and resume their education. The State had allocated the Public Prosecutor's Office US\$ 35 million to improve its services to users.
5. With respect to the measures taken to eradicate the discrimination and xenophobia directed against some foreigners, particularly Colombians (question No. 19), the Constitution of Ecuador provided that all persons had the same rights, duties and opportunities. Following a wide-ranging debate within Ecuadorian society, the Refugees Department had ceased requiring a criminal record certificate in order to grant refugee status; furthermore, the authorities were currently drawing up a draft reform of the decree governing refugee status in Ecuador, in accordance with the principles established in the Constitution.
6. In answer to question No. 20, on current deportation procedures in Ecuador, she drew attention to the various measures taken by the Ministry of the Interior to guarantee respect for the fundamental legal safeguards that must accompany the deportation procedure. All the country's police forces had been instructed to adhere strictly to those procedural rules and not to deport foreigners having family ties with Ecuadorian citizens. The Directorate for Human Rights, within the Ministry of the Interior, was responsible for monitoring respect for those instructions. A new protocol on the deportation procedure, which would apply the provisions of the new Constitution, was under consideration. The Refugees Department, under the Ministry of Foreign Affairs, ensured respect for the

principle of non-refoulement. In accordance with international instruments ratified by Ecuador and with domestic legislation, the deportation procedure was suspended until the competent authorities issued a ruling on an application for refugee status. If a decision was made in favour of an applicant for refugee status, he received a guarantee that he would not have to return to the country where his rights had been violated or threatened, and was placed under the protection of the Ecuadorian State. The law on the system of public defenders (question No. 21) was part of the Code of the Judiciary adopted in March 2009. That instrument, which guaranteed the principle of free and universal criminal defence for any citizen who could not afford private legal fees, was currently in force. That system had enabled Ecuador to reduce the number of detained persons awaiting trial; such persons now represented only 5 per cent of the total number of prisoners. The State had allocated a substantial budget to hiring the necessary staff for public defence. According to the statistics provided, there were currently 283 public defenders who dealt with an annual average of 8,000 cases.

7. As to means of ensuring the independence and impartiality of judges and the rules governing their tenure and disciplinary measures (question No. 22), the adoption of the Code of the Judiciary had reorganized the profession, and a comprehensive system now existed that included prosecutors, public defenders and judges. Legal professionals were now able to specialize and, under a complex evaluation system, to gain promotion based on merit. The judicial system was financed by the State, with the support of the Spanish International Cooperation Agency for Development and the United Nations Development Fund. The procedure for respecting the provisions of the Code of Criminal Procedure, which stipulated a maximum length of time for the completion of judicial proceedings, was the following: the investigation had to be completed within 90 days from the date that the accused or his counsel was notified of it. If the prosecutor did not declare the investigation closed within that time, the judge must do so, and no inquiries initiated after that time were valid. The prosecutor was fined by the prosecutor-general and given an additional three days in which to discharge his duties. In general, an effort had been made within the legal system to improve coordination between prosecutors, defence counsel and the judge, and that had resulted in a 30 per cent reduction in the number of cancelled hearings. The appointment of a number of judges who heard flagrant offences in Quito and Guayaquil had also helped to reduce the backlog of cases and to speed up trials.

8. Written replies would be provided to the questions on the decisions adopted by the Deposit Guarantee Agency and their effect on the rights recognized in the Covenant, including the right to judicial or administrative remedies, and on the measures adopted to eradicate child labour (questions Nos. 23 and 28, respectively).

9. Question No. 24, on the system of charging for the military passbook, was no longer relevant because article 161 of the new Constitution had made military service optional.

