

ECUADOR'S REVIEW IN THE WORKING GROUP
Monday 7 April 2008, Afternoon 15.00 – 18.00
Analytical summary

Troika

Troika members are: Italy, Mexico and India. India did not take the floor. Mexico did not specified being from the Troika. Italy mentioned being from the Troika and on this ground took the floor, re explaining the role of the troika which is, according to the rules, to promote and facilitate the review as well as focus it.

Presentation by Ecuador

Members of delegation: H.E. Mr. Gustavo Jalkh, Minister of Justice of Ecuador, Mr. Augusto Saa, Mr. Juan Merigueta, Mr. Jose Rosero, Mrs. Ximena Abarca, Mrs. Maria de lourdes Portaluppi, Mrs. Remigia Saldana. Presentation by H.E. Mr. Gustavo Jalkh.

Challenges:

Over the last ten years, there has been a degree of instability: six different presidents. 1998: a new constitution, which entailed progress in regulations of Economic, Social and Cultural Rights and the Civil and Political rights. These institutions were soon exhausted. In 2007, referendum: 83% in favor of a new constituent assembly. Right now: institutional redefinition.

Progress made:

- Ecuador (ECU) is part of most international **Human Rights instruments**. On the 3rd of April, ratified Convention of disabilities and its OP making it enter into force. Up to date with its reports on treaty bodies. Ecuador was a founder of the Human Rights Council (HRC), and as such was a promoter of the UPR. In 2002, extended invitation to Special Procedures (SP). In the last 6 years, 5 Special Rapporteurs and Working Groups came to Ecuador.
- **National mechanisms**: National Development Plan to develop public policy from a Rights based approach; National Human Rights Plan which is currently in the process of evaluation; Peace Plan for the northern boarder; Commission for coordinating public policy in Human Rights (HR); establishment of the Ministry of justice and HR five months ago in November 2007 intended to coordinate the States activities in HR.
- **International humanitarian law**: Ecuador has ratified the Rome Statute and has set up a national commission for humanitarian law. The challenge: reforming the National Security Plan which is currently obsolete.
- Right to life: fundamental right by the constitution. No Death Penalty, Ecuador has ratified all international instruments seeking to protect and guarantee the Right to Life.

Responses to questions submitted in advance:

- ECU is currently providing **training in HR** particularly to law enforcement bodies.
- ECU is combating impunity for all violations of the **right to life**. Elimination of special police and military jurisdictions still in force.
- Eradication of **torture**: HR manual development. Since March 2007 part of the training programme for the police. ECU signed the Optional Protocol (OP) on the Convention Against Torture (CAT) and is currently ratifying it. The Constituent Assembly with civil society bodies has been working on the reform of the criminal code to create an offence of torture.
- On **impunity** together with the process to strengthen **judiciary**, ECU set up a Commission for Truth. The Commission has been reviewing the past 25 years to order to identify and report such crimes. ECU is working on the removal of police and military courts.
- **Prison conditions**: The prison system was abandoned for many years. ECU declared an emergency and is hoping for a national investment of 90 million dollars. Prisons have a capacity for 7 000 when there are 17 000 prisoners. Establishment of a Public Criminal Defence Unit. To make sure everyone has access to a lawyer, establishment of a Public Defence office. New programme: Ecuador without Children in prison. The national

Constituent Assembly is studying to pardon for ill people in prison and those who have been given extremely severe sentences. The reform of the penal code should also provide for alternative sentences.

- The National Constituent Assembly has granted an amnesty to **HR defenders** who were prosecuted in civil or criminal courts as a result of their activities. HR organisations and defenders will be active stakeholders in the reform of the NPA.

- On **reform** of justice system and on **access to justice**: whole new programme for access to justice being developed, notably to oral procedures. Increase of 40% in the budget for judiciary.

