



人权理事会

第十五届会议

议程项目 3

增进和保护所有人权——公民权利、政治权利、
经济、社会和文化权利，包括发展权

当代形式奴役问题包括其原因和后果问题特别报告员古尔纳 拉·沙希尼扬的报告

增编

对厄瓜多尔的访问*

内容提要

本报告检查厄瓜多尔的人权状况，着重检查当代形式奴役依然存在的问题。报告介绍了国际、美洲间以及国家各级涉及禁止和铲除当代形式奴役问题的法律框架，普着重指出了执行现有法律方面存在的某些空白，提到应该得益于人权途径的各种政策。特别报告员介绍了各种重大的挑战，突出提到利益攸关方进行合作的范例，并提出建议。

报告述及的重大挑战包括：落实工作和知识缺口、为经济目的剥削利用儿童、流动的寻求庇护人和难民、最恶劣的童工劳动形式、家庭奴役、以及类似奴役情况下的劳工剥削等问题。

* 本报告的内容提以所有正式语文分发。报告本身载于内容提要的附件，仅以英文和西班牙文分发。

Annex

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her visit to Ecuador

Contents

| | <i>Paragraphs</i> | <i>Page</i> |
|---|-------------------|-------------|
| I. Introduction..... | 1-6 | 4 |
| II. General background to the visit | 7-15 | 5 |
| A. Demography and socio-economic conditions | 9-12 | 5 |
| B. Geographic areas of focus | 13-15 | 6 |
| III. Normative and institutional framework | 16-44 | 7 |
| A. The international legal and policy framework | 16-18 | 7 |
| B. The regional legal, institutional and policy framework | 19-21 | 8 |
| C. The national legal, institutional and policy framework | 22-44 | 8 |
| IV. Contemporary forms of slavery in Ecuador | 45-57 | 12 |
| A. Children as victims of slavery | 45-50 | 12 |
| B. Other exploitative and abusive slave-like situations..... | 51-57 | 13 |
| V. Promising measures to eradicate contemporary forms of slavery and prevent vulnerability to slavery-like situations | 58-70 | 14 |
| A. Governmental cooperation initiatives to address the worst forms of child labour | 59-61 | 15 |
| B. Private sector cooperation initiatives to eliminate child labour in Ecuador..... | 62-64 | 15 |
| C. Addressing poverty as one of the major root causes of the worst forms of child labour | 65-66 | 16 |
| D. The establishment of multilateral platforms for the progressive eradication of the worst forms of child labour..... | 67-68 | 16 |
| E. Strengthening efforts to determine the status of persons in need of international refugee protection..... | 69-70 | 17 |
| VI. Major challenges to the elimination of contemporary forms of slavery in Ecuador | 71-85 | 17 |
| A. The conceptualization and implementation of programmes to eradicate slavery | 72-76 | 18 |
| B. The situation of migrants, asylum-seekers and refugees of Colombian origin | 77-81 | 18 |
| C. Health, labour exploitation and slavery | 82-85 | 19 |

| | | |
|--|--------|----|
| VII. Conclusions and recommendations..... | 86-101 | 20 |
| A. Addressing the worst forms of child labour..... | 89-93 | 20 |
| B. Measures to prevent slavery-like situations among asylum-seekers, refugees and migrants..... | 94-95 | 22 |
| C. The protection of domestic workers against slavery-like practices | 96 | 22 |
| D. Assistance to victims | 97 | 23 |
| E. Other recommendations..... | 98-101 | 23 |

I. Introduction

1. The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, visited Ecuador from 25 January to 1 February 2010, at the invitation of the Government. This report presents information gathered on the existing legislation, institutional mechanisms, programmes, plans and activities aimed at preventing, combating and eradicating contemporary forms of slavery, its causes and consequences in light of international human rights standards. The report also presents major challenges and makes recommendations to address the worst forms of child labour, preventing slavery-like situations among asylum-seekers, refugees and migrants, the protection of domestic workers against slavery-like practices, assistance to victims of human trafficking and the detection of cases of bonded labour.

2. During her visit, the Special Rapporteur met with Government officials from the Ministries of Justice and Human Rights; Labour Relations; Coordination for Social Development; Economic and Social Inclusion; and Foreign Affairs. She also met with the National Council for Children and Adolescents; the Metropolitan Council for Comprehensive Protection of Children and Adolescents and the protection boards (*Juntas de protección*); The National Committee for the Prevention and Progressive Elimination of Child Labour (CONEPTI); the Secretariat of Peoples, Social Movements and Citizenship Participation; the Council for the Development of the Afro-Ecuadorian People. She also met with representatives of the Fund for the Development of Indigenous Peoples, the national human rights institution (*Defensoría del Pueblo*), the Council for Development of Peoples and Nationalities of Ecuador, the National Directorate of Police for Children and Adolescents. She also met with members of the commission of transition towards the Council on Women and Gender Equity and members of an inter-departmental commission established to implement the National Plan to combat human trafficking in persons, smuggling of migrants, sexual exploitation and other forms of labour exploitation and prostitution of women, children and adolescents, child pornography and corruption of minors, adopted in August 2006.¹

3. The Special Rapporteur visited Quito and Machala in the province of El Oro, Esmeraldas and San Lorenzo in the province of Esmeraldas and Lita and Ibarra in the province of Imbabura. She met with domestic and sex workers and children. She also met with workers from different industries, including the informal economy sector, gold-mining and banana, palm and flower plantations. She interviewed victims and gathered information from beneficiaries of programmes for the eradication of child labour, including programmes of accelerated education for children labourers.

4. During her visit, the Special Rapporteur also held consultations with the United Nations resident coordinator and the following United Nations agencies with a presence in Ecuador: the United Nations Children's Fund (UNICEF); the Office of the United Nations High Commissioner for Refugees (UNHCR); the International Labour Organization (ILO); the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Fund for Women (UNIFEM).

¹ This interdepartmental commission is headed by the Ministry of the Interior and made up of the Ministries of Foreign Affairs, Justice and Human Rights, Tourism, Education, Labour, Health and Economic and Social Inclusion, the State Attorney-General, the National Secretariat for Migrants, the National Council of Women, the National Council for Children and Adolescents and the Institute for Children and Family.

5. The Special Rapporteur also met with a variety of stakeholders, including civil society organizations working on issues related to her mandate, representatives from the business community, academics and grass-roots leaders from different sectors of the population including refugees, asylum-seekers, migrants, Afro-Ecuadorians and indigenous peoples.

6. The Special Rapporteur expresses her appreciation to the Government of Ecuador, as well as to all stakeholders, for their time and cooperation.

II. General background to the visit

7. The Special Rapporteur focused her visit on sectors of labour in which, according to information received, worst forms of child labour, the exploitation of children for economic purposes as well as other exploitative and abusive slave-like situations persist. Those sectors included gold-mining and the banana, flower and palm oil industries. They also included domestic household services and the informal sectors of the economy. The Special Rapporteur also aimed to examine the magnitude of child mendicity and instances of “rent” of children, as described in section IV. She also sought to gather information in situ on the persistence of contemporary forms of slavery among sectors of the population at high risk of becoming subject to slavery-like practices such as Afro-descendants, indigenous peoples, migrants, asylum-seekers and refugees. She further intended to assess the special vulnerability of women and children to contemporary forms of slavery.