10. With regard to the responsibility of members of the army and the police force for deaths caused by use of firearms or excessive use of tear gas against demonstrators (question No. 25), two committees had been established to inquire into the actions of the security forces during demonstrations that had taken place since the beginning of 2008. To date, no convictions had been handed down for excessive use of force during demonstrations. With regard to the promotion and protection of freedom of opinion and expression, including freedom of the press (question No. 26), Ecuador considered that freedom of expression was a fundamental right. The Constitution defined the following rights and guarantees: the right to free, intercultural, open, varied and participative communication; plurality and diversity of communication; the right to research, receive, exchange, produce and disseminate accurate, verified and appropriate information from multiple sources that was contextualized and not subject to censure; and the right to hold an opinion and express one's thoughts freely. A number of judicial guarantees were also

enshrined in the Constitution, including the remedy of *amparo*, access to public information, and *habeas data*. On 8 July 2008, the Deposit Guarantee Agency had ordered the seizure of the assets of some 200 enterprises belonging to a financial group involved in the financial crisis of the previous few years. Three television channels were among those enterprises: Gamavisión, TC Televisión and Cablevisión. The seizure was not a violation of the right to work and had not brought any of the enterprises to a halt. The enterprises were in debt but the State had guaranteed their security and stability and a temporary administrator had been appointed to ensure that they could carry on their activities as normal. The measures that had been taken were aimed at protecting small-scale savers and were in no way an attempt to restrict the right to freedom of expression. The cases of the two cameramen (Eduardo Molina and Germán Vera) who allegedly had not been able to film certain events were currently being investigated by the competent authorities. The legal system governing the activities of NGOs and human rights advocates (question No. 27) was the same legislation on non-profit legal entities serving a social purpose as that applying to the activities of foundations and corporations. The activities of foreign NGOs in Ecuador were verified by the Ministry of Foreign Affairs, which ensured that they were acting in accordance with their official stated purpose.

11. With regard to the participation of NGOs in the preparation of the report (question No. 29), the Ministry of Justice had published an announcement to civil society on its website, inviting the submission of information for the report.

12. **The Chairperson** invited the Committee members to ask additional questions.

13. **Mr. Pérez Sánchez-Cerro** asked whether the diplomatic tensions between the Colombian Government and Ecuadorian Government, in particular in relation to the issue of Colombia's spraying with glyphosate on its border with Ecuador, had meant that Colombian citizens had been subject to any form of retaliation. It was a positive step that, in principle, asylum-seekers no longer had to produce a criminal record certificate, but it was important to ensure that that new rule was fully applied in practice. Figures on the number of Colombian refugees in Ecuador varied considerably between sources. He asked if the delegation could provide any clarification on that point. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), there were approximately 180,000 refugees in Ecuador who were reportedly living in severe economic hardship. He asked whether Ecuador planned to seek aid from the international community in order to be able to respond to the needs of those refugees and offer them better protection. The fact that military service was no longer obligatory, in addition to the recent jurisprudence from the Constitutional Court, seemed to make the military passbook obsolete, but he wondered whether the system of charging for the passbook had indeed been abolished and whether the passbook was still required for other administrative procedures. The Constitution set out a number of guarantees on the rights of indigenous peoples, but he asked what concrete measures had been taken to protect indigenous peoples and Afro-Ecuadorians from discrimination.

14. **Mr. Salvioli** said that the implementation of the bill on the system of public defenders was a notable step forward, and he asked for further information on any difficulties that the State party might have had during that process and on the measures that it planned to adopt in order to overcome them. The State party's replies showed that the legal system was being reformed in line with the recommendations of the Special Rapporteur on the independence of judges and lawyers, which was encouraging. However, the replies did not contain any information on corruption cases involving judges that had led to legal proceedings and, as appropriate, convictions (question No. 22). He would welcome any additional information that the delegation could provide on that subject. Freedom of the press was uncertain, even though it was guaranteed by the Constitution, and the media seemed to be subjected to a worrying amount of interference from the authorities.

He cited the case of a newspaper editor who had been prosecuted in May 2007 for disrespect for authority (*desacato*) after publishing an article criticizing a local politician; he asked whether there was still such an offence under the Penal Code. If so, that would be incompatible with article 19 of the Covenant. The violence used to suppress the protests of farmers and indigenous peoples against the mining companies that were exploiting their land and destroying the environment was a matter of grave concern to the Committee. According to information received by the Committee, about 60 indigenous community leaders had been tried between 2006 and 2007, including 1 who had been tried by a military court. He requested explanations about that and also asked whether law enforcement officials prosecuted for excessive use of force were tried under the Code of Military Justice or ordinary civil justice.