- **Economic social and cultural rights** (ESCR): new approach: social investment. Access to health, education and housing: there has been a 38% increase in the national budget for social investment to provide better access to health, work and social services. On education, in the next two years, ECU wants to provide universal access to basic education. On health, to provide a free public quality health service is a priority. On work, programmes for elimination of child labour, 221 children were withdrawn from work.

- **Women**: An equal opportunities plan: 2005-2009 as part of state public policy. National Plan to prevent, eradicate and punish gender violence. Also National Plan on trafficking and one on sexual offences in schools. In 2007, for the National Constituent Assembly, there is a strict respect for quotas in various lists. Currently, there are 38 % of women in that assembly.

- **Children** and adolescence: comprehensive programme to eradicate child labour, sexual offences in schools, sexual commercial exploitation, and begging.

- Rights for persons with **disabilities**: Office of the Vice-President is conducting various plans, notably a plan called Ecuador without borders.

- **Migrants**: ECU is a State of origin, host and transit. Established a Ministry for migrants to implement migrants policies. national plan for human development for migrants and a welcome home plan. Also promoting a national migrant forum.

To conclude:

- **Refugees**: largest number in Latin America: 50 000 refugees requesting status, 15 000 granted status. Sign and ratified all international treaties related to refugees.

- **Indigenous people**: in the constitution, ECU recognizes indigenous custom law. Challenge to develop secondary education to make practical this constitutional law.

- **African descent**: one of the countries with greatest diversity.

Interactive Dialogue

Number of countries that took the floor

33 States took the floor during the interactive dialogue: **22 members States** of the Human Rights Council (Russian Federation, Guatemala, Peru, Brazil, France, China, Cuba, Netherlands, Pakistan, Canada, South Korea, United Kingdom, Uruguay, Slovenia, Indonesia, Sri Lanka, Bolivia, Azerbaijan, Italy, Nicaragua, Germany, Ghana) and **11 observer States** (Mexico, Tunisia, Argentina, Sweden, Chile, Dominican Republic, Venezuela, Honduras, Australia, United States, Holy See).

Questions/issues raised by the States and answers provided by the delegation

Afro-Ecuadorian

Pakistan raised the issue of Afro-Ecuadorian.

Germany asked the Government actions regarding social discrimination and access to labour market.

ECU set up a council for Afro-Ecuadorian development which reports to the Office of the President. On Germany's question, ECU responded that ECU has incentives to work concerning Afro-Ecuadorians.

Asylum seekers - Refugees

Brazil: How has ECU developed non-discriminatory legal measures?

Response: ECU has carefully designed policies concerning this issue particularly to cope with massive displacement from Colombia. All persons requesting refugee status are treated equally regarding health, education and work.

Corruption

Russia: What kind of measures has been taken to combat corruption?

Education

Cuba: What percentage of children is still not in the school system? What deadline has the government set itself to achieve 100% primary education?

Response by ECU: 10 year education plan started in 2005, it aims at providing free universal access to basic education without discrimination. 38 % of the budget on education is allocated to this program. Increase of budget for teachers: 15 000 new jobs created when no new jobs in the past 10 years.

Freedom of Opinion and Expression

Peru: Does ECU have a law of access information and what progress has been made on its implementation?

To respond to Peru, ECU has a law on transparency of information. All public institutions have to provide info upon requests. Access to information: same system as UN: all information is on webpages of different ministries.

Health

Mexico: What are the governments expectations following the state of emergencies?

Response by ECU: real revolution. Implementation of a system called "basic health teams" to provide care to families. ECU transferred resources from budget to provide free generics medical cares. Programme to eradicate child malnutrition.

Indigenous Peoples (IP)

Mexico and Russia want to know more on bilingual intercultural education.

Mexico further asked how traditional justice coexists with national justice.

South Korea wanted to know how ECU is assuring IP rights and Bolivia how it is preventing discrimination.

To Mexico, ECU responded that guaranteeing traditional indigenous justice has to be harmony with the constitutional and with full enjoyment of HR. practices of custom law must be in accordance with HR.