8. In the Special Rapporteur’s view, the persistence of contemporary forms of slavery in Ecuador should be examined in light of the correlation between discrimination, social exclusion and poverty and, therefore, she deems it pertinent to summarize some information on the demography and social conditions of the country, as well as on the geographic areas on which she focused her visit.

A. Demography and socio-economic conditions

9. According to the Population Census of 2001, Ecuador has a population of 12,090,804, of which 50.4 per cent are women. Some 39 per cent of the population lives in rural areas, with the 61 per cent remaining concentrated in urban areas. Information available from the United Nations Population Division indicates that the total population of Ecuador amounted to 13,481,000 in 2008.² The same year, the child population in Ecuador was estimated at 5,054,000, of which 1,392,000 were children under age 5.³

10. The ethnic composition of the population of Ecuador includes mestizos,⁴ indigenous persons, Afro-descendants⁵ and montubios.⁶ The interrelatedness between ethnicity, social

² United Nations Statistics Division, “Environment Statistics Country Snapshot: Ecuador”, 2008. Available from http://unstats.un.org/unsd/environment/envpdf/Country_Snapshots_Sep%202009/Ecuador.pdf.

³ UNICEF, “Indicadores demográficos”. Available from http://www.unicef.org/spanish/infobycountry/ecuador_statistics.html.

⁴ Mixed Amerindian and white.

⁵ According to the 2000 Household Survey, 72 per cent of the population above 15 years of age considered appropriate the “mestizo” designation: 15 per cent defined themselves as “white”; 6 per cent as Amerindian, 4 per cent as “black” and, 2 per cent as “mulatto” (half black, half white).

⁶ See National Constitution, art. 56.

exclusion and discrimination in Ecuador has been documented in a number of studies.⁷ For example, a 2007 survey elaborated by the Ministry of Coordination for Social Development, highlights that both Afro-Ecuadorians and indigenous peoples are among the poorest of the poor, with 48 per cent living below the poverty line (national average is 38 per cent) and 13.7 per cent in extreme poverty. Afro-Ecuadorians have the highest unemployment rate of any group in the country reaching 12 per cent in urban areas, while the national average is 7.2 per cent.⁸

11. The correlation between poverty and ethnicity seems evident from the information on the living and working conditions of indigenous peoples and Afro-descendants in Ecuador. In 2008, an analysis of consumption poverty disaggregated by ethnicity yielded an incidence among indigenous and Afro-Ecuadorian groups of 70 per cent and 48 per cent, respectively.⁹ The same year, a report on Economic and Social Progress in Latin-America indicated that access to basic services, income and education attainment for indigenous and Afro-descendent groups, as well as for women, was lower than for other social groups.¹⁰

12. In the light of the above, the Special Rapporteur aimed during her visit at exploring in situ the possible correlation between poverty, ethnicity, social exclusion and discrimination in line of the persistence of contemporary forms of slavery

B. Geographic areas of focus

13. The geographic areas of focus of this visit included the coast and the highlands regions. On the coast, the Special Rapporteur visited Machala in the province of El Oro, and Esmeraldas and San Lorenzo in the province of Esmeraldas. In the highlands, she visited Quito in the province of Pichincha, and Lita and Ibarra in the province of Imbabura. An important geographic focus of the visit included provinces in the northern border area between Ecuador and Colombia (Esmeraldas, Imbabura and the border of the province of Carchi).

14. Information provided suggested the existence of porous areas within the Ecuadorian-Colombian border. These reportedly include a number of approximately 30 irregular paths across borders in the Rumichaca bridge area, which have reportedly favoured the proliferation of transnational organized crime, including the alleged smuggling of wood, gas, arm munitions and narcotics, in which both adults and children are allegedly employed. Information received also suggested the presence of asylum-seekers, refugees, migrants, victims of transnational organized crime, Afro-descendants of Colombian and Ecuadorian origin and indigenous communities, some of which claim their bi-national status.

15. The regional focus of the visit is then explained by the complex and difficult situation at the northern border, in terms of geographical access, territorial control,

⁷ Gustavo Márquez et al., *Outsiders? The Changing Patterns of Exclusion in Latin America and the Caribbean, Economic and Social Progress in Latin America* (Washington, Inter-American Development Bank 2008), p. 28. Available from <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1154386>.

⁸ See *El Estado de los Derechos Colectivos del Pueblo Afroecuatoriano*, Secretaria Técnica, Ministerio de Coordinación de Desarrollo Social, July 2007.

⁹ Inter-American Development Bank, *IDB Country Strategy with Ecuador (2008-2011)*, p. 6.. Available from <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1726069>.

¹⁰ *Outsiders? The Changing Patterns of Exclusion in Latin America and the Caribbean*, pp. 17, 27–8.

communications and the economic and social situation of the region, among other factors.¹¹ It is also explained by the presence of groups at a higher risk of being victims of contemporary forms of slavery given the above-mentioned correlation between ethnicity, poverty, discrimination, social exclusion and slavery-like situations.

III. Normative and institutional framework

A. The international legal and policy framework

16. Ecuador holds a key record of ratification of international treaties adopted within the framework of the United Nations, of which it is a founding member. Ecuador has ratified major international human rights instruments.¹² Ecuador is also a party to a number of ILO conventions, which are relevant for the prevention and/or the elimination of contemporary forms of slavery, such as: the Forced Labour Convention (No. 29); the Abolition of Forced Labour Convention (No. 105); and the Worst Forms of Child Labour Convention (No. 182), which was adopted in 1999 and which Ecuador ratified in 2000.

17. In 1955, Ecuador deposited the instrument of acceptance¹³ of the Protocol amending the Slavery Convention, adopted in 1953, and signed the Slavery Convention adopted in 1926 as amended by the aforementioned protocol.¹⁴ In 1960, Ecuador acceded to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted in Geneva in 1956.

18. Ecuador is also a party to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ratified in 1969, as well as to the United Nations Convention against Transnational Organized Crime, ratified in 2002, and the United Nations Convention against Corruption, ratified in 2005, both of which contain provisions requiring or encouraging measures of protection for witnesses of offences sanctioned under those treaties. The State has also been, since 2002, a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

¹¹ Organization of American States, report of the OAS Commission that visited Ecuador and Colombia, twenty-fifth meeting of consultation of ministers of foreign affairs, document OEA/Ser.F/II.25, p. 10. Available from http://scm.oas.org/doc_public/ENGLISH/HIST_08/RC00089E04.DOC.

¹² These include the International Covenant on Civil and Political Rights and its two Optional Protocols; the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol; the Convention on the Rights of the Child and its two optional protocols; the International Convention on the Elimination of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities and the Convention for the Protection of All Persons from Enforced Disappearance.

¹³ The instrument of acceptance of a treaty has the same legal effect as ratification and consequently expresses the consent of a State to be bound by a treaty. In the practice of some States, acceptance has been used instead of ratification when, at a national level, constitutional law does not require the treaty to be ratified by the head of State. See *Treaty Handbook* (United Nations publication, Sales No. E.02.V.2). Available from <http://treaties.un.org/doc/source/publications/THB/English.pdf>.

