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SUBJECT: ALTERNATIVE REPORT PRESENTED BY THE CEDHU WITH  
REGARD TO ECUADOR'S APPEARANCE BEFORE THE COMMISSION

The Ecumenical Commission for Human Rights (CEDHU) is a legally-constituted, non-governmental organization that has been working in Ecuador since 1978. This legally recognized organization dedicates its efforts to the education, promotion, diffusion, investigation and denunciation/defense of human rights violations. In light of the Ecuadorian Government's responsibility to present its report of fulfillment of the Economic, Social and Cultural Rights Agreement to the Committee, we wish to present this document containing information related to the general situation of the ESCR in Ecuador in order that the members of the Committee be more fully informed.

## **I. GENERAL FRAMEWORK FOR THE APPLICATION OF THE AGREEMENT**

In accord with the 2008 Constitution, the Government recognizes that all persons living in Ecuador have the right to work, to equal pay for equal work, to form unions, to social security, to free elementary and secondary education, and to health, and the Government has accordingly passed a number of ordinances that attempt to eliminate child labor and eradicate discrimination in schools caused by gender or migratory status and has increased the budget in social areas for health and education. Nevertheless, for all practical purposes as shall be further on, serious problems continue with regard to access to sources of work with the Government itself responsible for many recent arbitrary dismissals, deficiencies in health and educational systems at all levels as well as the criminalization of peasant and indigenous sectors when they have opposed extraction projects that undermine their right to a life of quality and dignity.

## II. ISSUES RELATED TO THE GENERAL DISPOSITIONS OF THE AGREEMENT (ARTICLES 1 TO 5)

1. Article 57 of the Ecuadorian Constitution guarantees the right of communities, peoples and nationalities to prior, free and informed consent regarding projects that could affect them environmentally or culturally.

1.1. A case in point that illustrates that consultation with indigenous peoples has not taken place in Ecuador is that of the Amazonian Quechua people of Sarayaku who are threatened by oil-drilling activities. On June 27, 2012, the Inter-American Court passed a sentence regarding this case and determined that the Ecuadorian State is responsible for the violation of rights to consultation, to indigenous community property and to cultural identity, is responsible for having seriously put at risk the rights to life and personal integrity and is also responsible for violating the rights to judicial guarantees and judicial protection.

The Court determined that consultation should be carried out in accordance with international parameters, and prior, free and informed consent is part of the international standards defined by the Court itself. With regard to the application of the Sarayaku peoples' right to consultation, the Inter-American Court expressed the following:

*In order to guarantee the effective participation of the members of a people or indigenous community in development or investment plans within its territory, the State has the obligation to consult actively with that community and provide information in accord with its customs and traditions within the framework of continual communication between the parties.*

*Additionally, consultations should be carried out in good faith, employing culturally acceptable procedures, and their purpose should be to reach an agreement. Consultation with a people or community should also be in accordance with their own traditions, and they should take place during the first stages of a development or investment plan, not only when the need for obtaining the community's approval arises if such be the case. Likewise, the State should be sure that the members of a people or community understand the possible benefits and risks in order that they may decide to accept a proposed development or investment plan. Finally, consultation should respect the traditional methods a people or community employ when making decisions. (Paragraph 177 of the Sentence.)*

With Executive Decree No. 1247 expedited on July 19, 2012, the current Government began a process of Prior Consultation with the communities, peoples and indigenous nationalities potentially affected by Ecuador's southeastern oil exploration sector. However, the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE) has declared that the Sapara nationality which has been declared the "Oral and Intangible Heritage of Humanity" is being threatened and has accused the Subsecretariat of Hydrocarbons of carrying out a campaign promoting the social benefits oil extraction would offer. This campaign, far from assimilating an interactive process based on reliable information, is encouraging the division of Sapara families and organized institutions.

In fact, the State is trying to prove that it has met this requirement in compliance with the Regulation for the execution of prior, free and informed consent during the

processes of bidding and assignment of hydrocarbon areas and blocks, independently of their results. It does not care if all or some of the affected persons participate, whether or not they are in agreement with the contents of the consultation or if they indicate solid arguments, since in the end, the State is the pertinent authority which determines the validity of the information received, thereby reducing the consultation simply to an administrative matter for which there is the need for the existence of a group of persons convinced of the social benefits the hydrocarbon activity would provide.

**1.2.** Another case that illustrates the absence of consultation with indigenous peoples is the case of the Shuar people who are threatened by large-scale mining. The organization of the Shuar took place in 1964 as the first indigenous group that united over their ethnicity. This is one of the most important ethnic groups in the tropical forests of South America, and their culture is one of the patrimonial expressions for which Ecuador is recognized as a Pluricultural State.

This people living in the Amazonian provinces of Morona Santiago and Zamora Chinchipe in the Cordillera del Condor region are undergoing the imminent execution of a number of large-scale mining projects which have been in progress for more than a decade. Precisely, during the initial and advanced stages of mining exploration, the indigenous Shuar people were not consulted in accordance with ILO Convention 169 and the Declaration on the Rights of Indigenous Peoples, in spite of the fact that Ecuador is a signatory of these documents. Neither has the State carried out consultation with indigenous peoples for the impending mining exploration for which the Government signed a contract with the Chinese enterprise Ecuacorriente in March 2012. This confirms the Government's unwillingness to apply the right to consultation which indigenous peoples have.

With respect to the peasant population in the same area, consultation has been limited to forums that have not taken into full account the impacts resulting from the mining activity. In spite of the fact that these forums were the only opportunity the people had to receive information, these forums did not take into account all the affected groups and persons.

According to the assessment of the technical team of lawyers and scientists of Environmental Law Alliance Worldwide (dedicated to the protection of the environment), the original and amplified Environmental Impact Assessment (EIA) for the exploratory stage of one of the projects soon to be executed does not contemplate a detailed analysis of potential consequences. Likewise, the Environmental Management Plan is not explicit, does not provide for management mechanisms, for vigilance or for the fulfillment of environmental quality standards.

**2.** With respect to the right indigenous peoples have to territory, land titling and registry in Ecuador corresponds to INDA, an entity that has not established a trustworthy system of land titling, especially in areas of social conflict where economic interests play an important role.

The inefficiency of institutions to demarcate and grant titles for indigenous and peasant lands does not permit rural populations even a minimum of legal security for their possessions. This problem is well-recognized by authorities and non-

governmental organizations in the country. Many new appropriations of ancestral territories which INDA had not legalized opportunely have been authorized. These appropriations eventually end in the hands of enterprises through land-trafficking deals.

Besides the legal insecurity of indigenous lands, there are the concessions of subsoil that successive governments grant without knowing who the owners of the land are. This also affects the indigenous populations' rights to land.

This situation has become worse because at the present time one of Ecuador's most important social causes is the defense of land, territory and the rights of nature. Therefore, indigenous, peasant, political, academic and environmental groups as well as social and human rights organizations that act as spokespeople for this national citizenship cause have been able to establish the rights of natural resources in the Constitution presently in force. Consistent with this postulate, they have also been able to achieve the right to resistance.

Because of the implementation of mega development projects such as projects of extraction of non-renewable natural resources on a large scale, the Government and the enterprises have presented a number of denouncements and lawsuits against people who defend these rights. This has unleashed a process of criminalization against indigenous and peasant leaders.

## **CONCLUSIONS AND RECOMMENDATIONS**

The State has not encouraged the participation of indigenous peoples or consultation with them when making decisions related to the restriction of their territorial rights or of access to water and natural resources as has been established by international documents and the Constitution of the Republic.