To Mexico and Russia question, ECU said that multicultural state is guaranteed by the Constitution. ECU is party to the ILO Convention 169 and co-sponsor of the UN Declaration. In 2007: establishment of the Secretariat for peoples, social movement, and citizens participation. There is a department of education and bilingual intercultural system within the ministry of interior, a Health department for IP under the ministry of health and a national department for IP in the office of the Ombudsman.

International Instruments

Mexico: Ratification of OP CAT will be soon? What legislative amendments are planned regarding the crime of torture?

South Korea asked if ECU will write the crime of torture in the criminal code.

Response by ECU to Mexico: the ratification of the Convention is under way.

Justice

Argentina: On the Truth commission to investigate complaints with the past HR violation (1994-98) – what have been the achievements so far (since 2004)? And challenges?

Canada and the UK asked about the reform of judicial system.

UK further asked about the Ecuadorian plans to insure independence

Sweden: Questions and Recommendations: separate military and police courts: concern about the lack of impartiality and the decision that HR violations will not be dealt with by these courts. Which legal instance will decide if a crime is a HR violation and therefore eligible to only be judge in civil courts?

Italy asked about the administration of justice including independence of justice/judiciary combating corruption and improving prison conditions.

Response by ECU:

- In the past few weeks, financing of 23 new criminal courts to speed up procedures. ECU set up a criminal public defense to provide legal assistance.

Independence of judiciary: this is to be done with the participation of civil society. In 2004, disbanding of the Supreme Court. Need for independence of judiciary. judges should be servile servants and subject to evaluation. The system has not been working perfectly.

- Answering to Brazil: need of moving three barrier: geographic (poor distribution of courts), economic (tackled by setting up a national defense unit and need to set up mediation centre), and cultural.

- Still on access to justice: they are insuring that all proceedings are oral. Still have improve the legal aid system. It is the responsibility of the ministry of justice to take all measures necessary to ensure oral proceeding are held properly. Adoption of a new procedure code can only be a solution. Increasing the number of judges would not be the answer to the problems. More courts need to be set up.

- Answering to Sweden: There is no law on jurisdiction unity that would eliminate military and police courts however ordinary justice is dealing with HR violations and is punishes members of the police. Elimination of these courts will be done with the institutional reform timeline.

Migrants

South Korea asked for further explanation on the permit needed by Ecuadorians to leave the country.

Slovenia: How can gender perspective be integrated regarding migrants especially concerning sexual violation and abuses?

Indonesia and Slovenia also raised the issue of migrants.

Response by ECU:

- From South Korea, on exit permit from the country: no longer in force, abolished.

- 2007: set up of national secretariat for migrants. A National plan for human development for migration is being adopted. Programme with 5 millions dollars for return of migrants. Micro businesses: we do need support in terms of cooperation.

National Human Rights Mechanisms/Plan

China: How many national institution for the protection of HR exist and do they coordinate with each other?

Chile: Can ECU say more about the proposals on strengthening HR in the debate on the new constitution?

Dominican Republic: asked details about the Public Commission for HR.

Australia: Is there a National Human Rights Institution?

Nicaragua: needed more information on how process of constitutional reform will be incorporated into the implementation of the national development plan.

Response by ECU:

- *To respond to China, it will be the ministry of justice that will coordinate the different bodies.*
- *To respond to Australia, 4 months back, E set up the ministry of justice and HR. Creation of national institutions and Ombudsman system: this is implied in the creation of the ministry of Justice and HR.*
- *To respond to China and the Dominican Republic on the coordination between human rights bodies: E has a public coordination body since 2002 which includes the civil society in preparation of reports submitted to treaty bodies and to deal with recommendations by mechanisms.*

Police

Italy asked ECU to provide more information on HR education in schools and HR training for members of the judiciary, armed forces and the police.

France: Does Ecuador plan to encourage the police to reduce the risks of HR violations?