¹⁴ Notwithstanding that Ecuador is yet to ratify the 1926 Slavery Convention, pursuant to applicable international law, the signature of a treaty qualifies the signatory State to proceed to ratification, acceptance or approval of the treaty and creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty. See Vienna Convention on the Law of Treaties of 1969, ratified by Ecuador on 11 February 2005, arts. 10 and 18.

Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both of which supplement the United Nations Convention against Transnational Organized Crime.

B. The regional legal, institutional and policy framework

19. Ecuador is one of the founding members of the Organization of American States (OAS) and, in 1977, became a party to the American Convention on Human Rights adopted in 1969. Ecuador thereby allows individuals under its jurisdiction to lodge petitions with the Inter-American Commission on Human Rights on alleged violations of the Convention,¹⁵ which recognizes in article 6 the freedom from slavery¹⁶ and from forced or compulsory labour.¹⁷ Pursuant to article 27, paragraph 2, of the Convention, the freedom from slavery is recognized to belong to the core of non-derogable human rights.

20. Ecuador has ratified all legal instruments adopted within the framework of the inter-American system of human rights. Furthermore, since 24 July 1984, the State has recognized the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State party alleges that another State party has committed a violation of the human rights set forth in the Convention, and the jurisdiction of the Inter-American Court of Human Rights, on all matters relating to the interpretation or application of the Convention. The State has also reserved its right to withdraw the recognition of the competence of the Court whenever it may deem it advisable.

21. Ecuador is also a founding member of the Inter-American Development Bank and has benefited from its programmes since 1959. The Bank's current country strategy with Ecuador (2008–2011) has identified as its three priorities areas cooperation, social development and economic inclusion. Furthermore, United Nations agencies with a regional focus such as the Economic Commission for Latin America and the Caribbean and the Pan American Health Organization have also provided technical advice and cooperation to the Government.

C. The national legal, institutional and policy framework

22. Ecuador is a unitary State which is returning to political stability, after a decade of constant changes of Government and major constraints on the design and implementation of major socio-economic strategies.¹⁸ The current President of Ecuador came to power in January 2007 and was re-elected to a second term in April 2009.

23. The new constitution, adopted in 2008, strengthens some institutions established under the 1998 Constitution, and makes significant changes to the institutional and legal framework of the country. It also sets the basis for current social policies, most of which are grounded in article 3 of the Constitution, which recognizes the State obligation to ensure the enjoyment of human rights without discrimination, particularly regarding to education, health, food, social security and safe drinking water.

¹⁵ See American Convention on Human Rights, art. 44.

¹⁶ This includes slavery or involuntary servitude, in all their forms, as well as slave trade and trafficking in women.

¹⁷ Excepting when the penalty of deprivation of liberty at forced labour is recognized in the countries, which in any case shall not adversely affect the dignity of the physical or intellectual capacity of the prisoner.

¹⁸ "IDB Country Strategy with Ecuador (2008-2011)", p. 1.

24. Ecuador is currently in a transitional phase between the institutions of the former and new constitutions¹⁹ and the revision and reformulation of social strategies, policies and programmes.

1. Legal and policy framework on contemporary forms of slavery

25. Afro-descendants were first brought as slaves to Ecuador in 1526.²⁰ Their manumission was proclaimed in 1851 and slavery as an institution was abolished in 1852.²¹ The current legal framework explicitly prohibits slavery and its contemporary forms²² and recognizes the State obligation to take all necessary measures to prevent, eliminate and sanction them.²³

26. The prohibition of slavery in all its forms is recognized in article 66 of the Constitution, which also recognizes the right to personal integrity, including a life free of violence. The Constitution recognizes the State obligation to adopt the necessary measures to prevent, suppress and punish all forms of slavery, especially against women, children and adolescents, elderly people, people with disabilities and any other person in a disadvantaged or vulnerable situation.

27. Domestic laws reinforce the constitutional prohibition of all forms of slavery or practices similar to slavery. This is the case of the Labour Code, which in article 138 prohibits slavery and slavery-like practices. Such practices include the sale and trafficking of children; debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; all work that, by its nature or the conditions under which it is performed, may harm the health, safety and morals of the children involved; and the employment of person below the age of 18 in industries or activities deemed to be dangerous or unhealthy. Labour inspectors have the responsibility to report to the regional labour office on cases related to all forms of slavery.

(a) *Forced labour*

28. Forced labour is prohibited by article 66 of the Constitution, which recognizes, inter alia, the right to freedom at work, according to which “no person shall be obliged to perform unpaid or forced labour, except in cases defined by the law”. The same provision also recognizes that no one is to be obliged to do something that is prohibited by the law.²⁴

29. The prohibition of forced labour is also recognized in the Criminal Code, which stipulates in article 209 that “any political, civil, ecclesiastical or military official, who demands services that are not compulsory under the law, or who compels a person to work without prior agreement, shall be liable to one to three months’ imprisonment”.

¹⁹ See Ecuador Constitutional Court, “Plan Operativo, Periodo de transición 2009”. Available from <http://www.tribunalconstitucional.gov.ec>.

²⁰ John Antón Sánchez, Diagnóstico de la problemática afroecuatoriana y Propuestas de Acciones Prioritarias, IDB technical cooperation project No. ATN/SF-7759-EC, 2008 Available from <http://www.codae.gov.ec/documentos/diagnostico.pdf>

²¹ Victor Alba, *Politics and the Labour Movement in Latin America* (Stanford, Stanford University Press, 1968), p. 24.

²² National Constitution, art. 66, para. 29b.

²³ *Ibid.*, para 3b.

²⁴ *Ibid.*, para. 29.

30. In 1998, Ecuador drew up a national human rights plan, which prioritized the establishment of policies for the elimination of forced and child labour.²⁵ Nevertheless, the implementation of this plan was limited, according to an evaluation undertaken at the request of the Ministry of Justice and Human Rights.²⁶

31. In August 2006, the President of the Republic adopted and put into effect the National Plan to combat trafficking in persons, smuggling of migrants, sexual exploitation and other forms of labour exploitation and prostitution of women, children and adolescents, child pornography and corruption of minors, which is being implemented through inter-ministerial and inter-institutional cooperation arrangements.

(b) *Child exploitation for economic purposes*

32. The special protection of children against any kind of labour exploitation or economic exploitation is recognized in the current Constitution, which stipulates in article 46 that the State shall adopt special protection measures against any kind of labour exploitation or economic exploitation of children and adolescents.

33. The 2008 Constitution sets the minimum age for employment at 15 years. Minimum age provisions do not apply to children involved in formative cultural or ancestral practices, as long as they are not exposed to physical or psychological harm. The law prohibits adolescents from age 15 to 18 from working more than 6 hours per day and more than 5 days per week. A Ministerial Directive (No. 016 of 2008) prohibits children under 15 years from working in 93 economic activities, including livestock raising, fishing, extraction of salt, the textile industry, logging and quarrying.