15. The State party's efforts to combat and punish child labour and child trafficking should be welcomed, but the Committee would have liked to know whether legal proceedings had been brought against any individuals for those crimes and whether any convictions had been handed down. Some areas of society still considered homosexuality to be an illness requiring care, and establishments existed that claimed to "treat" homosexuals. He asked what measures the State party was taking to guarantee respect for sexual orientation.

16. **Ms. Motoc** asked for clarification on the resources allocated to combating illegal trafficking in migrants, sexual and labour exploitation and other kinds of exploitation and prostitution of women and children (question No. 18). She also requested data on the deportation of aliens and an explanation of the functioning of the Deposit Guarantee Agency (question No. 23) established after the collapse of the financial system, in view of the statement by the Special Rapporteur on the independence of judges and lawyers that its decisions might affect the rights provided for in the Covenant. She asked whether those responsible for the excessive use of tear gas against demonstrators (question No. 25) had been punished. She also requested clarification on the constitutional provisions guaranteeing freedom of the press, in light of the seizure of two television channels and the closure of a radio station (question No. 26); on the legal system governing the activities of human rights NGOs; and on the steps taken to ensure the protection of human rights advocates and journalists (question No. 27). Lastly, she asked the delegation to provide more detailed information on the functioning in practice of the National Committee for the Progressive Eradication of Child Labour, on the measures it had taken and on the progress it had made.

17. **Mr. Amor** asked the delegation if it could provide any information on the religious demography of Ecuador. According to paragraph 302 of the report, the *modus vivendi* agreement that had been concluded between Ecuador and the Holy See accorded Catholicism individual protection that gave it a privileged status in relation to other religions. That could be considered discriminatory. Registration was not an absolute obligation but religious organizations nevertheless had to be registered to acquire the status of legal person and to act as such. Paragraph 308 of the report indicated that, prior to the entry and registration of religious organizations, the Ministry of the Interior checked that they were "genuine religious bodies". That raised issues under article 18 of the Covenant and general comment No. 22 of the Committee. Some of the requirements for the registration process were potentially discriminatory; for example, that the religious organization had to present a certificate from the supreme authority of the church to which it belonged (para. 308). Some religions, in particular new religions, were not organized in a hierarchical way and would therefore be excluded from registration. The Ministry of the Interior was entitled to reject applications from organizations whose documents indicated that their ends were not religious, to investigate complaints against religious organizations and to cancel the registration of those found guilty of breaching the law. He asked what guarantees attached to those decisions and whether an appropriate remedy was available to

the religious organizations affected in order to contest them. The law prohibited religious organizations from taking part in political activities, for example by creating political parties, backing candidates or taking part in election campaigns, but in reality it seemed that there was not such a clear separation between religion and politics and that a risk existed of exploiting religion for political ends. It would be interesting to hear the delegation's views on that subject.

18. **Mr. Thelin** thanked the delegation for the detailed report that had been drafted in collaboration with several ministries and public bodies. In general, the situation of the media appeared to be relatively satisfactory. However, one point was still unclear. On the one hand, as had been indicated in the report (paras. 323–326) and in the delegation's replies, the Constitution provided certain guarantees of freedom of the press. On the other hand, the 1975 Professional Journalism Act established that professional journalists required a relevant university degree or, for those who had exercised the profession before the Act had come into effect, a professional certificate from the Ministry of Education. He asked whether the Ministry of Education continued to play a role in the accreditation of journalists, because that would mean that the profession of journalist would be subject to the discretionary power of the Government, which would be contrary to the principle of the independence of the media. The Act also governed the activities of the National Federation of Journalists; he enquired whether the Government intervened in the functioning of that body and, if so, whether Government actions could be subject to judicial review under the provisions of the Constitution.