Neither has the State fulfilled its obligation to register all indigenous lands before granting mining concessions in these territories. This has propitiated a breakdown of the right indigenous peoples have to conserve the imprescriptible, inalienable, unseizable and indivisible property of their collective lands.

We request that the following recommendations be made to the State :

- To suspend the operations of extractive projects that affect ancestral lands until the prior, free and informed consent of their inhabitants has been obtained as established by ILO Agreement 169 and the Declaration on the Rights of Indigenous Peoples
- To abide by the mining mandate resolved by the National Constituent Assembly of 2008 which provided for declaring extinct mining concessions in the exploratory stage that had not carried out processes of prior consent by December 31, 2007.
- Guarantee the judicial security of ancestral lands through the collective titles of their properties not yet entitled and also establish an efficient mechanism for registering peasant properties. It is essential that the State carry out these entitlements before authorizing any mining or oil

concession.

- Review the purchasing of land by enterprises such as the Chinese-based Ecuacorriente and also make a study of the current situation of persons who have been displaced from their lands. This will make it possible to understand the living conditions of persons who have been displaced by the Ecuacorriente mining project as well as their right to housing.
- Review the property titles of land granted to enterprises whose concessions are located in areas where there is judicial insecurity with regard to land ownership.
- The Government should normally demand that the extracting enterprises present independent objective and detailed environmental impact studies that provide sufficient elements so people can make informed decisions related to the processes of a broad and transparent consultation.
- The Government should ban the Land Secretariat's (former INDA) practice of individualizing community lands and should not adjudicate lands used collectively by indigenous peoples, based on the Western idea that they are "vacant" and susceptible to private appropriation.

### **III. ISSUES RELATED TO SPECIFIC ARTICLES IN THE AGREEMENT (ARTICLES 6 TO 15)**

#### **THE RIGHT TO WORK**

1. The Right to Work is guaranteed in the Constitution. Nevertheless, for all practical purposes, this right is not respected, because the number of unemployed or those under-employed in the informal sector is high. Consequently, these people do not qualify for any type of social security benefits.

According to the Ecuadorian Institute of Statistics and Census (INEC), in the second semester of 2012, unemployment rose to 5.2% at the national level. Among women, unemployment is 5.8% while for men it is 4.8%. According to INEC figures, Guayaquil is the city with the highest unemployment rate in Ecuador (6.28%), followed by Machala (4.75%), Quito (4.35%), and Ambato and Cuenca, (both with 3.42%).

In June, the Economically Active Population (EAP) of Guayaquil was 1,195,290 persons (672,803 men and 522,487 women). 1,120,221 had jobs (633,517 men and 486,704 women) in the formal and informal sectors. 75,069 were unemployed (39,286 men and 35,783 women). Guayaquil has usually had high levels of unemployment because of internal migration in contrast with Quito where unemployment is less because employment in the public sector is high; therefore, unemployment rates are lower and the average wage is higher in Quito.

2. According to INEC, of the 3,657,803,000 children and adolescents (5 to 17 years of age) registered in the country until 2011, it is estimated that 213,146 work,

representing 5.8% of the population. Of this percentage, 3.2% of those who work also study while 2.6% do not. Child labor is closely related to the poverty many Ecuadorian homes endure.

The largest number of working children live in rural areas. In 2011, this figure was 10.2% while in the urban area it was 3.2%.

Data obtained from the National Survey of Employment and Sub-employment of 25,000 homes last year showed that the provinces with percentages higher than the national average are Loja, Imbabura, Tungurahua, Azuay, Los Ríos, Manabí, Pichincha and Guayas. The provinces where child labor had decreased were Guayas, Pichincha, Manabí, Cañar, Bolívar, Tungurahua, Imbabura and Zamora Chinchipe.

**3.** Five years ago, the measures applied in several state institutions resulted in the massive termination of workers. For example, arguing that it is necessary to modernize and reduce the size of the State oil enterprise, authorization was requested to terminate a large number of workers among whom were union leaders. When the labor authorities refused to authorize the petitions to terminate labor relationships, instead of permitting the reentry of the workers, the authorities informed them that they were fired and if they so desired, they could take the matter up with the courts and sue the company.

Because of this situation, workers were forced to take protective action but even when they won in the courts, the State oil enterprise did not execute the judicial decisions.

The dismissal without notice of Petroecuador union leaders in June 2008, the unilateral revision of collective contracts in the public sector starting in October, and the expedition of laws contrary to union autonomy and the right to collective bargaining provided for in Constitutional mandates 02, 04 and 08 as well as the Constitution of 2008 itself motivated the National Federation of Petroecuador Workers (FETRAPEC) to present a complaint to the International Labor Organization (ILO) that year in December which was accepted for review by the Committee on Freedom of Association as Case 2684. In June 2009, Report 354 dealing with the case was approved by the Administration Council during the International Labor Conference.

This Report establishes the violations of the terms of Agreement 87 with regard to Freedom of Association and the Right to Unionize and Agreement 98 with regard to the Right to Unionize and Collective Bargaining which had been taking place in Ecuador because of the initiative of the Ecuadorian Government and because of legislature opposing union and workers' rights in the public sector. The Committee made seven recommendations to Ecuador, most of which are requests for authorities to annul the unilateral revision of the collective contracts of workers in the public sector as well as the executive decrees and ministerial agreements that revision propitiated. It also recommended that the right to collective bargaining be restored since its omission affects working conditions and the lives of the workers and that any discrepancy be resolved through social dialog and direct agreement between the parties in order to arrive at shared solutions instead of by the discretionary powers and imposition of the Government.

Because the Government and its authorities affirm that the organized unions of Petroecuador no longer exist since now there is a new enterprise the Committee

on Freedom of Association reminds them that Agreement 87 states that workers' organizations can be dissolved only voluntarily or judicially. Also in question is the unjustified retention of the workers' union quotas which the Company turned over to the Ministry of Labor Relations instead of giving them to the organized unions.

In March 2012, the ILO Administrative Council approved the Committee on Freedom of Association's Report 363 which recommended that the Government take the necessary measures to immediately return the union quotas to the workers affiliated to FETRAPEC and that the union be recognized. The request was to reintegrate the leaders who had been fired and to annul the Ministerial agreements which seriously affected the principle of free collective bargaining conferred in Agreement 98. With relation to the alleged massive terminations in E.P. PETROECUADOR in 2009 and 2010, the Committee requested that the Government immediately send detailed information regarding these dismissals and their observations regarding the anti-union nature of the dismissal. Regarding the alleged dismissals in the Electric Company of Guayaquil and the ongoing penal lawsuits against the workers because they had demanded their rights, the Committee profoundly laments that the Government has not responded and urges it to do so without delay.

**4.** In October 2010, The Organic Law of Public Service (LOSEP) was passed. When there was resistance to this law, the Government tried to introduce the figure of obligatory resignation which the Assembly rejected. Therefore, in July 2011, the Government issued Executive Decree 813 to reform the LOSEP Law which established the obligatory resignation. The first thing noticed when this Decree was published was the expression "obligatory resignation." Since the definition of resignation is "voluntary demission or departure," if it is obligatory, then it is not a resignation but rather a termination. This figure of obligatory resignation allowed the National Government to proceed with the destitution of many public servants in a number of Government entities.

In 2011, the first group of 2,700 public servants from 11 State institutions were left without work because of this Decree. This process continued in 2012 because the objective is to terminate 11,740 public servants. In order to justify these terminations, the Government qualified the workers as corrupt, mediocre, slackers and dishonest, characteristics that had been determined by the Secret Service. No worker was given a specific reason for the dismissal and was only told to sign a document informing them of the application of Decree 813.