UK: As security forces acted with excessive force, UK welcomes the HR education being carried out by the Government. Recommends continuation of training.

USA raised the issue of the excess use of force and killings by police officials.

Response by ECU

- *To France: good practices in the police: there will be a body to check the compliance of the police with HR. want to set up a monitoring body to see if no HR are violated*
- *ECU has training programme developing practices capacity.*

Prison conditions

Guatemala: penitentiary rehabilitation: measures for reducing overcrowding and what is provided under the constitution and what measures are being taken to replace conventional terms. On prison reform, Guatemala asked how the civil society is involved.

Peru and Sweden raised the issue of the situation of detainees. Peru further asked on the formulation of a due process manual that should be circulated and if ECU has a national register of detainees centralizing all those informations?

Response by ECU:

- *To Peru: currently carrying out prison census.*
- *Budget for 2 centers and setting up of 7 new detention centers to deal with the lack of the 10000 places.*

Rights of the Child

UK: Recommend to ensure the child labour plan is implemented.

Italy: There are still some major challenges to give more effects to Rights of the Child especially to eliminate child labour and gender violence particularly domestic violence.

Germany asked explanation on the assertion that child labour and sexual exploitation and malnutrition have lessened.

Response by ECU:

- *To respond to Germany: National protection plan for eradication of child begging with a view of sexual and labour exploitation.*

Sexual Orientation

Slovenia: On torture, death threats against LGBT, what is Ecuador doing regarding sexual orientation and gender identity?

Women's Rights

Mexico is grateful for information on measures adopted, especially domestic violence.

Perhaps strengthening policies would be a recommendation.

Slovenia: How did Ecuador integrate gender perspective? How is ECU addressing double

discrimination: women from minority?

Response by ECU:

- *To Mexico: combating gender inequality is a major challenge for Ecuador. There are 31 commission women can come to complain.*

- *In 1998, the constitution instituted equality. National Council for women for 10 years: role to translate constitutional provisions into reality. There are still shortcomings.*

Other issues raised during the interactive dialogue: Disabilities (Argentina), Elderly (Honduras), Right to Life (Holy See, Dominican Republic), Trafficking (Canada).

Recommendations by States and answers by the State under review

Here are the recommendations contained in the Report of the Working Group (A/HRC/WG.6/1/ECU/4):

1. Provide information in the future on further advances regarding the penitentiary reform and combating discrimination (The Netherlands).
2. Continue human rights training of police forces (United Kingdom of Great Britain and Northern Ireland).
3. Apply and provide follow-up to plans to eradicate child labor (Italy).
4. Take appropriate measures to further improve the conditions of detainees in prisons, as recommended by the Committee against Torture in 2006 and 2007 (Italy).
5. Establish a time-frame and a follow-up mechanism regarding the improvements on the situation of detainees in prisons (Sweden).
6. Include a gender-perspective in the follow-up process to the UPR review; (Slovenia)
7. Implement measures to combat discrimination on the ground of sexual orientation and gender identity, as well as other human rights violations against the gay, lesbian, bisexual, transsexual and transvestite community (Slovenia).
8. Adopt appropriate measures to eradicate gender-based violence, particularly domestic violence (Italy, Mexico).
9. Continue the reform of the judicial system (Canada, United Kingdom of Great Britain and Northern Ireland).
10. Take further steps in combating trafficking in persons (Canada).

States that made solely welcoming statements

Tunisia and Sri Lanka.

Human Rights issues mentioned in the NGOs reports but not raised during the review

Torture, Transnational corporations, Human Rights Defenders

Speaking time

Ecuador:

Presentation by the State: 28 min.

Answering to questions during the interactive dialogue: 44 min. (8 + 9 + 27)

Concluding remarks: 6 min.

States: between 1 and 3 minutes apart from Mexico and Peru who spoke 4 minutes.

Disclaimer: this summary is by no means exhaustive as it is just an indication of the discussion that took place during the review and should therefore not be quoted as an official document of the UPR process.