19. **Sir Nigel Rodley** asked for clarification on custody arrangements. He had noted that a judge responsible for procedural safeguards carried out visits to places of custody and detention and he asked which bodies had the right, in theory, to visit places of custody, how they exercised that right in practice, and what follow-up was given to their visits. It had been said that anyone under arrest could be informed of the right to confer with a lawyer and he asked for assurance that detainees would not only be informed of that right, but would actually have access to a lawyer from the time of their detention. The Committee had comprehensive information from sources including the State party, NGOs and United Nations bodies pertaining to illegal detention, acts of violence, abuse of authority, maltreatment and even murder, as well as the conviction of police officers for some such acts. However, if the existing protection mechanisms worked, none of those acts should occur. He wanted to know therefore how such acts could take place, despite all the safeguards that had been established.

20. The Committee had clearly asked the State party if the state of emergency had been declared and had requested details on the measures that could be taken in such a situation. Although the delegation comprised high-ranking officials from the Ministry of Justice and Human Rights, it had not answered that question and had indicated that it would provide relevant written information within 48 hours. It would be highly desirable for the delegation to respond to the question as part of the current dialogue so that, if necessary, the Committee could ask for clarifications in order to avoid any possible misunderstandings.

21. **Ms. Wedgwood** said that some NGOs had expressed concern about the Government's attitude towards the press, describing it as "hostile". For example, criminal defamation legislation allowed civil or criminal proceedings to be instituted for defamation, so that a person found guilty could be sent to prison. The editor of the *La Hora* newspaper in Quito, Mr. Francisco Vivanco, had been prosecuted for defamation and risked imprisonment for up to three years. In March 2007, another journalist, Mr. Nelson Fuentala, from the newspaper *La Gaceta*, had been sentenced to two months in prison for defamation against the mayor of the town of Pujilí. According to one NGO, criminal defamation legislation had the effect of restricting the publication of information pertaining to State officials and members of the armed forces. Yet, it was particularly important to guarantee

freedom of the press in a country where only 11 per cent of the population had access to Internet and where, as a result, newspapers continued to play a preponderant role.

22. With regard to the issue of the independence of judges, it appeared that Congress had recently dismissed nine Constitutional Court judges because of their ruling that the removal from office of opposition Members of Parliament had been illegal. It was true that, in many countries, Congress could impeach a judge; however, the summary dismissal of nine judges was disturbing. She asked for the comments of the delegation on that matter.

23. With regard to the rights of minorities, the Human Rights Committee was not, in principle, responsible for monitoring the implementation of economic, social and cultural rights — or, by extension, the use of natural resources — unless such use affected the ability of indigenous peoples to preserve their culture. It appeared that there had been a dispute on the use of water in the Andes, which could have been utilized for farming or mining or could have been conveyed to the coast. The issue primarily concerned isolated mountain communities and she wondered whether real consultations had been held with them. In that sort of situation, Governments were required to consult indigenous peoples, whose cultural survival depended on their capacity for economic survival.

24. **Mr. Bouzid** asked whether the Ecuadorian legal system incorporated the customary law of indigenous peoples in any way, because the report contained no information on that matter.

25. **Ms. Keller** asked why members of the Sarayaku community had been forced to wait four years before receiving the protection card according them special protection measures. In addition, she enquired about NGO reports indicating that women from indigenous groups had encountered difficulties in accessing contraception.

26. **The Chairperson** suggested that the meeting should be suspended to allow the delegation to prepare its replies to the questions that had just been asked.

*The meeting was suspended at 11.40 a.m. and resumed at noon.*

27. **Mr. Montalvo** (Ecuador) said that the Ministers for Foreign Affairs of Colombia and Ecuador had held constructive talks over the previous few weeks, which was a sign that diplomatic relations could soon be re-established between the two countries. Despite the diplomatic crisis, Ecuador had continued to show solidarity with the Colombian people and to accept many of them into Ecuador and not treat them simply as refugees, but as full citizens who could participate in the social, economic and cultural life of the country. That policy of integration, which had been welcomed by UNHCR, had led to Ecuador being chosen to take part, alongside other countries, in the UNHCR Global Needs Assessment project, aimed at determining the real needs of refugees in order to respond better to them. Many refugees in Ecuador were not registered, which made it difficult to determine their exact numbers but, according to UNHCR, they could number between 180,000 and 250,000. The registration programme that had been implemented with the assistance of UNHCR should give a more exact figure.

