

Defensoría del Pueblo of Ecuador contributions to the development of the List of Issues Prior to the submission of the sixth periodic report of Ecuador to the Human Rights Committee

The National Human Rights Institution of Ecuador wants to provide input to the preparation of the list of questions prior to the submission of the Ecuadorian State Sixth Periodic Report to the Human Rights Committee; in order to compliment this task we have taken as the starting point the Fifth report from Ecuador to the Human Rights Committee (2007) and General Observations (2008).

This document considers the recommendation made by the Committee, recognizes the progress of the Ecuadorian State in each of the subjects and issues comments as challenges with regard to the right in question.

Right	The Right to Work
Section Title	Measures to face discrimination against women in the workplace
Recommendation	The Committee notes with satisfaction that the new Constitution enshrines the principle of equality between men and women and the principle of non-discrimination. However, the Committee remains concerned about the disparity between the de jure and de facto legal protection of women and gender equality (Articles 2, 3, 25 and 26). The State party should take appropriate measures to ensure the full implementation of existing legislation so as not to discriminate to women. The State party should increase its efforts to combat discrimination against women in the workplace, in order to ensure equal opportunities in obtaining leadership positions in the public and private sector practice, as well as equal pay for the same job.
Comments and Challenges	<p>The Defensoría del Pueblo recognizes the progress of the Ecuadorian State to the actions taken to eliminate discrimination against women in the workplace, however believes that there are some challenges in this area:</p> <ol style="list-style-type: none"> 1. It is necessary to have statistical information or any kind of registration at national, provincial and local levels to account both public institutions and private, equality between men and women. 2. We consider necessary that the State has measures and strategies to eliminate the gap in the disparity between men and women in the workplace, in both public and private institutions. 3. By having national statistic which shows that 6 out of 10 women suffer gender-based violence, it is important to know the policies, programs and projects that the Ecuadorian government has to reduce rates of gender-based violence at all levels, especially in the workplace, in this context it would be interesting to have programs within public

	<p>institutions capable to reduce these gaps.</p> <ol style="list-style-type: none"> 4. A wide advancement is recognized in legislation for the protection of women victims of violence; it would be important to have statistical information of the cases that have been recorded by different types of violence, those which have been processed and how many of them have been punished. 5. It is necessary to know the cases of trafficking for sexual exploitation, labor and begging that have been reported, prosecuted and punished.
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Right	Right to a proper administration of justice
Section Title	Measures to eliminate violence against women
Recommendation	The Committee welcomes the establishment of the Comissioners for Women and Family, and the establishment of specialized units in domestic violence and sexual offenses in the office of the Public Prosecutor of the largest districts, as well as the development of a Protection Program for Victims of Sexual Violence and the efforts to ensure the implementation of Law 103 on Violence Against Women and Family. However, the Committee is concerned at the high incidence of violence against women and girls as well as the high rate of sexual abuse and harassment against girls in schools (Articles 3, 7 and 24).
Comments and Challenges	<p>The Defensoría del Pueblo recognizes the progress of the Ecuadorian State regarding the actions taken to eradicate violence against women in some areas, especially in the legislation; however we believe that there are some challenges in this area:</p> <ol style="list-style-type: none"> 1. It is necessary to have statistical information that provides information about the number of cases of violence of women by categories of violence, as well as outpatient, interdisciplinary and other services that may exist to take care of victims of violence. 2. It is necessary to further characterize the different types of violence, especially property-related violence, and in this context to know what steps the Ecuadorian government has taken to protect women victims of different types of violence, specially to economic violence which can have place everyday, but also be invisible by its own characteristics.

Right	Right to personal integrity
Section Title	Placements in private clinics on grounds of sexual orientation

