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Совет по правам человека

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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав, включая
право на развитие**

**Доклад Специального докладчика по вопросу
о праве на образование Кишора Сингха**

Добавление

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Резюме

По приглашению правительства Специальный докладчик по вопросу о праве на образование Кишор Сингх совершил поездку в Эквадор 10–17 сентября 2012 года. В ходе визита Специальный докладчик рассмотрел положение в области права на образование в стране.

В последние годы в Эквадоре были предприняты важные шаги для поощрения права на образование путем принятия новых законов и политики в области начального и высшего образования в соответствии с международными стандартами прав человека. Содержательные нормы Конституции Эквадора о праве на образование, наряду с высокой приоритетностью деятельности в области образования в стране, создали благоприятные условия для прогресса в этой области. В соответствии со своими обязанностями правительство приступило к долгосрочному планированию и реализации государственной политики в области развития образования в рамках Плана в области образования на период 2006–2015 годов, руководствуясь правозащитным подходом. Результатом беспрецедентного процесса преобразований стали заметные достижения в системе образования, призванные обеспечить бесплатное качественное образование на всех уровнях. Продолжающийся рост государственных ассигнований на цели развития сектора образования также имеет важное значение для улучшения общей ситуации в образовательной сфере.

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** Представлено с опозданием.

Вместе с тем Специальный докладчик отмечает, что в стране сохраняются долгосрочные вызовы, включая неудовлетворительную инфраструктуру, низкое качество образования и диспропорции в области образования в сельских и городских районах. Общинам, живущим в условиях бедности, коренным народам и афрозкваторцам по-прежнему не уделяется достаточное внимание и не обеспечивается полный набор возможностей для получения образования. Постоянное внимание, уделяемое решению долгосрочных проблем, связанных с предоставлением качественного образования и обеспечением полных и равных возможностей, подкрепляемое ростом ресурсов, выделяемых на эти цели, имеет решающее значение для закрепления достигнутого в последнее время прогресса.

Annex

[English and Spanish only]

**Report of the Special Rapporteur on the right to education,
Kishore Singh, on his visit to Ecuador
(10 to 17 September 2012)**

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I. Introduction

1. In this report, the Special Rapporteur on the right to education, Kishore Singh, presents the main findings of his visit to Ecuador from 10 to 17 September 2012, which was undertaken to examine in depth the situation of the right to education in the country.
2. During the visit, the Special Rapporteur met with President Rafael Correa and multiple authorities, including the Minister of Foreign Affairs, Trade and Integration; the Minister of Education; the Minister of Economic and Social Inclusion; the Minister of Justice, Human Rights and Religion; the Minister of Coordination of Knowledge and Human Talent; and the National Secretary for Higher Education, Science, Technology and Innovation. He also met with high representatives of the National Secretariat of Planning and Development (SENPLADES), the municipality of Quito and the Defensoría del Pueblo (The National Human Rights Institution of Ecuador).
3. The Special Rapporteur also met several representatives from the international community and civil society, including representatives from the United Nations system, teachers' unions, student councils and numerous civil society organizations working in Ecuador. Finally he visited a number of education institutions and met their directors, teachers, students and their parents in Quito, Guayaquil and Cayambe.
4. The Special Rapporteur expresses his gratitude to the Government of Ecuador for its invitation and for the full cooperation throughout his mission. He would like to especially express his deep gratitude to President Rafael Correa for giving him the opportunity to engage in a dialogue. He also extends his thanks to the representatives of the Office of the United Nations High Commissioner for Human Rights and to the United Nations Country Team in Ecuador. Lastly, he expresses his appreciation to those who took time to meet with him and share their experiences in the field of education.
5. Over the last decade, in particular after the adoption of a new Constitution in 2008 and the reform of laws for the education sector, Ecuador's education system is making important advances. The State recognition of its duty to ensure access to good quality education at all levels appears to have already resulted in notable achievements. For example, the public budget for education has expanded and access to both primary and secondary education has also increased. The adoption of new standards and measures to monitor the quality of education in public and private schools is also important for detecting problems and preventing abusive practices.
6. Nevertheless, challenges persist, including poor infrastructure, overall low quality of education, a lack of qualified human resources in the field of education and disparities in access to education. In particular, communities living in poverty, indigenous peoples and Afro-Ecuadorians remain underserved and do not benefit from full education opportunities. Further efforts are required to ensure full and equal opportunities in education.
7. As noted in the Constitution, while education is primarily the responsibility of the State, it is also a social responsibility that non-State actors must also assume. The promotion of the right to education and the implementation of education reforms require the constant and meaningful participation of all sectors of civil society, including, in particular, teachers, students, their parents and communities.