The fact of the matter is that during 2012 the destitution of workers in the public sector has continued. In January, the Minister of Labor Relations reported the dismissal of 900 workers from several institutions in addition to those dismissed the year before. However, public servants' leaders say that on January 20, 1,300 workers left, while in June, 81 were obligated to resign in the Ministry of Economic and Social Inclusion and then more than 300 were separated from the social rehabilitation system.

Public servants receive the notifications with tears and many complain that they have been pressured or threatened at gunpoint by police officers who have gone to force them to leave their workplaces. The Minister of Labor Relations explained that this is done in order to give young people the opportunity to enter the public sector.

If corrupt or dishonest workers were the real problem, the Government should have taken the proper administrative measures which respect the right to due process and then fire workers once their responsibility had been proven. Legal measures were not taken and clear Constitutional resolutions and international treaties were violated. This affected not only the right to the stability of employment and to the person's dignity by being signaled out as corrupt and dishonest, but it also affected the right to retirement benefits since many of the dismissed workers were close to retirement age. Many of these workers will not be able to find another job either because of the reason for their dismissal (corrupt or dishonest) or because of their age since most of them are over 40 years of age.

Last year workers' organizations filed a lawsuit to challenge the constitutionality of this Decree. However, until this time the Constitutional Court has not yet made a pronouncement.

Many of the dismissed workers belong to the health sector, and many of them are specialized physicians which causes a current deficit in the health sector which we will show when we deal with this topic later on.

In March 2012, approximately 300 hospital workers were dismissed in the laundry, cleaning, food and security areas of Baca Ortiz Hospital in Quito; Verdi Cevallos Hospital in Portoviejo; Abel Gilbert Hospital in Guayaquil; and José María Velasco Ibarra Hospital in Tena. They were replaced by hiring private companies to provide the service for these medical facilities.

## CONCLUSIONS AND RECOMMENDATIONS

No other Ecuadorian Government in history has assaulted workers' rights to this extent. It began with not recognizing the method of collective bargaining and infringing on the rights and conquests of the working class. The end of outsourcing was announced, but then the Government became the primary outsourcer. The talk was of stability, but then the system of yearly contracts was established, thereby nullifying any right to possible stability. Finally came the massive firing of workers by using the method of obligatory resignation.

We request that the Government be recommended to:

- Eliminate Executive Decree 813 because it clearly violates workers' rights.
- Fulfill the recommendations made by the ILO.
- Respond opportunely to the complaints presented to international organizations that protect workers' rights.
- Permit workers who were illegally dismissed by obligatory resignations to return to their jobs, and if they are deemed to be bad workers, then follow the respective administrative procedures that offer legitimacy to the process.
- Continue its efforts to eliminate child labor.



## **SOCIAL SECURITY PROTECCIÓN OF THE FAMILY, MOTHERS AND CHILDREN**

1. The last National Survey of Family Relations and Gender Violence Against Women made by the National Institute of Statistics and Census (INEC) reveals alarming data: 6 out of every 10 women have suffered some type of gender violence in Ecuador. Additionally, 76% of women have suffered some type of violence committed by a partner or ex-partner.

The principal causes are usually related to different types of dependencies (economic or emotional, for example) and are related to the common belief that women are inferior to men and have fewer rights. Gender violence is a structural problem and the result of a traditionally patriarchal and machista society.

In relation to economic dependence, we should point out that homes where the head of the family is a man are predominant. In Ecuador, the female employed population is 41.3% and the unemployed female population is 60%. However, unemployment is 13.8% and underemployment is 51.4%. In the cases of female workers in the formal sector, wages are clearly lower.

Statistics of the Peace and Hope Foundation, a group dedicated to helping women who suffer abuse, show that women who live with their husbands' families suffer 75% more violence than couples who live alone. Divorced women who remarry also suffer more violence than women who are married for the first time. The types of violence they refer to are physical, psychological and patrimonial. Sexual violence is also a reason for sanction since it is classified as sexual crime by Ecuadorian penal legislation.

With regard to the typification of femicide, the creation of this legal concept as a specific crime is undergoing debate in Ecuador. Since femicide has not been typified as yet, the deaths of women at the hands of their partners, ex-partners or third parties as well as aggressions against women because of their condition as women have not been properly registered except with women's organizations. Because these acts are considered homicides or as other types of sexual crimes when there has been sexual violation during an attack, these cases are sent to different legal dependencies. The lack of typification favors impunity in the majority of these cases.

In 2009, the Government launched the campaign "React Ecuador, Machismo is Violence" as an attempt to create awareness with regard to the problem of violence against children, teenagers and women by using advertising spots and visits to educational centers. An evaluation in 2010 indicated that complaints regarding violence had increased in relation to previous years. Authorities argued that since the campaign is planned for the long term, an immediate decrease in violence cannot be expected. In mid-2011, the Women's Commissary in the provinces of Manabí and Santo Domingo de los Tsáchilas had registered 875 and 2,100 complaints, respectively. Apparently, the campaign is not generating the desired impact because only one visit per year to a limited number of educational centers is being carried out, there is no follow-up and teachers are not given materials to help them continue the process of training young people.

2. According to data of the National Institute for Children and Families (INNFA), 27% of the population between 0 and 10 years of age is punished at least once a week. According to a survey made in 2010 by the Observatory for the Rights of Children and Adolescents (ORCA), four out of every ten children in Ecuador are beaten. This behavior is the second most frequent parents apply when their children do something wrong or disobey. The provinces that register the highest number of complaints of intrafamilial violence are Cañar, Loja and Azuay, all in the southern part of the country.

Abuse in educational institutions is another problem. According to the Metropolitan Council for the Integrated Protection of Children and Adolescents (COMPINA) which deals with cases of administrative processes of protection or preventive measures related to the obligatory fulfillment of protection, just in the first six months of 2010 alone, ten cases of abuse were registered. The creation of dependencies where child abuse can be denounced and more awareness with regard to the need to register complaints have increased. Consequently, denouncements have increased noticeably, at least in Quito where COMPINA registered 698 cases in 2008, the year when the Metropolitan Rights Protection Boards (JMPD) were created. The number of cases increased to 1,142 in 2009 and to 1,272 in 2010.

However, the abuse of children and adolescents is not limited to the home or the school. It is also evident in the judicial system and among public servants who infringe upon their rights even more by handing down unrealistic sentences.

Such is the case of two young eighth-grade boys at Liceo Policial High School in Quito who were forced to participate in extremely hard physical exercise and public humiliation in the classroom. Their mothers filed a complaint and were then also the object of pressure and harassment by school authorities and other parents. The Rector of the school was an active member of the national police force. In spite of the JMPD's sentencing in favor of the victims and the fact that the case made national news, the mothers were reprehended and taken to task by an official at the Provincial Direction of Education. The children were finally transferred to another school.

## CONCLUSIONS AND RECOMMENDATIONS

The causes of gender violence and violence against children and adolescents are structural, and efforts to prevent it need to be directed at root causes. Likewise, the programs initiated by the Government (Plan for Equal Opportunity, National Plan for the Integrated Protection of Children and Adolescents, etc.) should be coordinated in order that they be effective, because the tendency is that each sector-aimed program acts according to its own objectives and is not aware of the importance of a global type of intervention.

We request that the Government be recommended to:

- Initiate a program of educational intervention in order to encourage respect

and non-discrimination as a way of preventing the structural violence that women in Ecuador suffer at all levels.