<p>Recommendation</p>	<p>The State party should take measures to prevent, protect and ensure that no person with different sexual orientation should be admitted in private clinics or rehabilitation centers to be subjected to the so-called sexual reorientation treatments. The Committee recommends the State party to proceed with the investigation of alleged torture and confinement and take the necessary remedial actions under the Constitution.</p>
<p>Comments and Challenges</p>	<p>The Defensoría del Pueblo recognizes the progress of Ecuador regarding the actions taken in favor of the right to personal integrity of persons deprived of their liberty due to their sexual orientation or gender identity, especially since the actions taken by the Ministry of Health, as the governing body on this matter; for example: the issuance of a control and monitoring regulation for centers in addiction recovery which defines the manner and conditions in which these treatments can be offered; by this instrument, the National and Local Interinstitutional Technical Committee is created in order to control and monitor that human rights are guaranteed in these centers. Furthermore, with the conformation of this Commission, it has made visits in coordination with various institutions, in which the Defensoría del Pueblo of Ecuador has participated. On this visits, we managed to identify the main causes and forms of violations of human rights, thereby achieving to rescue victims of violations of human rights, deficiencies and weaknesses in private centers offering these treatment and the existence of clandestine centers.</p> <p>However, we believe there are some remaining challenges in both prevention and punishment and monitoring of the implemented processes :</p> <p>In prevention, it is necessary to know the policies, plans and projects regarding the following topics:</p> <ol style="list-style-type: none"> 1. Human rights education for sexual minorities to avoid internment, and if they have involvement of civil society. 2. Training for the attending staff (medical and experiential) of private recovery centers. 3. Training for public officials related to the control and regulation of recovery centers in order to detect any threats of violations of human rights. <p>Under the sanction and monitoring processes, statistics are needed to know the number of cases that have obtained sanction from the competent authorities; reported cases such as addiction problems which have shown recovery, and the existence public and private centers offering treatments related to addiction recovery.</p>

	It also seems important to know the monitoring given by the State to people who require recovery, in this sense, if there are plans, programs or projects to ensure full compensation to avoid revictimization.
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Right	Right to education
Section Title	Actions against corporal punishment
Recommendation	The State party should take measures to end the practice of corporal punishment. It should also promote non-violent forms of discipline as an alternative to corporal punishment in the school system and conduct public information campaigns to explain their effects.
Comments and Challenges	<p>The Defensoria del Pueblo recognizes the progress of Ecuador regarding the action taken to ensure the right to education in the relevant body , such as the existence of a continuous evaluation process for teachers across the country to determine shortcomings in the quality provided and proceed to implement the Education Professional Development System (SíProfe) and the Continuous Training Education Program, in which not only technical issues and didactic teaching methods are addressed, but also methods for preventing and treating cases addressed of violence in the classroom. This process under educational standards and professional performance management.</p> <p>Although , the Organic Law of Intercultural Education, SíProfe Program, among other initiatives intended to promote actions to protect children and adolescents in the education system, some challenges are identified:</p> <ol style="list-style-type: none"> 1. It would be important that the processes contain mechanisms and procedures for evaluating and measuring compliance. 2. Determine whether in the procedures, children and adolescents victims of physical abuse have elements for direct access to justice.

Right	Right to a proper administration of justice
Section Title	Monitoring of recommendations of the Commission of Truth
Recommendation	The Committee regrets not having received clear and accurate information from the State party in relation to the Commission of Truth, which should investigate, clarify and prevent impunity of violations of human rights by State agents occurred between 1984 and 1988 (Art. 6). The State party should ensure the investigation of human rights violations, prosecution of perpetrators and fair compensation of the

	victims or their families taking into account the provisions of the report of the Commission of Truth.
Comments and Challenges	<p>The Defensoría del Pueblo recognizes the progress of Ecuador regarding the processes of the Commission of Truth, for example the publication of its final report entitled “Sin Verdad no hay Justicia” (“Without Truth there is no Justice”) published in June 2010. 118 cases involving 456 victims of events that occurred between January 1984 and December 2008 are detailed in the report. The report contains 25 findings and 156 recommendations among which a draft legislation has been proposed in order to allow full compensation of victims.</p> <p>So far, all these cases have been brought to the attention of the judges and the necessary instructions have begun ; the judges have issued personal actions against the main culprits. The number of cases that have come to trial, and been punished are three.</p> <p>Additionally, on December 13, 2013, after a debate of more than two years, the National Assembly passed the legislation for Victims Reparation allowing the creation of a comprehensive management reparation program that will be handled by the Defensoría del Pueblo and aims through measures of tangible and intangible repair to compensate the damage caused to victims. This program should start working within 90 days.</p> <p>Despite the progress on the issue, it is important to know which measures the state will adopt in order to process these relevant cases for commission of crimes against humanity and violations of human rights, in an orderly manner and in a reasonable time.</p>