II. Legal framework

A. International legal framework

8. Ecuador is a State party to all international human rights instruments¹ including the International Covenant on Economic, Social and Cultural Rights and in the Convention on the Rights of the Child (both containing comprehensive provisions on the right to education). These place an obligation on the State to take all necessary steps to protect, promote and fulfil the right to education for all persons in its territory, without discrimination. At the regional level, Ecuador is party to the American Convention on Human Rights, recognizes the jurisdiction of the Inter-American Court of Human Rights and has ratified a number of additional instruments, including the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, which also contains detailed provisions with regard to the right to education.

9. In 2010, Ecuador was the first country to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which provides for the right of individuals and groups to claim the rights contained in the Covenant in cases of their violation. The early recognition of this international complaints mechanism and the previous ratification of multiple international and regional human rights instruments are important in terms of Ecuador's continued commitment to strengthen the protection of all human rights, including the right to education.

10. In accordance with article 11(3) of the Constitution, international treaties ratified by Ecuador are directly applicable in national courts, and can be directly enforced in civil, administrative or judicial authorities, even in the absence of national legislation.

B. National legal framework

11. Ecuador's Constitution, adopted through a national referendum in 2008, includes ensuring the enjoyment of the right to education without discrimination as one of the essential duties of the State.² It ushered in a new model for the State, with development that focuses on people (A/HRC/WG.6/13/ECU/1, para. 4).

12. The Constitution provides an elaborate legal framework on the right to education. Specific provisions regarding the right to education are included within Chapter II on "Rights to good living".

13. Article 26 establishes education as a right of all persons and a core duty of the State. It underlines that education constitutes a priority area for public policymaking and State investment, with ensuring equality, social inclusion and promoting "good living" having central importance. It also states that individuals, family and society have the right and responsibility to participate in education.

¹ Ecuador has ratified the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Ecuador is also a State party to the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education.

² Art. 3.1.

14. Article 27 provides that education “shall guarantee holistic human development, within the framework of respect for human rights, a sustainable environment, and democracy; education shall be participatory, compulsory, intercultural, democratic, inclusive and diverse, of high quality and humane”. It also underlines the centrality of education for exercising other rights and consolidating national development.

15. Article 28 underscores that education shall respond to public interest and will not be subservient to individual or corporate interests. It establishes the compulsory attendance of initial schooling, primary education and secondary education or their equivalent. It underlines the State role in promoting intercultural dialogue while indicating that learning can take place within and outside formal schooling systems. It also establishes that “public education shall be universal and secular at all levels and shall be free of charge up to and including the third level of higher education”.

16. Article 29 guarantees academic freedom in higher education, the rights of persons to learn in their own language and cultural environment and the freedom of parents or others representing children to choose an education that is in line with their principles, beliefs and pedagogical options.

17. In this respect, it is important to note the work of the Ministry of Justice, Human Rights and Religion regarding the promotion of training for judges and lawyers and creating greater awareness of the constitutional right to education.³ The Ministry also plays an important role in the dialogue with the United Nations human rights treaty bodies.

18. The Special Rapporteur notes that the concept of *sumak kawsay* – good living – is enshrined in the Constitution in order to reinstate the notion of the common good. Thus, the Constitution and the national development framework are marked by the innovative concept of a right to “good living” and the State goal to promote it. This concept has its roots in local indigenous tradition and refers to the promotion of a harmonious life among communities and between human beings and nature. It includes respect for the rights of nature as well as the promotion of creative diversity. In this regard, the promotion of the right to education is considered one of the most important requirements for the attainment of “good living”, emphasizing its relevance for the promotion of an intercultural dialogue. The Special Rapporteur considers that the introduction of this innovative concept offers a perspective for consolidating a more holistic and inclusive approach to education and its aims, in line with international human rights standards.