34. The prevention of child commercial sexual exploitation in the tourism industry has been a matter of particular attention by the State institutions. In this regard, the Ministry of Tourism, in partnership with the Ministry of Social and Economic Inclusion and the Federation of Provincial Tourism Boards, adopted a manual for sustainable tourism for tourist providers, aimed at preventing sex tourism. It also launched awareness-raising campaigns, organized workshops for the tourism industry, parents, and high school students and published informational materials. This ministry was designated as the South American regional coordinator for the Joint Group for the Elimination of Commercial Sexual Exploitation of Children in Tourism, created in 2005, which conducts prevention and awareness-raising campaigns to combat the commercial exploitation of children in Latin America and includes the Ministries of Tourism of Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Suriname, Uruguay and the Bolivarian Republic of Venezuela.

(c) *The worst forms of child labour*

35. The Constitution set up in article 46 the basis for the progressive elimination of child labour in Ecuador and the complete prohibition of the worst forms of child labour. The national plan for the prevention and eradication of child labour (2008–2013) was adopted to implement this provision, which has also been mainstreamed, inter alia, in the Social Agenda for the Child and the Youth (2007–2010) and the country's Social Agenda, both of which are national action plans. Furthermore, the National Development Plan (2009–2013) includes goals working towards the elimination of child labour, including its worst forms.

²⁵ National Plan of Human Rights of Ecuador, art. 7, para. 9. Available from <http://www.planacionalderechoshumanos.gov.ec/contenidos.php?menu=2&submenu1=47&idiom=1>.

²⁶ See Ministry of Justice and Human Rights, "Evaluación del Plan Nacional de Derechos Humanos, Planes Operativos e Institucionalidad de Seguimiento", 2008. Available from <http://www.minjusticia-ddhh.gov.ec>.

In this connection, ensuring the global development of childhood for the full exercise of their rights has been included as a national objective (No. 1) and a policy (No. 1.10). Some of the goals set for 2013 include the reduction of child labour (No. 1.10.2) and the full eradication of child mendicity (goals Nos. 1.10.2 and 4).²⁷

36. Article 138 of the Labour Code reinforces the prohibition of the worst forms of child labour including all work that, by its nature or the conditions under which it is performed, may harm the health, safety and morals of the children involved. Some of the industries or activities deemed to be dangerous or unhealthy are stipulated in special regulations and include work in tunnels or quarries and work constituting a serious danger, morally or for the physical development of women and men under the age indicated.

2. Institutional framework to eradicate contemporary forms of slavery

37. There are a number of governmental institutions that deal with aspects of the protection against contemporary forms of slavery. This is the case of the national human rights institution (Defensoría del Pueblo), established in accordance with article 214 of the Constitution, whose advocacy and protection role is essential in both preventing contemporary forms of slavery and protecting its victims. This is also the case of the Office for Public Prosecution (Defensoría Pública), established in accordance with article 119 of the 2008 Constitution and mandated to ensure access to justice for the most vulnerable.

38. Two umbrella ministries, the Ministry of Coordination for Social Development²⁸ and the Ministry of Coordination for Internal and External Security,²⁹ are instrumental for the implementation and coordination of plans, programmes and policies related to the elimination of contemporary forms of slavery. A number of ministries are also crucial in policy- and decision-making related to the elimination of contemporary forms of slavery. This is the case of the Ministry of Justice and Human Rights; the Ministry of Government, Police and Cults; the Ministry of Labour Relations; the Ministry of Economic and Social Inclusion, the Ministry of Tourism and the Ministry of Foreign Affairs.

39. The Ministry of Labour Relations has 27 child labour inspectors that investigate cases of child labour throughout the country. Ten child labour inspectors are exclusively dedicated to eradicating child labour in mining. The Ministry has established a specific unit devoted to the elimination of child labour, which leads programmes that ensure compliance with the rights of children and adolescents exposed to exploitation at work, and addresses the structural causes of child labour with a view to achieving its progressive elimination. Furthermore, the Labour Inspectorate and the municipalities oversee labour contracts and work permits for adolescents aged 15 and over. The law prescribes sanctions for violations of child labour laws, such as monetary fines and the closing of establishments where child labour occurs.

40. Most of the ministries cooperate through collegiate bodies in charge of policymaking for targeted groups, including children and adolescents. This is the case of the National Council for Children and Adolescents,³⁰ which is the body responsible for

²⁷ Ecuador, Plan Nacional para el Buen Vivir (2009–2013). Available from <http://plan.senplades.gov.ec/>.

²⁸ The Ministry of Coordination for Social Development, coordinates activities among the following: Ministry of Education; Ministry of Labour Relations; Ministry of Economic and Social Inclusion; Ministry of Health and Ministry of Housing and Urban Development.

²⁹ The Ministry of Coordination for Internal and External Security coordinates activities among the following: Ministry of Government, Police and Cults; Ministry of Foreign Relations, Trade and Integration; Ministry of Defence and Ministry of Justice and Human Rights.

³⁰ The National Council for Children and Adolescents is a collegiate body, composed of representatives of the State, including representatives from the Ministries of Economic and Social Inclusion;

defining, monitoring and implementing policies aimed at the protection of the rights of children and adolescents in Ecuador. The ministries also cooperate for the implementation of national plans, such as through the referral mechanism set up under the National Plan to combat trafficking in persons, smuggling of migrants, sexual exploitation and other forms of labour exploitation and prostitution of women, children and adolescents, child pornography and corruption of minors.

41. Other multi-stakeholders efforts include CONEPTI, established in 1997. The Committee is composed of ILO, the Government, the private sector and civil society organizations. CONEPTI oversees the implementation of the national policy on the prevention, control and monitoring of child labour.

42. The Metropolitan Council for Comprehensive Protection of Children and Adolescents is responsible for the formulation, implementation, monitoring and evaluation of policies aimed at ensuring the protection and enforcement of the rights of children and adolescents, in the metropolitan district of Quito.

43. The rights protection committees are part of the Comprehensive System of Protection of Children and Adolescents and are responsible for monitoring the individual and collective rights of children and adolescents of Quito and undertaking administrative (not judicial) measures to protect children and adolescents, from the threat or the actual violation to their rights.

44. The Institute for Children and Family (INFA), which is ascribed to the Ministry of Economic and Social Inclusion, guarantees the rights of children and adolescents by implementing plans, policies and measures on integral protection for children and their families. Its areas of action are: child development, special protection, participation, care and emergency risk. INFA has developed the Plan for the Elimination of Child Labour in Dump Wastes, and has raised awareness on child begging.

IV. Contemporary forms of slavery in Ecuador

A. Children as victims of slavery

45. The Special Rapporteur collected information on the magnitude of child labour and economic exploitation of children as it pertains to the worst forms of child labour.

46. The Second National Child Labour Survey (2006) released in 2008, estimated that there were 580,889 child workers in Ecuador. Official estimates indicate that some 662,665 children working are aged from 5 to 18 years. Children were found, primarily in the banana, flowers and mining industries. They were also found to be sexually exploited, and to work in dump wastes and in the informal sector of the economy.³¹ The same survey shows that the number of child labourers aged 5 to 17 decreased from 720,450 in 2001 to 662,650 in 2006 and that school attendance increased from 84.2 per cent to 87.9 per cent over the same period.³² The worst forms of child labour, mostly including hazardous labour, was estimated to affect 231,752 children aged 15 to 17, representing the 88 per cent of the total child labourer population.