- Redefine the existing programs against gender and intra-family violence by considering them as systems of integrated attention and covering women's needs in the entire process (psychological, economic, legal and institutional support).
- Legally typify femicide and different types of gender violence in Ecuador.
- Promise to coordinate all existing plans and programs that can work together in the prevention of the structural and gender violence women in Ecuador suffer.

## **THE RIGHT TO AN ADEQUATE STANDARD OF LIVING THAT INCLUDES ADEQUATE FOOD, CLOTHING AND HOUSING**

1. According to indicators provided by the Economic Commission for Latin America and the Caribbean (ECLAC) in each of its yearly reports, the poverty indexes in Ecuador have dropped in recent years. In the decade of 1980 to 1990, poverty reached indexes scandalously high, showing that 50% of the population was affected. In 2001, poverty continued to affect 49%, but in 2011 it dropped considerably to 28.6%.

Extreme national urban and rural poverty is 9.4% as of June 2012, 6% lower than June 2008, according to data of the National Institute of Statistics and Census (INEC). Nevertheless, we encounter great differences when reviewing different indicators: Areas (rural or urban), Regions (Coast, Sierra or Amazon) and Ethnic Groups.

1.1. By Areas: Extreme poverty measured by income does not reach the same indexes for rural areas as for urban areas. According to INEC data for this same year, 15.3% was registered as extreme poverty in urban areas, 8% lower than the results of 2008. However data for rural areas continue at a very high level of 45% in spite of a decrease of 13% in comparison with 2008.

The Government's lack of attention is greater in rural areas in spite of the fact that they need more attention. It is evident that generally speaking, poverty has decreased during these last four years. However, this reduction has not affected rural areas in the same way as urban areas, and special efforts are not being taken to counterattack this tremendous inequality.

The rural population depends totally on agriculture, an activity not very important for the Government. Data from the 2005 Agricultural Census show that 70% of the poor in the country reside in rural areas and that of this number, 25.3% do not have sufficient income to guarantee them the basic food basket and 58% have other unmet basic needs. The provinces having the highest level of rural poverty are Manabí, Los Ríos, Guayas and El Oro.

Public policies to fight poverty need to identify the situation and characteristics of each area. Specific policies are needed for rural areas to strengthen the tools already in place in order to assure dignified living conditions.

**1.2. By Regions:** A look at the poverty indexes by regions in Ecuador once again shows great differences. According to a report published in 2010 on poverty in Ecuador by the Latin American Center for Rural Development (RIMISP), the regions of Carchi, Imbabura, Santo Domingo de los Tsáchilas, Chimborazo, Loja, Pastaza, Morona Santiago and Zamora Chinchipe account for 56% to 80% of the rural poverty while regions such as El Oro and Pichincha have between 28% and 35%.

The highest urban poverty index on the coast is in the province of Esmeraldas with 35% to 56%. Guayas, Pichincha, El Oro, Azuay, Loja, Tungurahua, Sucumbíos and Orellana have 5% to 20%.

**1.3. By Ethnic Groups:** The same 2010 RIMISP report shows poverty indexes according to an ethnic indicator. The indigenous population is most affected -60.9% of this group is poor. The Montubian population follows in second place with 50.5%, whereas the national average is 28.6%.

**2. The Human Development Bonus,** a financial aid program for people in situations of poverty and extreme poverty, encourages the training of members in low-income families. Mothers receive \$35 a month with the condition that this financial aid will allow their under-age children to study and they will take them to a health center for regular check-ups. The condition regarding education assumes that these mothers will register their children between the ages of 6 and 15 in school, thereby assuring their attendance in at least 90% of the classes.

According to RIMISP's 2011 Latin American Report on Poverty and Inequality, the effects are not the same in rural areas as in urban areas. The effect is positive regarding school registration with 9.8% more benefited children registered than non-benefited children. However, in rural areas no noticeable effect is seen in this regard.

The causes of these differences are related to the level of education of the heads of family. In rural areas, the male head of family has less education or the head of family is a woman, and this increases the possibilities for applying the condition. Older children who have not studied find it difficult to begin studying since their parents think it more important that their younger children study. Another reason is that older children represent higher costs. In rural areas, the cost of transportation and materials is higher than in urban areas. Another factor is that rural children have duties not related to their studies because they have to help at home. This factor does not affect school registration, but it is obviously an extra burden for children. This same report indicates that transfers of money do not show a relationship to other types of intervention in the infrastructure or in improving educational conditions in the rural area.

With respect to child labor, the Human Development Bonus generated a positive impact in decreasing child labor in both rural and urban areas. The number of children who work dropped by 17% and the number of hours per week benefited

children work also dropped to 9.8 hours less in urban areas and 7.5 hours less in rural areas. The Human Development Bonus Program does not have mechanisms to evaluate the fulfillment of the conditions required for receiving the bonus, so better control and evaluation of impact according to area is needed.

**3.** The International Agreement presently in force deals with the issue of adequate housing, which is a right every person has. The Constitution of the Republic of Ecuador, Article 37 guarantees that adults have access to housing that assures dignified living conditions, that respects their opinion and has their consent. In recent decades, the housing problem in Ecuador (access and quality) has persisted in spite of a relative decrease in the housing deficit.

Because of this situation, the current Government has offered several national programs that focus on access and improved housing.

- The Community Member Project: Improvement of neighborhoods aimed at facilitating access to infrastructure and services for families that live in neighborhoods where basic needs have not been met.
- The Title Bonus: A subsidy for low-income persons to help pay the costs of property deeds when transferring titles when ownership has not yet been registered.
- The My First House Bonus Program: \$5,000 in aid the Government gives to families that want to purchase a house under \$60,000. Between August 2010 and July 2011, 27,247 bonuses were granted under this program. Soon after, the program was revised and now the bonus is granted only for acquisitions under \$20,000.

Official reports indicate a total of housing solutions in Ecuador from 2007 to 2011 of 244,201 units corresponding to an investment of \$926,953,703. The Ministry of Urban Development and Housing (MIDUVI) indicates a decrease in the housing deficit of 9% from 2006 to 2010, because during that period a total of 65,000 houses were built. Data related to overcrowded housing showed a 5% decrease from 18.9% to 13.77%. From 2008 to 2011, 159 million dollars were given in mortgage loans by the Ecuadorian Institute of Social Security and the Ecuadorian Institute of Social Security Bank (IESS and BIESS), benefiting 207,000 persons.

With regard to the housing supply and demand, data for 2009 shows that 6 out of every 10 Ecuadorian families own their homes while 3 out of every 10 families rent. However this data is not uniform for the entire country. According to the Inter-American Development Bank, 76% of families in Machala cannot afford their own home while in Guayaquil the figure is 66%, in Cuenca it is 59% and in Quito it is 58%.

Another bit of information to keep in mind is that according to reports of the Ecuadorian Institute of Statistics and Census (INEC), the population in Ecuador in 2010 increased by 14.6% in comparison with the year 2000. This means that in 10 years there were two and one half million more inhabitants but available housing had not increased at the same pace. (The annual growth rate is 1.52 %.)

In 2001, 67% of families had their own home and in 2010 this percentage dropped to only 64%. Consequently, the percentage of families who were renting increased

from 32.7% to 36%. Statistics of the Ministry of Urban Development and Housing (MIDUVI) show that the deficit of new housing in 2006 was 23.3% and in 2010 was 19.3%. Similarly, during those same four years, crowded housing decreased from 18.90% to 13.77%.