19. The legal framework for preschool, primary and secondary education is established by the Intercultural Education Act of 2011⁴ and accompanying regulations.⁵ Tertiary (university) education is governed by the Higher Education Act of 2010.⁶ The Ecuadorian education system encompasses “early childhood education”, covering children up to the age of five, “basic education” offering an additional 10 years of primary and early secondary education, an additional three-year secondary level baccalaureate (which may be technical), and post-secondary (university) education. As indicated, education is mandatory up to the secondary level and is offered free of charge up to the first university degree (A/HRC/21/4).

20. The Intercultural Education Act contains detailed provisions on the aims and functioning of all education levels in Ecuador (excepting the higher level) and the rights and responsibilities of teachers, students, parents and the community in order to achieve the

³ The Constitution of Ecuador also enshrines the rule of law. In the referendum of 7 May 2011, Ecuadorians said yes to an independent justice system for everyone.

⁴ Intercultural Education Act, Official Registry of Ecuador No. 417, 31 March 2011.

⁵ Intercultural Education Act Regulations, Decree 1241, Official Registry of Ecuador No. 754, 26 July 2012.

⁶ Higher Education Act, Official Registry of Ecuador No. 298, 12 October 2010.

goals set out in the Constitution. It establishes the National Education Authority (under the oversight of the Ministry of Education) as the national policymaking and standard-setting regulator for the sector as well as the manager of national education policies at the local and national levels. The law also establishes a National Institute for the Evaluation of Education, which is entrusted with the task of the evaluation of the entire education system. The law emphasizes the importance of an intercultural approach to the entire education system. It also provides the framework for the Bilingual and Intercultural Education system, including the direct participation of representatives of indigenous groups in the council which is responsible for designing, managing and evaluating bilingual education. Finally, the law provides regulations for the teaching profession, including defining professional requirements, evaluation and promotion procedures.

21. The adoption of an intercultural perspective for the entire education system through the Intercultural Education Act is considered an advance in promoting the integration of indigenous groups and their knowledge into the education system. The emphasis of the law on the rights of stakeholders, including students, parents and communities, to actively participate in the education system is also considered important for the promotion of a human rights-based approach to education.⁷

22. The Higher Education Act and its regulations provide the legal framework for the post-secondary education system and institutions, establishing the rights and responsibilities of students, teachers and administrators. This Act underlines the academic, administrative, financial and organic autonomy of higher education institutions while emphasizing that these institutions must be guided by, inter alia, the principles of social responsibility, equality and accountability. It also establishes quality standards and accreditation procedures. While public universities are free until at least the first degree level, private universities may require fees, but must operate on a non-profit basis.⁸

C. National policy framework

23. The Decennial Education Plan 2006–2015 is the most important policy strategy document for the education sector. The eight main objectives of the Plan are: (a) universalizing early childhood education from 0 to 5 years of age; (b) universalizing general primary education from the first to the tenth grades; (c) increasing registration in the high school diploma programme, to attain at least 75 per cent of the population for that age; (d) eradicating illiteracy; (e) improving the infrastructure of educational institutions; (f) promoting quality and equity in education and implementing a national evaluation system with a social responsibility mechanism; (g) promoting the teaching profession, enhancing teachers' professional development and working conditions; and (h) increasing public education budget allocations by at least 0.5 per cent of the gross domestic product (GDP) every year, with a view of reaching 6 per cent by 2012.

24. Despite predating the recently adopted legal instruments for education, the Plan's emphasis on promoting better quality education and equality of educational opportunities is in general terms aligned to the more recently adopted norms for the right to education. The adoption of clear targets and priorities appears to have created a very important instrument for evaluating the achievements encountered in the execution of educational policies.

⁷ Defensoría para los Derechos Humanos, *Report to the Special Rapporteur on the right to education*, (Quito, 2012). See also Grupo FARO, *Educiudadanía, Acompañando al Plan Decenal de Educación*, (Quito, 2011), p. 41.

⁸ Higher Education Act, art. 89.