Education; Health; Labour Relations and the president of the Association of Municipalities of Ecuador, as well as four representatives of non-governmental and community organizations.

³¹ Second National Child Labour Survey (2006).

³² See "Trabajo Infantil Indígena. Informe Final" (FLACSO, Ecuador, 15 December 2009), pp. 6–7.

47. While in situ, the Special Rapporteur observed child labourers in the streets of the cities visited. They worked mostly in the informal sector as street vendors of fruits, vegetables and candies, shoe shiners, or waitress in small restaurants and sellers in small shops. Interviews with children in the informal sector of the economy brought to light the exposure of children to situations that harm their safety and morals, including abusive practices and sexual violence. Estimates by stakeholders indicate that approximately 12,000 children work on the streets of cities of more than 10,000 inhabitants.

48. Various sources, including children themselves, reported that child exploitation for economic purposes takes several forms in Ecuador. These include, but are not limited to, the simple placement of children to help in families or in the houses or farms of close family friends as farm workers, maids and cleaners, to the recruitment and transportation of children from rural to urban centres for different forms of labour under exploitative conditions. This form of “labour placement” was reported to increase in the holiday seasons. A gendered division of child labour was also mentioned, as household work was reported mostly to be undertaken by girls.

49. The Special Rapporteur also received information about the “lend or rent of children” for small amounts of money for the entire period of work ranging from 30 to 80 dollars to “help” those to whom they have been lend in a wide variety of tasks. During the time children are lent, they are left at the full mercy of their “tenants” and their parents are unaware of the whereabouts or occupation of their children. While in some instances children have been reported to be “used” as street vendors and farm workers, in others they have been reported to be in domestic servitude or smuggled to neighbouring countries (including Chile, Colombia, Peru and the Bolivarian Republic of Venezuela) for forced labour activities, sexual exploitation and mendicancy.

50. During her visit, the Special Rapporteur heard allegations of the use of children – particularly children of indigenous or Afro-descendent origin in the northern border for dangerous work and transnational organized crime – including smuggling of gas and wood, weapons’ munitions transportation and the smuggling of illicit drugs. She also received information on child labour in the flower, banana and palm oil industry, where children often use chemicals and sharp tools and lift heavy loads which are considered hazardous and, therefore, fall into the group of the worst forms of child labour.

B. Other exploitative and abusive slave-like situations

1. Domestic household workers

51. During her visit, the Special Rapporteur’s attention was drawn to a wide range of abuses encountered by domestic workers in their workplaces, including poor working and living conditions, psychological and physical abuse, forced labour and sexual aggression. In connection with migrant domestic workers, she was also informed about instances of withholding of identity and travel documents, low or no wages and excessive working hours, sometimes without meal or rest breaks. Women and girls were reported to be mostly employed in household domestic work

52. The Special Rapporteur also received information from victims themselves on threats and intimidation, physical and gender-based violence, including sexual aggressions of children of domestic workers living in their employers’ houses. Instances of spurious allegations to the police of domestic workers stealing, used as a way to threaten them not to denunciate exploitative and abusive situations, were also reported.

53. Regular migrant domestic workers enjoy the protection of the law, including of their right to the national minimum wage, adequate rest breaks, remunerated holidays and maternity-related rights, including leave. However, evidence received by the Special

Rapporteur proves that challenges remain in the monitoring of living and working conditions, as the workplace of domestic workers is often the home of their employers.

2. Palm oil industry workers

54. The Special Rapporteur interviewed palm oil workers from the province of Esmeraldas, who reported labour conditions that ranged from situations of labour exploitation to situations of being forced into debt for food and accommodation. Most of the workers interviewed were of Colombian origin, holding a variety of immigration statuses (irregular migrants, asylum-seekers, refugees) and only very few workers were of Ecuadorian origin. Workers interviewed reported that approximately 10 to 12 palm oil companies are present in the area, but that only 2 or 3 were employing workers in vulnerable situations and that most of them did not employ persons of Colombian origin, even if they are documented in Ecuador.

55. The palm oil industry workers of Colombian origin that were interviewed reported discrimination on the ground of their national origin and, in some instances, their immigration status. Most of them reported having been recruited in Colombia by the companies for which they work (Olensa and Energy Palma). They reported having arrived in Ecuador to receive a daily payment of US\$ 10 cents for carrying oil palms for more than 8 hours, as the rest of their wage (they are unaware of the amount) was considered to be in exchange of food and accommodation. They reported that their accommodation facilities were overcrowded, as approximately 30 persons were accommodated in small rooms located close to the palm oil fields. They reported sleeping on the concrete floor (without any type of mattress), with no access to water, (including no facilities for showering) or electricity. They also told of a deduction from their wages to cover social security and of not knowing how to access a medical practitioner or what the social security benefits to which they might be entitled were. Some of them reported having met workers that got sick after one or two months of work and who were fired accordingly.

56. A number of workers reported to receive a salary of US\$ 30 per hectare (10,000 square metres). They mentioned that if they work at their best they can complete a hectare in four or five days. They also reported being served food in the company's canteen, which is deducted from their payment. Some others reported receiving US\$ 50 a month, having been promised or even signed a contract for US\$ 300.

57. In the Special Rapporteur's view, the information received indicates the existence of an unregulated system of wages, mistreatment and sub-human conditions at work (excessive work hours, very low or no wages), lack of social security (including any type of entitlements in case of illness and misinformation about labour inspection authorities) and the existence of contemporary forms of slavery, as workers are being forced into debt for food and accommodation.

V. Promising measures to eradicate contemporary forms of slavery and prevent vulnerability to slavery-like situations

58. During her visit, the Special Rapporteur was informed on various cooperation initiatives that illustrate the commitment of the Government and/or other stakeholders to the realization of human rights in the context of the elimination of contemporary forms of slavery. Of those initiatives, the Special Rapporteur wishes to highlight a non-exhaustive list of some promising measures undertaken for the elimination of the worst forms of child labour.

A. Governmental cooperation initiatives to address the worst forms of child labour

59. The Special Rapporteur welcomes efforts led by the Government, in most cases with stakeholders' participation, to eliminate the worst forms of child labour. She also welcomes the current execution of several governmental projects aimed at the eradication of the worst forms of child labour. She especially welcomes the implementation of the National Programme for the Eradication of Child Labour in Dump Wastes since 2004 and the establishment of the goal to declare Ecuador free from child work in dump wastes in 2010. She also praises the pilot project for the eradication of child labour in the mine industry, according to which, the Governments expects to have intervened between 2009 and 2010 in at least 1,000 cases of child labour in mining.

60. The Special Rapporteur commends efforts undertaken as part of the project for the eradication of child labour in the banana industry, whose outcomes indicate that over a two-year period 500 cases have been addressed. In 2010, the authorities expect to address 500 more cases. The Special Rapporteur also welcomes the proposal presented in 2009 for preventing child labour in domestic households, which will be launched in geographic areas considered to be at high risk. Irrespective of the fact that information provided by the Government indicates that child labour, including its worst forms, is perceived in some rural areas as culturally rooted practice, actions should be taken to raise awareness of it as a worst form of child labour and, therefore, a contemporary form of slavery.