However, the reality is that the housing situation in Ecuador is still deficient. Two levels must be kept in mind: the quantitative and the qualitative. In Ecuador, the quantitative deficit is 400,000 rural families and one million urban families that do not have their own homes. The most outstanding deficit is concentrated in marginated urban areas because of the disproportionate increase in the urban population during the last decade.

The Unsatisfied Basic Needs index shows 71.6% of the housing to be of poor quality. 40.3% does not have basic services and 29.8% of families live in crowded circumstances. The deficit is qualitative because, for example, 1.5 million urban homes and 500,000 rural homes do not have solid flooring. Similarly, 440,000 urban homes (18%) and 400,000 rural homes (30%) are overcrowded with three or more persons sharing a bedroom. Another important indicator is the lack of basic services in homes. Although this is a problem in the entire country, the situation is worse for the rural population. 96% of urban homes have electricity but only 88% of rural homes have this service. 87% of urban homes have water while only 46% of rural homes have water. 71% of urban homes have access to sewage but only 23% of rural homes have this service.

Economic help in the form of bonuses provided by the Government does not solve other types of problems related to housing such as access to basic services so other specific programs are needed to fill this void.

**4.** According to the United Nations Special Rapporteur on Adequate Housing, one way to guarantee the right to housing is to protect persons from involuntary displacement.

**4.1.** When mining entities acquire thousands of hectares inside their concessions and areas of influence, they increase the vulnerability of families affected by the sale of their lands and displacement. In the Amazonian province of Zamora Chinchipe, the mining company, Ecuacorriente, bought several farms, thereby forcing several families off their land located in the parishes of Tundayme and El Quimi. The construction of required infrastructure also produced the displacement of the entire community of San Marcos.

Peasant families have had to abandon their rural lifestyle, their autonomous farming activities and their self-sustaining food supply. In spite of the dramatic effect the company's plans have had with regard to the destiny of a number of families, the Government did not analyze the plan for the purchase of the land, did not supervise the execution of this plan, and did not demand any alternatives to require the company to offset the displacement.

The mining norms currently in force encourage involuntary displacement of people because they declare that all phases of mining activity are "public benefit." Permitting the establishment of restrictive servitude for mining projects goes against such fundamental rights as the right to housing.

**4.2.** Another case that illustrates the imminent displacement of local communities is that of the Montubian and peasant communities of Rio Grande in the canton of Chone in the province of Manabí where the construction of a dam is part of the Chone Multipurpose Project.

This project that was planned without consultation violates Article 398 of the Constitution which establishes that all State decisions or authorizations that could affect the environment be discussed with the community. Once again, the Government informed several communities about the resettling plan only after the forced displacement of one of the farmers. The Constitution recognizes the right to prior, free and informed consent and the collective rights of Montubian peoples.

Several families have resisted being forced to leave their ancestral lands and their campesino lifestyle. The Constitution affirms that the Montubian populace is part of the one indivisible Ecuadorian nation and grants it the right to conserve the imprescriptible property of their community lands that will be inalienable, non-embargable, and indivisible.

**5.** With regard to access to land, the Ecuadorian Constitution establishes that it is the State's duty to encourage people's equitable access to land and other productive resources (Article 334) through redistributive agricultural policies (Article 281, number 4), and other specific policies that favor women producers and attempt to eradicate inequality and discrimination with regard to access to factors related to production (Article 334). The Constitution also prohibits the "latifundio" (large estates) and the concentration of land as well as the monopolizing or privatization of water and its sources (Article 282).

Throughout the history of Ecuador, there have been many peasant and indigenous struggles related to the rights of their collective and ancestral territories. Contextual conditions have changed since the time the debate was confined to the limits of hacienda landowners, because now indigenous organizations operate in a much more complex context.

The distribution of land in Ecuador reflects vast inequality. According to the National Agricultural Census, units of agricultural production less than one hectare in size represent 29.47% of the number of properties, but they occupy only 0.78% of the total area of land in the country.

The Government's four-year 2009 Lands Plan (until 2013) was preceded by the Government's Integrated Development of State Haciendas Pilot Project. The objective of the Lands Plan is to intervene two and a half million non-productive hectares, beginning with those owned by the Ecuadorian State and the failed banks. There is no official coherent data on the number of hectares that are to be intervened because the Ministry of Agriculture, Cattle and Fishery has not published the exact figure for public lands that may be redistributed.

Many different factors hamper the debate and execution of a Land and Territory Law that would provide for a structural change in the Ecuadorian farmers' situation, especially in relation to the small farmer. The Government's interest should be directed towards a solution of existing problems and not contemplate

assistential policies that only bandage the problem but do not cure or solve it.

The report on “Monitoring the Redistribution Policies for State Lands and the Right to Food for Land Holders” made by FoodFirst Information and Action Network (FIAN) in conjunction with the organization Union Tierra y Vida, very clearly shows the relationship between the processes of the peasant struggle for land and the prospect of food for thousands of Ecuadorian families.

The redistribution goals proposed by the Land Plan to be reached supposedly by the end of 2013 are at this time very distant from the real situation of Ecuadorians. Willingness and political dexterity are needed as well as a competent legal framework that can adapt to the needs of peasants and peasant organizations which have not yet legalized the ownership of their lands.

The possibility the Government has to resolve territorial conflicts and guarantee authentic food sovereignty (as stated in the Ecuadorian Constitution) depends on facilitating the process and execution of a fair and balanced Law of Lands and Territories.

The current Organic Law of Lands and Territories entails a controversial and criticized proposal over which the implicated parties cannot agree. Indigenous and peasant organizations consider the definition of useful lands a threat when it refers to lands that fulfill a social or environmental function. In many cases, the community land of Amazonian or Montubian peoples would not comply with this definition. It would discriminate ancestral peoples whose traditions and cosmovision do not adapt to conventional methods of development and it would favor those who seek to totally exploit the land.

The proposal for this law defines indigenous lands and territories as those that have remained in their power uninterruptedly from times immemorable. In cases where indigenous peoples have been displaced, they would not have the possibility to recover their ancestral territories. Additionally, the proposal recommends that the community itself be in charge of the social control of the territory when there has been a repetition of cases of pressure and threats so they will abandon the land.

## CONCLUSIONS AND RECOMMENDATIONS

The Government lacks strategies to encourage the development of rural areas where there are serious problems related to poverty, the lack of infrastructure, technical assistance and other tools that facilitate better living conditions.

The effect the Human Development Bonus has on education, health and the living conditions of the poorest families requires more efficient mechanisms to control the conditioning for its transfer as well as additional differentiated interventions in rural areas which need more attention and where the impact of the Bonus has not generated any perceptible change.

With regard to the problem of housing, this cannot be solved simply by implementing assistential programs with large budgets. It is necessary to



encourage the existence of equitable conditions in economic, social and political aspects for people. The Government should focus its efforts on the root of the problem and not on its consequences.

The mentioned cases of displacement are only examples of what can happen at the national level, because besides the oil activity, the Government has prioritized large-scale mining and hydroelectric megaprojects. This means that all the communities affected by these activities run the risk of being displaced, thus violating their right to housing and also to farming and their sovereignty over food and their generation of income. The Government should protect the people against involuntary displacement, including the type specified by the United Nations Special Rapporteur on Adequate Housing when the idea is that it is “for the common good.”

The redistribution of land has been discussed in the political arena, overlooking the real needs of indigenous and peasant peoples and their personal and community development. Government authorities have the obligation to propose a Land Law.