Right	Right to personal liberty - rights of persons deprived of liberty
Section Title	Improving conditions in prisons - overcrowding
Recommendation	<p>While the Committee notes the measures being taken by the State party to improve conditions of detention, it is concerned about the high levels of overcrowding and poor conditions in social rehabilitation centers, including poor health, lack of drinking water, violence, lack of medical care and staff shortages (Art. 10). The State party should increase its efforts to improve conditions for all detainees, fulfilling all the requirements contained in the standard minimum rules for the treatment of prisoners. In particular, it has to be addressed to overcrowding as a priority. The State party should provide the Committee with data showing progress, particularly with regard to the implementation of concrete measures to improve the conditions of prisoners.</p>

<p>Comments and Challenges</p>	<p>The Defensoría del Pueblo recognizes the signature by the Ecuadorian State of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Punishment on May 24, 2007, as well as the establishment of the National Preventive Mechanism against Torture and Other Cruel, Inhuman and Degrading Treatment since November 2011, as part of the institutional structure of the Defensoría del Pueblo. It should be noted that on December 10, 2013, the draft legislation of the Defensoría del Pueblo to the National Assembly, which includes a chapter regarding the Mechanism for the Prevention of Torture, was presented.</p> <p>Despite the progress in this area, we believe that there are still some challenges in order to to make the most effective improvement of conditions in detention centers, including:</p> <ol style="list-style-type: none"> 1. To know the programs and projects that have been implemented in places of deprivation of liberty, at a level of occupational activities for persons deprived of liberty; health care, family, social and work reintegration; guarantee of non-discrimination to GLBTI groups, afro-descendants , people with a different national origin and people with disabilities; visits regularization; fostering children that live in the centers and have reached three years eleven months; training processes. 2. The reports submitted by the State put in evidence overcrowding in the Centers of Deprivation of Liberty, so it would be important to know the actions taken by the Ecuadorian state to reduce overcrowding rates nationwide.
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<p>Right</p>	<p>Principles of equality and non-discrimination</p>
<p>Section Title</p>	<p>No discrimination based on criminal record</p>
<p>Recommendation</p>	<p>While the Committee notes the principle of non- discrimination based on criminal record stipulated in Article 11.2 of the Constitution, and the draft amendment of Decree No. 3301 on refugees, which expressly provides for the prohibition of asking the criminal record, and that the General Directorate of Refugees responsible for receiving applications for refugees do not request the criminal record in order to process requests for shelter, the Committee regrets that, according to some reports, some procedures still maintain the practice of requesting the criminal record as an entering requirement (criminal record) exclusively to Colombian immigrants. The State party should take measures to ensure that the principle of non-discrimination on grounds of criminal record provisions of the Constitution is reflected in practice. According to paragraph 5 of General Comment 15 of the Committee on the status</p>

		<p>of aliens under the Covenant, the Committee reminds the State party that while the Covenant does not recognize the right of aliens to enter the territory of a State Party or reside in it, in certain circumstances an alien can recur to the protection of the Covenant even in relation to entry or residence, for example, when considerations of non - discrimination, prohibition of inhuman treatment and respect of family's life arise.</p>
Comments and Challenges	and	<p>The Defensoría del Pueblo recognizes the Ecuadorian State progress in this area, for example, that the Ecuadorian government decided, since December 2012, to eliminate the requirement of criminal record for Colombian nationals to enter the country.</p> <p>However, we believe that there are some challenges as well :</p> <p>While, in the case of refugees it is not possible to require the criminal record according to the Article 4 of the Executive Order 1182, it would be important to know which are the best means for an applicant of shelter to identify, because we know that people in this condition does not always have the opportunity to get an identity card when leaving their country of origin.</p> <p>Regarding social policy, the Ecuadorian State has made a great progress, so it would be necessary to include refugees in the various programs and projects of social policy at the level of the different services such as health, education, civil register and others.</p>

Right	Principles of equality and non-discrimination
Section Title	No discrimination against indigenous people
Recommendation	(...) The State party should take appropriate measures to ensure the practical implementation of constitutional and legal provisions guaranteeing the principle of non-discrimination against indigenous peoples and full compliance with Articles 26 and 27 of the Covenant.
Comments and Challenges	and <p>The Defensoría del Pueblo acknowledges the progress made by the Ecuadorian State regarding regulations to combat discrimination against indigenous people.</p> <p>However it seems that there are still some challenges:</p> <ol style="list-style-type: none"> 1. It would be important to have statistics at national, provincial and local levels of indigenous people who are public or private servers. This effectively measure the inclusion of indigenous peoples in different workplaces.

	<p>2. Due to constitutional advance declaring as official languages such as Quechua and Shuar, it would be important to know if public and private institutions offer their services in these languages to the population.</p>
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