61. The Special Rapporteur also welcomes efforts undertaken by the State to eliminate child mendicity by raising awareness and building community resilience to this phenomenon through recreational and vocational activities. Accomplishments of this strategy include the reduction of child mendicity by 90 per cent in the provinces of Bolivar, Chimborazo, Cotopaxi, Imbabura, Pichincha, Santa Elena and Tungurahua. The Special Rapporteur encourages the Government to enhance the implementation of constitutional and legal obligations on the elimination of the worst forms of child labour and other stakeholders, to strengthen these programmes and to expand their coverage and scope, as she will mention it in her recommendations at the end of this report.

B. Private sector cooperation initiatives to eliminate child labour in Ecuador

62. The Special Rapporteur welcomes efforts undertaken by the private sector to contribute to the national goal to eliminate child labour in Ecuador. She especially welcomes the establishment of the programme Proniño aimed at contributing to the achievement of national, regional and international goals on the elimination of the worst forms of child labour before 2015 and the eradication of all child labour by 2020.

63. The programme has as its main objectives the comprehensive protection of the child by providing quality education and strengthening socio-institutional capacity. Its main activities include providing a system of scholarships targeting child labourers affected by poverty, who require financial support to re-enter the educational system,³³ and technical equipment and academic tools.

64. The programme was piloted in Ecuador in 1998 and now numbers 11,667 beneficiaries from the following provinces: Azuay; Chimborazo; Cotopaxi; El Oro,

³³ As the national education system in Ecuador is fee-free, the scholarships are designed to provide schoolbooks, tools and the child's school uniform.

Tungurahua, Napo; Los Rios; Manabí; Pichincha; Imbabura; Sucumbíos; Guayas; Esmeraldas, 728 schools and 35 assistance centres. The programme has extended to other countries in the region and has provided scholarships and assistance to over 100,000 children and adolescents in 13 countries in Latin America.

C. Addressing poverty as one of the major root causes of the worst forms of child labour

65. The Special Rapporteur welcomes governmental efforts to address the root causes of the worst forms of child labour and provide alternatives for the alleviation of poverty. She especially welcomes cash transfer and human development bond programmes, both of which have shown their positive impact in the elimination of child labour, particularly of its worst forms, among the poorest of the poor. The Special Rapporteur notes with appreciation that the Bono Solidario (also known as the “Poverty Bond”) was established in 1998 to mitigate the impact of eliminating fuel subsidies and raising electricity prices. In 2003, the Bono Solidario changed into the Bono de Desarrollo Humano (“Human Development Bond”) directed at the poorest segment of the population through selective criteria set up as part of the Social Programme Beneficiary Identification and Selection System.³⁴

66. An evaluation of the Human Development Bond Programme in the light of its impact on child labour concluded in 2006 that children in the programme were less likely to be sent to work than if they had benefited therefrom. Furthermore, the evaluation found that the bond had a high impact on school enrolment and attendance and on child labour: school enrolment increased by around 10 percentage points, whereas child labour fell by 17 percentage points. The probability of a boy or girl from any household receiving the bond working was 6.2 percentage points less than for those not receiving the bond. Boys and girls in households receiving the bond worked 2.5 hours less than girls and boys who did not receive it.³⁵

D. The establishment of multilateral platforms for the progressive eradication of the worst forms of child labour

67. The Special Rapporteur welcomes the establishment of multilateral platforms and multi-stakeholders activities and programmes in connection with the eradication of the worst forms of child labour. The Special Rapporteur praises the establishment of CONEPTI in 1997, a multilateral platform aimed at creating synergies for the implementation of the national policy on the prevention, control and monitoring of child labour. In this connection, the Special Rapporteur welcomes efforts aimed at regularizing of the work of children

³⁴ International Labour Office, “Child labour and conditional cash transfer programmes in Latin America”, (Geneva, 2008), p. 2. Available from http://white.oit.org.pe/ipecc/documentos/child_labour_and_conditional_cash_transfers.pdf.

³⁵ Norbert Schady and María Caridad Araujo, “Cash transfers, conditions, school enrollment, and child work in Ecuador”, Policy Research Working Paper No. 3930 (Washington, D.C., World Bank, 2006), p. 12. Available from: http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2006/05/30/000016406_20060530155839/Rendered/PDF/wps3930.pdf.

between 15 and 17 years old³⁶ in the flower industry, including technical and vocational training for child labourers in that range of age.³⁷

68. The Special Rapporteur also welcomes the partnerships created between UNICEF, the Ministry of Labour Relations, INFA, the Centre for Development and Self-Development and the Telefonica Foundation for the Implementation of the National Programme for the Eradication of Child Labour in Dump Wastes. She especially welcomes major outcomes from these partnerships, including the eradication of child labour of over 1,900 children and adolescents, out of 2,014 cases detected, who have left work in garbage dumps. She also welcomes the consolidation of such partnerships for the full eradication of child labour in dump wastes, which is expected to be achieved by 2010.

E. Strengthening efforts to determine the status of persons in need of international refugee protection

69. The Special Rapporteur welcomes the implementation of the Enhanced Registration Project for the determination of refugee status, as a component of the refugee policy of Ecuador adopted in September 2008. This project, developed by the Government of Ecuador, with the technical and logistical support of UNHCR, was piloted in March 2009. Through the Enhanced Registration Project, the status of refugee was granted to 27,740 asylum-seekers of Colombian origin and 1,169 asylum claims were referred for an in-depth assessment under the ordinary process for the determination of the status of refugee.

70. The Special Rapporteur especially welcomes the added value of this project, as it makes accessible the procedure for the determination of refugee status for asylum-seekers who were unable to access it for a number of reasons, including inhabiting in remote areas, lacking resources or fearing detention on the ground of their immigration status. In the Special Rapporteur's view, this project has contributed to a decrease in the risk of abuse of persons of Colombian origin in need of international refugee protection, as refugees duly documented and well-informed of their rights are less vulnerable to fall into labour exploitation in slave-like situations.

VI. Major challenges to the elimination of contemporary forms of slavery in Ecuador

71. Despite the legal, policy and institutional framework aimed at eradicating contemporary forms of slavery and the measures that illustrate the strong commitment towards the achievement of this goal, in the Special Rapporteur's view, major challenges remain.

³⁶ Pursuant to the Code for Children and Adolescents, the minimum age of a worker should be 15 years old. Regulations applicable to the work of children between the ages of 15 and 18 include a maximum of six hours of work per day and five days a week, on condition that the work does not interfere with the child's right to education.

³⁷ See "Prevención y erradicación progresiva del trabajo infantil en el sector agrícola. Expoflores-Foro Social Agrícola". Available from <http://conepti.gov.ec/documentos/expoflores.pdf>.

A. The conceptualization and implementation of programmes to eradicate slavery

72. The Special Rapporteur noted the significant knowledge of governmental authorities on the different dimensions and manifestations that slavery takes nowadays. She also observed with appreciation the commitment of the Government to translating the obligations of the State on the elimination of slavery-like practices into effective laws, policies and programmes.

73. In this connection, the Special Rapporteur observed that the current plans, programmes and policies rarely refer to forced labour or bonded labour, as a separate form of contemporary slavery: in many instances these forms of slavery are seen as derivative of human trafficking.