We request that the Government be recommended to:

- Initiate a specific program to reduce poverty in the indigenous population, the group most affected group.
- Develop proper mechanisms to prove that the conditions required for the transfer of the Human Development Bonus are met.
- Adapt the Human Development Bonus Program to rural and urban contexts in order that they be more efficient.
- Diversify programs aimed at eradicating poverty through the use of indicators of inequality applied to area, gender and ethnicity.
- Encourage the conditions necessary to make the right to housing a reality and meet the criteria of adequate housing: attainability, accessibility and living conditions.
- Strictly control the effectiveness of all the help given in the form of economic bonuses for housing and verify that it is adapted to the needs of people living under extremely precarious conditions.
- Initiate special housing plans for the most precarious areas, principally in neighborhoods located in the outskirts of large cities where migrants from rural areas are increasingly settling and living conditions are totally inadequate.
- Develop a specific program to improve access to basic services in homes lacking these services, making adjustments according to rural or urban indicators.

- Determine strategies to avoid displacements and forced evictions.
- Promise to carry out a study of the registration of land in the national territory in order to obtain reliable data regarding State and private property.
- Facilitate and encourage an authentic discussion regarding the proposal for an Organic Law of Lands and Territories with all implicated actors, keeping in mind the objective of Food Sovereignty detailed in Ecuador's Constitution.
- Facilitate the process of legalization and redistribution of land guaranteed in the 2009 Land Plan.
- Develop some type of independent control to provide for denunciation and later investigation of cases of invasion of community territory.

## **THE RIGHT TO HEALTH**

1. Although the Constitution of Ecuador guarantees the right to health for all Ecuadorians and the Government has invested more than \$5,300 million on health, the prevention campaigns, the massive vaccination operations and the eleven exception declarations have not been enough because in reality, the right Ecuadorian's have to health has not improved. For example, Ecuador is among the countries that have the highest levels of infant morbidity and mortality in Latin America.

Between November 2010 and January 2011, 26 newborns died in a hospital in Loja. In February 2011, 20 newborns died in the Francisco de Ycaza Bustamante Hospital in Guayaquil, In January and February 2011, 13 newborns died in the Gustavo Domínguez Hospital in Santo Domingo de los Tsáchilas, the same hospital where photos of newborns in cardboard boxes made headlines in March that same year. Three newborns died in April 2012 in the Virgen de la Buena Esperanza Hospital in Esmeraldas. An Ombudsman investigation in 2011 determined that of 28 hospitals visited, 25 had problems of insufficient staff or did not meet the requirements of asepsis or cleanliness required for newborn nurseries.

Data of the National Institute of Statistics and Census (INEC) shows that 3,204 children under one year of age died in 2010. The Sierra, with 1,575 infant deaths, is the region with the highest number of deaths of infants under one year of age. Second highest is the Coastal region with 1,434, followed by the Amazon region with 186 and Galapagos with 6. Other areas account for 3.

The infant mortality rate for children under one year of age in 2011 totaled 19.06 deaths/1,000 births. 22.37 deaths/1,000 births were male and 15.59 deaths/1,000 births were female.

2. Last year persons living with HIV/AIDS did not receive the antiretroviral drugs

they needed during a six-month period. These persons appealed to local judges and even requested precautionary measures of the Inter-American Commission of Human Rights. This pressure made it possible for the Government to obtain the medication and distribute it to patients. ONUSIDA Ecuador reports that Ecuador has a coverage of 67%, just below the average for Latin America which is 70%. Although the organization emphasized the work being carried out in Ecuador, it considered the duration of time when no medicine was available the year before to be too long. This year, at least three antiretroviral drugs began not to be available in hospital pharmacies. Patients of Enrique Garcés Hospital and Eugenio Espejo Hospital in Quito reported a shortage of Tenofovir. The Carlos Andrade Marín Hospital and the Armed Forces Hospital have also had problems in receiving Efavirenz and Combivir.

When there is a shortage of antiretroviral drugs, patients have to pay for them themselves and the cost is not reimbursed by institutions run by the Ministry of Public Health. Members who have social security in the Armed Forces do not have this problem.

**3.** At the national level, there is a shortage of beds in public hospitals as well as in private hospitals. Emergency and hospitalization services are usually inadequate and going to two or three hospitals to find a bed has become routine. Maria Tapia says, “At the hospital in Quevedo, they just gave me oxygen and sent me to Guayaquil because they didn’t have the right equipment. During the trip, they called the hospital in Babahoyo and were told there were no beds there and there weren’t any doctors either because it was a holiday –it was the night before Mother’s Day.” At the Abel Gilbert Hospital in Guayaquil it was an even bigger surprise because the explanation was the same and they didn’t even take her out of the ambulance. She says she thought she was dying, but they just put her in a wheel chair and told her to wait until Monday to see if that day a patient might leave and there would be a free bed. Another patient waited more than a week to get a bed at the Abel Gilbert Hospital. Along with 15 other patients, he waited several days and nights in a wheelchair in spite of having a chronic renal insufficiency.

In Guayaquil, the Ministry of Health has not built a hospital in 30 years. The last one to be built was the Francisco de Ycaza Bustamante Hospital in 1985. The Abel Gilbert Hospital, the largest hospital on the coast, was built in 1973, but it has only 254 beds. 70 are for surgery, 48 for gynecology/obstetrics, 63 for internal medicine, 8 for intensive care, 11 for emergencies and 30 for medical contingencies. Because of the health emergency, the Government added 20 more.

This year the Government announced the construction of three hospitals in Guayaquil, although it has not indicated either cost or timing for the work. The announcement was made after the death of 23-year-old Roberto Quimis who died in an ambulance after being taken to nine public and private health facilities in Daule and Guayaquil and was refused treatment because there were no beds in any of them.

Carina Vance, Minister of Health, told the press that Guayaquil needs 1,500 beds to remedy the shortage. The President of the College of Physicians of Guayas explained that the problem of the shortage of beds and medicine is the result of

bad administration because several hospitals could have been built with the millions of dollars that were spent unwisely.

4. Between 2004 and 2008, more than 16,000 children suffered cancer, according to the National Register of Tumors which has information on file only up to 2008. Of the cases reported in Quito in 2008, 293 were children. Most of the cancer in children is genetic or due to damage of genetic material during pregnancy. These cases have undoubtedly increased because of the high rate of persons affected by insecticides and plagicides used in plantations as well as oil contamination. Consequently, it is noted that In the southern area of the country, most of the people with cancer are from Yanzatza in the province of Zamora Chinchipe and other sites in the Ecuadorian Amazonian region as well as in areas near mining areas in Loja and El Oro.

According to INEC's "Ecuador en Cifras" ("Ecuador in Numbers"), approximately 6,000 new cases of cancer are registered in the country every year. Of this number, breast cancer is the most frequent with 35.6% followed by uterine cancer with 20.4%, stomach cancer with 15%, thyroid cancer with 14.4% and liver cancer with 10%. Of the total number of cases detected every year, 3 out of every 100 cases correspond to children. The most frequent cases in children under the age of 20 are leukemia (40%), lymphomas (10%), bone tumors (9%), melanomas (5.9%), retinoblastoma (5.6%), kidney tumors (2.6%) and liver tumors (2.6%).

Public hospitals that have oncological floors are Eugenio Espejo and Baca Ortiz in Quito, Ycaza Bustamante in Guayaquil, Vicente Corral Moscoso in Cuenca and the Portoviejo Hospital. The Society for the Fight Against Cancer (SOLCA) is an institution that charges for its services, but even so, it does not have enough beds in its hospitals and also has a shortage of oncological surgeons, oncological clinics and radiotherapists. Many other institutions have a shortage of x-ray facilities and radiology.