28. **Ms. Artieda** (Ecuador) said that chapter IV of the Constitution recognized a very wide range of rights of indigenous peoples and communities, including the right to be involved in the exploitation, management and preservation of the renewable natural resources on their land; the right to be consulted prior to the implementation of any exploration, exploitation and marketing projects related to non-renewable resources; and the right to receive a share of the profits of those activities and compensation for any harm that could be caused to their culture, the life of their community or the environment. Equality Councils were responsible for issues pertaining to indigenous communities and other vulnerable groups such as Afro-Ecuadorians, women, children and persons with disabilities. The issue of the use of water resources was currently being considered by a

Government committee, which had also begun a study of the compatibility of customary law and ancestral practices with the ordinary legal system. To date, four indigenous communities had agreed to take part in the study and the Government hoped that the rest of the communities in Ecuador would eventually take part in it as well.

29. The State had given itself three years to complete the implementation of the new Code of the Judiciary, which it had financed largely through its own budget but also with some international aid. The aim of that wide-ranging reform was to re-establish people's trust in the justice system. To do so, the image of judges had to be rehabilitated, as they had been associated with corruption for too long. Over the last two years, two judges from the National Court of Justice (formerly the Supreme Court) who had been found guilty of corruption had been impeached; and legal proceedings for corruption had been instituted against seven judges of first instance – some had been dismissed and others had been subject to administrative sanctions. Disrespect for authority (*desacato*) was no longer a criminal offence. The delegation was not familiar with the case mentioned by one of the Committee members in which an indigenous representative had apparently been tried by a military court. Since the abolition of compulsory military service, it was no longer necessary to have a military passbook or to present one for any administrative procedure.

30. **Mr. Holguin** (Ecuador), in response to the question on sexual minorities, said that Ecuador had indicated that it had accepted the recommendations made to it following the universal periodic review on the explicit acknowledgement of the rights of homosexual, bisexual and transsexual persons, and that it would implement them. He also stated that article 11, paragraph 2, of the 2008 Constitution guaranteed equal rights and opportunities to all persons, regardless of their ethnic background, sex, social and economic situation, religious beliefs, sexual orientation and any other personal, collective, temporary or permanent distinction, and penalized any form of discrimination.

31. **Ms. Artieda** (Ecuador) explained that the Deposit Guarantee Agency served to ensure that savers could withdraw their money from a bank in times of financial crisis, and that the Constitution safeguarded that right. The Agency was not a court; it did not deliver judgements and its decisions could be appealed. With regard to freedom of assembly, many demonstrations had been organized in Ecuador over the previous few years as a result of political events, and the police had been called upon to monitor them. Since then, measures had been taken to ensure the safety of citizens and the police had been supplied with the equipment necessary to keep demonstrations under control and avoid any violence. Use by the police of law enforcement resources such as tear gas was strictly regulated. During the recent demonstration, in September, most of the injured had been unarmed police officers. There had been no crackdown on members of the public. The State was committed to protecting citizens with the minimum use of force. Human rights NGOs were all subject to the same regulations that accorded them a status and rights, in order to promote the development of local organizations.

32. Child labour was a serious problem rooted in economic, social and cultural issues. The State had taken numerous measures to ensure that parents did not allow their children to work. Awareness-raising and information campaigns had been conducted to encourage parents to send their children to school and to increase knowledge of the prohibition of child labour. Furthermore, an inspections system had been established for checking that enterprises did not have any children working for them.