74. The Special Rapporteur wishes to insist on the importance of mapping the State obligations on the elimination of both forced labour and bonded labour. In her view, such an exercise may facilitate the implementation of those obligations through specific laws, policies and programmes, which should include the follow-up to cases already detected and addressed.

75. The Special Rapporteur was very encouraged by the political will of the Government to evaluate current policies addressing contemporary forms of slavery as, in her view, it is only through a comprehensive and holistic assessment of the obstacles to their implementation that the elimination of contemporary forms of slavery will become a reality in Ecuador.

76. The Special Rapporteur also shares the Government's view that the most pressing challenges are also chronic problems related to poverty, discrimination, impunity and the need to strengthen the implementation capacities of State actors and civil society organizations. In this regard, she noted during her visit a lack of knowledge among the local population, particularly its most vulnerable segments, about their rights and the corresponding mechanisms for their justiciability. She also noted in some instances, the lack of awareness of segments of the population in vulnerable situations, about available social programmes, including on the existence of cash transfer programmes and poverty bonds for families which should benefit from them.

B. The situation of migrants, asylum-seekers and refugees of Colombian origin

77. The Special Rapporteur notes with appreciation the significant efforts made over the years by the Government in declaring a policy of open doors for all those who seek protection in Ecuador, specifically, persons of Colombian origin.³⁸ She also recognizes the several challenges in granting protection to asylum-seekers, refugees and other persons in need of international protection,³⁹ particularly in the northern border area, which, as

³⁸ Information provided by UNHCR indicates that the implementation of the Enhanced Registration Project, together with the regular process of refugee status determination at the Offices of the Department of Refugees in Quito, Cuenca and Lago Agrio, have made of Ecuador the country with the largest number of recognized refugees in Latin America. Figures available in December 2009 showed a total of 45,192 refugees recognized in Ecuador, out of which 98.2 per cent are of Colombian origin.

³⁹ The Constitution of Ecuador recognizes in article 9 the equal protection of the law for all those under the jurisdiction of Ecuador.

described in section II, has a complex socio-economic and security situation and systematically receives large migratory flows.

78. Information received by the Special Rapporteur indicates that migration inflows from Colombia into Ecuador are characterized by a mixture of economic immigrants in regular and irregular situations; smuggled migrants; victims of transnational organized crime, including trafficked victims for sexual commercial purposes, forced labour and bonded labour and asylum-seekers. In the Special Rapporteur's view, this situation illustrates the need to address the causes and consequences of these phenomena, while, at the same time, undertake an assessment of the effectiveness of policies in place with a view to fully ensuring human rights-based responses and durable solutions.

79. During her visit, the Special Rapporteur was also informed about the acute situation of labour exploitation, discrimination and, in some instances, xenophobia and related intolerance encountered by a great number of persons of Colombian origin, particularly in the northern border provinces.

80. The Special Rapporteur was also informed by stakeholders about the presence of refugees in the whole country and the constant inflow of persons in need of international refugee protection, mainly in the northern border area. In the city of Ibarra, located in the province of Imbabura, stakeholders reported the presence of refugees and asylum-seekers mainly from the provinces of Valle del Cauca and Nariño in Colombia, who are usually employed in the informal economy sector. Stakeholders also highlighted that an important number of persons of Colombian origin, enjoying different statuses (asylum-seekers, refugees, migrants, trafficked victims) were present in the cities of San Gabriel and El Carmelo in the province of Carchi, where they are victims of exploitation in different forms.

81. The Special Rapporteur wishes to highlight that, when the immigration and humanitarian situation of persons in need of protection remains invisible, it fuels their exploitation in slavery-like situations. Their vulnerability has been reported to be used by employers in the banana, flower and palm oil industries.

C. Health, labour exploitation and slavery

82. The Special Rapporteur received information about instances of slavery-like labour exploitation in the banana, palm oil, flower and gold-mining industries. She also received information about the difficult working conditions faced by workers in these industries, particularly in connection with the detrimental health and environmental impact that some of the materials used.

83. Stakeholders and workers informed the Special Rapporteur during her visit that the fear of losing their jobs added to their situation of extreme poverty makes them accept all type of dangerous and unprotected conditions, including denouncing their right to social security and health care, low wages and excessive hours of work.

84. Information received indicates that many of the chemicals used in the above-mentioned industries are highly toxic and pose potential dangers to humans and wildlife. Information received also documented cases of cancer, genetic malformations in the descendents of workers and physical injuries including accidental poisoning, partially due to lack of awareness on the danger posed by the products used and instructions on safety and equipment use. In this regard, the Special Rapporteur noticed that misinformation, climatic specifics and a lack of awareness about wearing specific protection equipment presents dangers for the health of workers. This information indicates the need for the Government to strengthen labour inspections on the work conditions in those industries, including their health and environmental impact.

85. The Special Rapporteur also received information on the use of plastic bags coated with neurotoxic pesticides used to cover the maturing fruit and protect it from insect damage. The methods of disposal of these bags are allegedly uncontrolled and, therefore, their use poses high risks for children's health: it was reported that girls are preparing these bags and washing them after use and boys are putting them on bananas. Their use also poses a high risk to the environment, including of malformations affecting the workers future generations.

VII. Conclusions and recommendations

86. Ecuador has shown genuine efforts to establish policies aimed at the elimination of contemporary forms of slavery affecting different sectors of the population. The implementation of some of those policies, particularly in connection with the eradication of the worst forms of child labour, have proven the capacity of the State to progress towards the elimination of contemporary forms of slavery. The establishment of partnerships between the State and a variety of stakeholders, particularly in connection with alternatives of schooling for children in labour industries, also illustrates the proactive approach of the State to developing holistic policies and an environment conducive to eliminating the scourge of slavery in its contemporary forms.

87. Despite the progress made, the Special Rapporteur holds the view that contemporary forms of slavery persist in Ecuador and are directly related to pervasive instances of discrimination, social exclusion and poverty. They affect sectors of the population that have faced historical wrongdoings, such as Afro-descendants and indigenous peoples, as well as those whose conditions make them the easy prey of exploitation, such as children of impoverished families, asylum-seekers, refugees and irregular and smuggled migrants and women. These people are put into conditions that make them extremely vulnerable to slavery and slavery-like practices and are generally unaware of circumstances at work that amount to forced labour and/or bonded labour and about the rights they are entitled to as workers. They are also frequently uninformed or misinformed about the health risks of their job, including in some instances, about potential irreparable damages to their health and that of their future generations that can be caused by the use of dangerous chemicals. In some instances, they might also be lured into lending their children for small amounts of money, exposing them to slavery-like situations.

88. Contemporary forms of slavery are also present mostly in the primary and tertiary sectors of the economy in specific labour industries such as gold-mining; flower and banana plantations; palm oil extraction; domestic servitude, and the informal economy sector. Based on her findings, the Special Rapporteur wishes to make the following recommendations.