Although the Constitution guarantees specialized free attention for any person suffering from a catastrophic disease, not all patients are able to benefit from this free service. For example, in Quito 40% of the patients receive care in public hospitals, a third of them in SOLCA and the Red Cross and the rest in private centers. On the other hand, 60% go to SOLCA centers where they pay for services because the institution does not have sufficient resources. One example is 27-year-old María Caisaguano, mother of a 12-year old girl who was diagnosed with cancer in her eye. She now owes \$4,000 for the 38 sessions of chemotherapy she has received since November 2011. And there is the case of 19-year-old Irene who was transferred from Loja to Quito. Had it not been for the fact that her sister lives in Quito, she would have had to travel once a week (14 hours by bus) for her daughter's chemotherapy treatments.

Cancer treatment is generally very costly. Consequently, many times families cannot continue paying and sometimes they decide to keep their patient at home.

However, there is a situation even more alarming –not all oncological patients die from cancer but rather for other reasons such as pneumonia, infections, cardiac problems, gastrointestinal problems and other situations that develop due to the cancer patient's weak immunodepressed state.

**4.1.** In Ecuador, there are approximately 1,200 new cases of cervical cancer every year. INEC data and SOLCA publications indicate this as the second leading cause of death in women with approximately 400 deaths per year.

22% of cancer in women is breast cancer, a type of cancer that has recently tripled. Three years ago it was found mostly in women over 45. Now it appears in women 30 or even 21 years of age with an average of 1,600 cases in the country per year. For example, in 2009 there were approximately 700,000 women of the age when a yearly mammogram is recommended. However, of that number only 3,500 women did it. The others simply neglected to do it, or did not have enough money for the exam or they did not live near a medical center where they could get the exam.

**5.** With regard to sexual and reproductive health, the Pan American Health Organization (PAHO) considered the condition of indigenous adolescents a special concern. In their 2010 report, they say that “indigenous women face greater problems than women of other groups with relation to pregnancy, delivery, postpartum, family planning and prevention and attention to gender violence.”

Ecuador is the second country in Latin America with the highest rate of adolescent pregnancy. 17% of young Ecuadorian women between the ages of 15 and 19 are mothers. One of every four attended births are teenagers and nearly 1,100 live births in 2010 were of girls between the ages of 10 and 14 years of age.

In the rural sector, 7.6% of indigenous women in the 15-17 year age group are mothers. This number increases to 31% for the 18-19 year age group. These percentages are higher only for Afro-descendent mothers. Medical control for these pregnancies is only 61% but for the urban/mestizo population it is 84%. Professional attention for births is only 30% in spite of the existence of medical centers in some rural areas where popular indigenous knowledge is combined with professional medical assistance.

Access to other medical services related to sexual and reproductive health such as the Papanicolaou exam or self-examination for the prevention of breast cancer is below average, one of the reasons being the low level of education. The use of contraceptives in the indigenous population is 47% while the average national rate is 73%. The most common reason for using contraceptives is to prevent pregnancy or to space births. The most frequent methods are female sterilization and the intrauterine device. Nevertheless, contraceptives are not used for the prevention of HIV/AIDS or sexually transmitted diseases and condoms are used only in 2% of these cases.

One of the main consequences of teenage or even pre-teenage pregnancy is the interruption of the female's physical development and the consequent risk to her health and that of her baby. Women in this situation are usually forced to drop out of school. Most of them do not have jobs either, and this condemns them to a life of poverty.

The Government started an inter-ministerial prevention program with the aim of reducing teenage pregnancy by 25% in the future. The plan has not been launched as yet because of an action of protection initiated by groups of parents and religious leaders. The Government plan contemplated the free distribution of condoms to minors in secondary schools and in health centers without the knowledge or consent of parents. That was the reason for the opposition.

6. In spite of the fact that dengue fever causes deaths and pain in many families in the Ecuadorian coastal region, it has not been possible to implement an adequate health plan for its prevention. Dengue caused 22 deaths and more than 11,000 infections between January and June 2012. According to studies carried out by the Ministry of Health, the persons most vulnerable to this infection are children under the age of 14. Dengue affects 48% of females and 38% of males.

7. According to INEC, in 2010 nationwide there were 31,693 general medical practitioners, 3,042 residents, 2,018 rural doctors and 1,811 mid-wives. This number in no way covered the high demand, because affiliates of the Ecuadorian Institute of Social Security (IESS) have to wait between 8 weeks and 3 months to get an appointment with an IESS medical doctor. There is a shortage of approximately 2,400 doctors. The “Junta de Beneficencia” hospitals in Guayaquil are overwhelmed by the shortage of professionals.

The situation is most critical in hospitals belonging to the Ministry of Health where after the firing of doctors during the “obligatory resignations” the vacancies have not yet been filled. There is a shortage of more than 12,000 doctors nationwide. About 6,000 are needed for first-level attention (health centers and sub-centers) plus another 6,000 specialists. There is a shortage in all the specialties.

According to the Medical Association, this shortage of specialists is due to the fact that the Government suspended postgraduates five years ago, and now there are no new specialists. Additionally, the IESS has prohibited teaching in its hospitals, and with the last “obligatory voluntary resignations” decreed by the Government, a large number of medical doctors were fired nationwide. Many of these doctors were specialists and they have not yet been replaced.

## CONCLUSIONS AND RECOMMENDATIONS

More important than the investigation to make it possible to establish the administrative responsibilities in cases of inadequate or lack of health care, the death of Roberto Quimis shows the reality of the precarious situation of the public health systems in spite of budget increases made after different emergencies during these five years. Basic structural problems have not been resolved. Efficient administrative management is not in place to avoid the shortage of medicine in public pharmacies or the overcrowding of people who need medical attention in hospitals.

- It is indispensable that the Government determine criteria to develop plans or strategies to strengthen the institutional infrastructure of the public health

service.

- Mechanisms used for management and the control of necessary material resources need to be evaluated so the national health system can fulfill its functions and not put the lives of people at risk due to negligence or lack of medical attention.
- Prevention campaigns related to cervical, breast and prostate cancer should be carried out. It is important that the Government offer free specialized examinations for persons whose age indicates the need for these exams.
- The Government should implement efficient mechanisms to prevent teenage pregnancy and provide integrated attention for poor teenage mothers.
- The Government should implement more oncological units in other cities to provide better coverage at the national level and avoid families having to travel to large cities for cancer treatments.
- It is urgent that the Government cover the vacancies left by specialized physicians who were fired and should hire others to cover the nationwide demand.
- The Government needs to build new hospitals and enlarge those that already exist in order to have enough beds and not have patients waiting days for a bed or even dying because of lack of space in hospitals.
- It is essential that the Government have a sufficient stock of medicine in the pharmacies of its public hospitals and that there be a sufficient stock of antiretroviral medication in the hospital pharmacies that provide treatment for persons with HIV/AIDS.

## **THE RIGHT TO EDUCATION**

1. The Constitution guarantees the right to primary and secondary education. This right is for all persons with no discrimination because of nationality. Official Agreement N. 337 signed in 2008 by the Ministry of Education in theory guarantees the access of refugee children to educational institutions. However, in practice, the very teachers and directors of public schools and even many provincial directors of education discriminate against these children because of their nationality. Consequently this Agreement is practically never carried out.