33. **Mr. Montalvo** (Ecuador) pointed out that the periodic report had been drafted on the basis of the old 1998 Constitution, while the written replies referred to the new Constitution, which had entered into force in 2008 and answered some of the concerns raised by the Committee. From its preamble, the new Constitution recognized different forms of religion; article 3 proclaimed the principle of the secular State and article 66 guaranteed freedom of thought and religion, in accordance with article 18 of the Covenant,



by providing that everyone had the right to practise, keep, change or publicly or privately profess a religion, individually or in a group, insofar as it did not affect respect for the rights of others. Accordingly, the Constitution enshrined the principles of religious pluralism and secularism. Although there was no official religion in Ecuador, Catholicism was the majority religion and the Government had to take that into consideration. The concerns expressed about different administrative aspects of the registration of religious groups were unfounded. In Ecuadorian public law, a legal person had the right to belong to any religion, and it was not for the Government to determine what did or did not constitute a religion. The existence of different religions that all required protection was recognized at the administrative level. He suggested that it could have been a translation error that had led some members of the Committee to believe that one particular religion was given privileged status by the Government. Ecuador had various problems to deal with, but freedom of religion was not one of them; on the contrary, religious pluralism and tolerance prevailed in the country. The law banned religious organizations from taking part in political activities, but it did not prevent individual members of religious groups from participating in the political life of the country. Ecuador was a republican State in which the separation of church and State had been observed since the nineteenth century.

34. **Ms. Artieda** (Ecuador) explained that the judge responsible for procedural safeguards was the first legal authority before whom anyone arrested by the police during expedited investigation procedures appeared, and the first legal authority from whom the prosecution service requested an indictment. The judge had to ensure that, during legal proceedings, the law and the rights of the person in question were respected. If a person had been arrested illegally, the judge would order immediate release. Anyone who was arrested was informed of his rights and could consult a lawyer. Since the establishment of the system of public defenders, legal aid had been guaranteed in all provinces. The number of public defenders had increased from 33 to 283, and they dealt with approximately 8,000 cases per year.

35. As had been explained earlier, the conditions for declaring a state of emergency were set out in article 164 of the Constitution. Article 165 defined the measures that could be taken on such occasions: border closures, security zones, call-out or conscription orders, etc. The only rights that could be restricted or suspended on those occasions were the inviolability of the home and of correspondence, freedom of movement, freedom of association and assembly, and freedom of information. Further information on when states of emergency had been in force during the two years since the drafting of the fifth periodic report would be submitted later. Written information on the dismissal of the Constitutional Court judges by Congress in 1997 would also be submitted to the Committee. It was important to note, however, that the appeals that had been lodged against that decision were still pending.

36. Relations between the Government and the press were not hostile, and none of the news media with which there had been disagreements had been closed down. Three draft laws that aimed to clarify the legal framework of media activities were to be submitted to Congress. Civil society had been involved in the drafting of those texts. Information on that issue would be submitted to the Committee in writing. Journalists had a professional association, which granted membership cards, but the association was a civil one that had no links to the Ministry of Education.

37. **Mr. Montalvo** (Ecuador) added that the Ministry of Education did not intervene in the practice of journalism, except by issuing the professional qualification certificate mentioned in article 1 of the 1975 Professional Journalism Act. That certificate was only for journalists who had already been exercising the profession before the Act had entered into force, when journalism had not been regulated and university or other courses in the profession had not yet existed. The purpose of the provision was to recognize the

professional skills of journalists without formal qualifications; however, most of those affected were now retired, or near retirement, and the new generations of qualified journalists generally demanded stricter recognition of their professional training.

38. **The Chairperson** thanked the delegation for its replies and asked whether any members of the Committee wished to ask additional questions.

39. **Ms. Wedgwood** asked whether the decriminalization of the offence of disrespect for authority (*desacato*) meant that defamation proceedings could no longer be brought by someone who had been publicly criticized.

40. **Mr. Thelin** asked for confirmation that, besides the measures foreseen under the 1975 Act, the Government exercised no control over the exercise of the journalistic profession.

41. **Mr. Pérez Sánchez-Cerro** asked whether the current legal system, which still contained gaps, would really permit the prosecution of those who had committed the human rights violations between 1984 and 1988 that the Truth Commission was currently investigating, in particular when the persons involved were high-ranking officials. Moreover, it was not just a matter of identifying the guilty parties; they also had to be punished and compensation granted to the victims, most of whom had been political activists but who had also included many homosexuals.

42. **Mr. Salvioli** asked how many NGOs had taken part in the drafting of the periodic report. It seemed that the Government had simply made an announcement about the report-drafting process on its website; for the next report it should use a more direct approach to ask for the participation of civil society.