A. Addressing the worst forms of child labour

89. The Special Rapporteur wishes to draw the attention of the Government to the definition of child labour provided by article 3(d) of ILO Convention No. 182⁴⁰ and to the accompanying recommendation No. 190 concerning the prohibition and

⁴⁰ Work which, by its nature, by the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

immediate action for the elimination of the worst forms of child labour (1999) and encourages the State to:

- Consider child work in the streets as one of the worst forms of child labour, given that the Special Rapporteur gathered evidence according to which the circumstances in which this work is carried out by children harm their safety and morals, exposing them to abusive practices, including sexual violence;
- Take all necessary steps to implement the recommendations made by the Committee of the Rights of the Child in its 2010 concluding observations (CRC/C/ECU/CO/4), particularly those relating to the economic exploitation of children, children in street situations and sexual exploitation and abuse of children; and to develop a mechanism to enhance the impact and coverage of existing programmes on prevention and protection of children from exploitation and slavery;
- Implement the recommendations of the ILO Committee of Experts on the Application of Conventions and Recommendations, and the national plan to combat the trafficking of persons and commercial sexual exploitation and the plans to combat the commercial exploitation of children and the trafficking of children in Cuenca and Machala;
- Increase resource allocation to build the capacity and number of labour inspectors so that they can effectively monitor labour practices throughout the country;
- Introduce assessments on health and environmental impact of labour practices in the country within the system of labour inspectorates.

90. The Special Rapporteur welcomes the Government initiative to undertake a national census in 2010 and strongly recommends that statistical information on child labour be included as a special chapter therein in a gender disaggregated manner.

91. The Special Rapporteur recommends that the Ministry of Labour Relations develop a nationwide policy to:

- Enhance programmes addressing root causes of child labour in a holistic and comprehensive manner and raise awareness on the rights of the child and on the worst forms of child labour as both a violation of the rights of the child and a contemporary form of slavery; and
- Monitor the compliance with the prohibition of the worst forms of child labour in all sectors of the economy.

92. The Special Rapporteur recommends that the Institute for Children and Family (INFA) to undertake an evaluation of the programme of scholarships as a measure to prevent child labour, including its worst forms, as information received suggests it only has 40,000 beneficiaries.

93. The Government should strengthen its cooperation with the civil society and the business community in the prevention and protection of children against the worst forms of child labour and implement long-term comprehensive programmes for children.

B. Measures to prevent slavery-like situations among asylum-seekers, refugees and migrants

94. The Special Rapporteur encourages the Government to strengthen measures to prevent slavery-like situations among asylum-seekers, refugees and migrants. Among those measures, the Government should increase efforts to implement the Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America,⁴¹ in particular to:

- Continue strengthening the capacity of national refugee commissions to guarantee respect for due process standards and ensuring asylum-seekers' access to refugee status determination procedures, establishing effective remedies, taking decisions on claims within a reasonable timeframe and establishing procedures for appealing a decision to an independent body;
- Strengthen and enhance coverage of programmes for self-sufficiency and local integration of refugees, including – but not limited to – fostering the generation of sources of employment, in particular, the establishment of microcredit systems; and simplifying procedures for authentication and recognition of certificates and diplomas issued abroad;
- Promote the development of border areas through the consolidation of the presence of State institutions along with specific investments and projects sponsored by the international community, and to address basic infrastructure and community services needs, in particular in the areas of health and education, as well as to facilitate employment generation and productive projects, as necessary. All these endeavours should be gender- and age-sensitive. The Government should also formulate and implement public awareness programmes targeting local populations to prevent negative feelings and all forms of discrimination.

95. In connection with the protection of migrant workers and their families, regardless of immigration status, from labour exploitation and slavery-like situations, the Special Rapporteur recommends that the Government establishes effective and accessible channels, which allow all – including irregular – migrant workers to lodge complaints on violations of their rights without fear of retaliation.

C. The protection of domestic workers against slavery-like practices

96. The Special Rapporteur recommends that the Government:

- Ensure that domestic workers are protected by labour law and that effective remedies are in place, including gender- and age-sensitive mechanisms to denounce abuses by employers and receive the appropriate assistance and counselling, when required;

⁴¹ The Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America was adopted by consensus in November 2004 as the outcome of the four subregional preparatory meetings held on the occasion of the twentieth anniversary of the Cartagena Declaration on Refugees, at the initiative of the UNHCR, together with the Norwegian Refugee Council, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the Inter-American Institute of Human Rights and the Governments of Brazil, Costa Rica and Mexico. Available in English at: <http://www.acnur.org/biblioteca/pdf/3453.pdf>.

- Address the legislative and practical barriers currently faced by domestic workers in having access to mechanisms of compensation and redress under employment legislation;
- Strengthen awareness-raising programmes to combat prejudice against migrant domestic workers, and increase awareness-raising efforts to prevent abusive practices by employers being used against prospective migrant domestic workers, regardless of immigration status;
- Strengthen efforts to ensure compliance with the national minimum wage and increase efforts to raise awareness on domestic workers' rights as a way to prevent human rights abuses and exploitation in slave-like situations.

D. Assistance to victims

97. The Special Rapporteur recommends that the Government:

- Separate the mechanisms, plans and programmes dealing with trafficking in persons and the smuggling of migrants as they are crimes that differ in nature and require different responses;
- Establish special mechanisms for compensating victims of contemporary forms of slavery for the crimes committed towards them;
- Take all necessary steps to prevent multiple discrimination and revictimization, ensuring that effective structures and mechanisms are put in place to assist victims to reintegrate into society, including by providing them with psychological, health and social assistance;
- Incorporate into national policies, plans and programmes, and effectively implement, the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1);
- Consider signing the Council of Europe Convention on Action against Trafficking in Human Beings (which provides strong protection mechanisms and is open to non-member States) as a means to strengthening its legal framework and mechanisms for the protection of victims of contemporary forms of slavery.

E. Other recommendations

98. The Special Rapporteur encourages the Government to establish local programmes aimed at eradicating forced labour, bonded labour and other contemporary forms of slavery, and restoring and protecting the rights of victims. She also encourages the Government to raise awareness about such programmes as good practices, particularly in areas of the country where implementation gaps have been identified by the Government or other stakeholders.

99. The Special Rapporteur encourages the Government to make available to the public information disaggregated by age and gender on the number of victims of contemporary forms of slavery that have been detected and assisted.

100. In connection with information received about outbreaks of xenophobia and related intolerance against persons of Colombian origin, particularly near the northern border, which fuel anti-migrant sentiments and create an environment

conducive to the exploitation of those persons who are often the victims of slave-like circumstances, the Special Rapporteur strongly recommends that the Government:

Take all necessary steps to uphold its obligation to respect the principle of non-discrimination and prevent, combat and eliminate all forms of discrimination and xenophobia, guaranteeing the exercise of the rights of all persons under the jurisdiction of the State, particularly without any distinction on the grounds of national origin, economic status, immigration or refugee status or status of others in need of international protection.

101. The Special Rapporteur recommends that the Ministry of Coordination for Social Development:

- Elaborate policies to effectively coordinate activities among public institutions in connection with educational needs of child workers;
- Increase efforts of coordination of policies aimed at bringing children up to the appropriate level of education;
- Develop mechanisms to enforce legislation and monitor effective implementation of plans and programmes; and
- Strengthen efforts to monitor and regulate the activities of the business community in the country as a means to contribute to the eradication of both forced labour and the worst forms of child labour.