For example, Edilberto fled the Colombian conflict to find a school in Quito for his three daughters, ages 9, 10 and 14. Six different schools did not accept them because they were Colombian. After making him wait a few minutes, one of the

directors approached him and insulted him. He remembers that the director of one school said, "We don't have a vacancy, sir. Don't insist." But as he was leaving, a woman arrived with flowers and hugs for that same director and asked her to register five children. The immediate response was, "Of course!" Another case is of a girl in Sucumbios who was not allowed to register in a school. The director told her parents that she would not be registered even if the UNHCR sponsored her. The child was finally registered in a school far from her home. In another school in Orellana, the parents of a boy were told there were vacancies only for national children. These few cases are examples of the many children of Colombian refugee parents who cannot study.

A study made by the Latin American Faculty of Social Sciences (FLACSO) and the United Nations High Commissioner for Refugees (UNHCR) shows that 7 out of every 10 refugee children have had problems accessing education. The two main problems are the lack of economic resources (32%) and the lack of documentation (52%) in spite of the fact that the Agreement states that to register in the educational system, the presentation of any legitimate identification document is valid and a visa is not required. It also established that in the case of children who do not have documents that verify their level of studies, they should be given placement tests.

The Jesuit Refugee and Migrant Service and the Spanish Agency for International Development Cooperation carried out a survey in primary and secondary schools in the five provinces where most refugees are registered in the country: El Oro, Esmeraldas, Pichincha, Sucumbíos and Zamora Chinchipe. They found that 6 out of every 10 educators answered that they had never heard about Agreement N.337. 8 out of every 10 directors said they had never counseled anyone regarding how to carry out the Agreement, and the same number of teachers said they had never relied on the Agreement to admit refugee children.

The Jesuit Refugee and Migrant Service and Save the Children made a study in 11 provinces of different actors in the field of education (directors, teachers, students, parents and organizations). This study shows that 6 of every 10 refugees believe the main impediment to fulfilling this Agreement is discrimination. 40% say they think the Government is not committed to fulfilling the Agreement and 30.8% believe the Ministry of Education does not grant enough money for education.

Refugees say neighbors, teachers or classmates frequently call them guerrilleros, drug traffickers or delinquents because they are Colombian.

**2.** At the beginning of 2011, the Organic Law of Intercultural Bilingual Education was passed. Although bilingual education has improved substantially during the last five years with the preparation of new textbooks and more training for public school teachers, the educational system still has a shortage of bilingual teachers in indigenous communities in many regions of the country. Especially in rural areas, it is common to find one-teacher schools.

At the beginning of every school year, it is common to see parents struggling to find a vacancy in an educational institution so their children can study. They spend entire days in line only to hear the repeated response that there is no space. This situation has forced the Ministry of Education to set up reception tables to place



children so they can continue their studies. Many times parents finally obtain space in a school far from their home, and this increases costs because they have to pay more for their child's transportation.

In spite of free education being guaranteed, this is not really the case because even if there is no charge for registration, parents have to buy a long list of supplies, backpacks, shoes and uniforms. In a country with a high rate of poverty, educating children requires much effort on the part of the family. Sometimes they get in debt or have to increase the number of hours they work in order to cover these costs, and in many cases, the situation becomes so difficult they decide not to send their children to school and find them a job. Consequently, many poor people in urban and rural areas cannot enter the primary or secondary educational system. Therefore, the indigenous and Afro-descendent population studies less or many times, not at all.

According to the last Population and Housing Census of 2010, the net enrollment rate of secondary education is 68%. However, the last report made by the Observatory for the Rights of Children and Adolescents (ODNA-Ecuador) shows that only 58% of young people between the ages of 19 and 24 have completed their secondary education. This means that 4 of every 10 young persons have not finished high school.

In urban areas, only 68% finish high school but in rural areas, only 37% do so. This shows that education does not reach the children and adolescents who live in rural areas where most of the establishments only offer General Basic Education. In many cases, there are one-teacher schools and the infrastructure is not adequate.

62% of white mestizo young people have finished high school while only 44% Afro-Ecuadorians and 32% indigenous young people have finished. 2 of every 10 indigenous and Afro-Ecuadorian adolescents between the ages of 12 and 17 are outside the educational system. For Montubia young people, exclusion is even greater: 3 of every 10 do not study.

The 2010 Population and Housing Census shows that nearly 390,000 children and adolescents between the ages of 5 and 17 are outside the educational system. The ODNA report establishes that approximately one million three hundred thousand children and adolescents experience some type of exclusion of their right to education. The highest number with no access to education is in Guayas, Pichincha and Manabí.

According to the Social Contract for Education, the illiteracy rate in 2010 was 6.8% with the female and indigenous population the most affected. The school attendance level in 2010 was 9.59%. The greatest increase in attendance is in the rural sector where it increased from 5.66% in 2001 to 7.15% in 2010. In the indigenous sector, it increased from 3.89 to 5.55 years of attendance. However, these increases still do not represent acceptable levels.

The Social Contract for Education informs that 9 of every 10 children and adolescents between the ages of 5 and 17 attend school. This means that 400,000 of this age group are not in school. Montubio and Afro-Ecuadorian groups have

less access to education, since more than half of these groups drop out after finishing basic studies before going on to secondary school.

It is interesting that recently it is women who have begun to study more and show an increase in the net attendance rate in secondary schools and higher-level education. The highest registration rate is 9 years of age with 97.3%. After that age, the rate drops to 67.7% attendance at 17 years of age.

With regard to children being left behind, we can say that 4 of every 10 between the ages of 12 and 17 who do attend school are not regular students. In many cases, there may be 3 years or more of gaps taking place between years of study. In other words, children and adolescents are often 3 years behind in relation to their age. This also means there are approximately 5 million persons who have not finished primary or secondary school.

In spite of evidence showing an increase in the registration rate of the educational system, this is reflected in the rates of peoples' accumulation of studies because not everyone finishes the study cycles. Therefore, problems of desertion, repetition or exclusion persist and are related to the quality and pertinence of education, abuse and customs in the educational system, the economic situation of families and child labor as well as socio-cultural factors that value education for the future.

In the case of minors under 18 years of age who do not attend school for economic reasons, this percentage was 40.88% in 2010. The percentage that year who did not attend because they were working was 18.94%.

The last changes made in higher-level education left many young people who had finished high school and wanted to continue at the university level without the opportunity. Additionally, many students who were studying in a university also found themselves outside the system when the Government decided to close a number of universities.

## **CONCLUSIONS AND RECOMMENDATIONS**

In spite of the important investment the Government has made, the basic problems of the Ecuadorian education system remain unsolved. Illiteracy still exists, especially in the indigenous sector. School attendance in rural areas and urban outskirts is low. Dropout and repetition rates are high. The quality of education is poor and the educational infrastructure and existence of didactic material is deficient.

Therefore, we recommend that the Government:

- Publicize Agreement N.-337, carry out workshops in schools and create citizen surveillance groups to make sure this Agreement is fully carried out.
- Improve the quality of bilingual education and improve the access and strengthening of education for preschool children and persons left behind.
- Not only increase its investment in the educational system but also be

careful to see that those resources are properly utilized to improve the educational infrastructure, to build new installations and to equip them with everything they need to offer quality education.

- Invest more in including persons with special needs and include English as the language of interaction with other countries.

It is our desire that this information will be of help to the members of the Committee and will provide a better understanding of the real situation of the ESCR in Ecuador.

Sincerely,

*Sister Elsie Monge*



Sister Elsie Monge  
EXECUTIVE DIRECTOR OF THE CEDHU