43. He also asked whether the members of the military accused of human rights violations had appeared before a civil or a military court, given that the Code of Military Justice no longer applied. The wide-ranging protection against discrimination offered by the Constitution was welcome. Article 11 of the Constitution contained an exceptionally detailed list of prohibited grounds of discrimination, but he wondered how far that provision was applied in practice. For example, discrimination on the grounds of sexual orientation or identity was prohibited, but there were some reports of “re-education centres” for lesbians. The State had an obligation to fight discrimination, including in the private sphere.

44. **Sir Nigel Rodley** asked whether a state of emergency was currently in force in any of the regions of Ecuador; according to some reports, that was the case in Quito and Guayaquil. If those regions were indeed in a state of emergency, he would like to know what measures had been introduced as a result.

45. **Mr. Rivas Posada** noted that the report and the written replies contained certain gaps, but that the rapidly changing socio-political context in which the documents had been drafted had to be taken into consideration. It was still too early to assess the effects of the constitutional reform, as well as the legislative and institutional reforms to come, and it was even more difficult for the Committee to evaluate the situation because it had not had an opportunity for an exchange with the State party for a long time, as a result of the delay in the submission of the State party’s reports. However, the Committee’s task was not only to ensure that the Covenant was implemented, but also to help States parties, in particular through recommendations, to overcome the difficulties that they faced in doing so, so that they could progressively conform to the requirements of the Covenant. The Committee placed much emphasis on that aspect of international cooperation in its mandate. The Ecuadorian delegation had made a commendable effort to respond to the Committee’s concerns and it must be hoped that the dialogue between the State party and the Committee would continue uninterrupted from now on.

46. **The Chairperson** invited the delegation to reply to the last few questions that had been asked.

47. **Ms. Artieda** (Ecuador) confirmed that the offence of disrespect for authority (*desataco*) had been removed from the Criminal Code at the end of 2007; however, it was distinct from the offence of defamation (*injuria*), which still existed. She also confirmed that no government body had any control over the journalistic profession and that, since Ecuador had adopted the concept of jurisdictional unity, military courts no longer existed. However, even when they had existed, military courts had never had the authority to try civilians. The Truth Commission was due to finish its work by the end of 2009. Once the facts had been established, the prosecution phase would begin, and that would be followed by the compensation phase. That initiative was a priority for the Government, and it had collaborated with civil society and various public institutions in order to implement it.

48. It was in fact an announcement about the drafting of the written replies that had been published on the Government's website. Civil society organizations and State institutions had actively collaborated in the drafting of the periodic report as part of the Working Group on Civil and Political Rights, as explained in paragraph 3 of the report.

49. A state of emergency had been declared in three large cities — Quito, Guayaquil and Manta — to allow the security forces to combat the growing insecurity of which the inhabitants had complained. However, no rights had been suspended as a result, and police operations were carried out in accordance with established guidelines. All the other information requested by the Committee would be submitted in writing within the required deadline.

50. **Mr. Montalvo** (Ecuador) said that his delegation welcomed the dialogue with the Committee, which had enabled it to elaborate on information provided in the fifth report, dating from 2007, and the written replies. Ecuador was currently experiencing what the Ecuadorian President had called “a period of change but also a change of period”. The Ministry of Justice and Human Rights was the result of that development: it was the first time that an autonomous public body had been made responsible for human rights in the country. Ecuador attached great importance to international cooperation in the field of human rights protection and was very active in that area, as shown by the fact that two Ecuadorians had been members of the Committee and that the first High Commissioner for Human Rights had also been from Ecuador. The Committee could rest assured that its recommendations would be put to the best possible use.

51. **The Chairperson** thanked the delegation for its replies. The Committee was aware of the constitutional upheavals that Ecuador was currently experiencing and hoped that its fruitful dialogue with the delegation, as well as the concluding observations that would be published at the end of the session, would help the State party to improve the situation in the country.

52. *The Ecuadorian delegation withdrew.*

*The meeting rose at 1.10 p.m.*