25. The overall education policies are also guided by the National Plan for Good Living, 2009–2013, which details the overall national strategies for development. The National Plan embraces a human rights-based approach to planning, and rightly underlines the need to pay attention to inequality and discrimination in all planning processes (A/HRC/11/9/Add.1). Transforming the higher education system, given the overall strategic need to ensure better public investments in this sector as against previous years of underinvestment, is one of its 12 objectives.⁹ Among other things, the National Plan stresses the need to create better opportunities to ensure that social economic barriers do not impede the progression of students to higher levels of education, and the need to improve the overall quality of higher education.

26. The Special Rapporteur welcomes the constant reference to core human rights principles, with the emphasis on ensuring good coordination in policy planning. In the past, education policies and developments in Ecuador have been marked by limited continuity and fragmentation, due mostly to the recent history of political instability experienced by the country. This legacy has been reversed – both the National Plan and, most importantly, the Decennial Education Plan 2006–2015 continue to be taken as the guiding instruments for the formulation, execution and evaluation of State educational policies. Moreover, the reformed legal and policy instruments offer a good national framework for the promotion and protection of the right to education.

III. Education system

A. Primary and secondary education

27. In line with international human rights standards, the universalization of access to the primary (general basic education) and secondary education levels is established as an obligation of the State by both the Constitution and the Intercultural Education Act. This is also one of the priorities of the national development policy framework. Education is offered to those between 5 and 14 years of age, comprising general basic education and basic secondary curriculum. The higher secondary education (high school or *bachillerato*) consists of a three-year programme for those aged 15 to 17 years. The secondary system is subdivided into two main career options, the scientific career (*bachillerato*) related to the common school curricula only, and the technical career that offers an additional technical and vocational education. Ecuador achieved nearly universal enrolment in primary education. The Government reports that net enrolment rate of students in general basic education advanced from 91.2 per cent in 2006 to 95.4 per cent in 2011, including an increase in net enrolment rate of Afro-Ecuadorians from 44.1 per cent to 53.9 per cent, and a rise from 24.4 per cent to 50.8 per cent for indigenous peoples.¹⁰ Total attendance at the *bachillerato* level rose from 47.9 per cent to 63.9 per cent during the same period.¹¹ Continued investment in the elimination of all financial costs of education is considered to have contributed to this expansion. According to information provided by the Ministry of Education, from 2007 to 2010, 31 million primary education school textbooks were made available free of charge. In his visit to indigenous and other schools, the Special Rapporteur

⁹ SENPLADES, *National Plan for Good Living (2009–2013): “Building a Plurinational and Intercultural State”*, 2010.

¹⁰ National Institute of Statistics and Census, National Survey on Employment, Unemployment and Underemployment, 2003–2012.

¹¹ Ministerio de Educación de Ecuador, *Informe De Avance Cumplimiento De Las Políticas Del Plan Decenal De Educación 2011–2012*, p. 13.

saw the prescribed textbooks, reflecting values of human rights and democratic citizenship as well as solidarity and intercultural education around the key concept of *sumak kawsay*.

28. However, concerns remain with regard to the phenomenon of students experiencing grade retention, making them vulnerable to early dropouts or persistent lagging behind their peers. In 2009, around 9 per cent of the students enrolled in primary education experienced grade retention.¹²

29. The Decennial Education Plan 2006–2015 includes as its third goal to increase the population reaching secondary level to at least 75 per cent of the youth at the respective age level. In this regard, the Government reported that the enrolment rate for high school education rose from 47.9 per cent in 2006 to 62.1 per cent in 2011. The Government also estimated that the 75 per cent enrolment goal fixed in the Decennial Education Plan can be reached in 2015 if the pace of progress is maintained.¹³ Despite these advances, further concerns emerge with regard to the high rates of student drop out at this education level: in 2009–2010, 5 per cent of the students enrolled in secondary level deserted the system. Within the bilingual education system, dropout rates reach 12 per cent of those enrolled.¹⁴

30. In 2011, gender parity was reportedly achieved with regard to the enrolment of students at both the primary and secondary education levels.

31. The removal of economic barriers to education played an important role in the expansion of enrolment at the primary and secondary levels. For example, the expansion of secondary level enrolment created opportunities for students belonging to the lowest social strata to receive an education. On the other hand, overall concerns about the quality of education remain.

32. Quality concerns appear to also be closely related to the persistence of overall unequal opportunities in education – those belonging to marginalized groups, in particular those living in rural and remote areas, appear to be disproportionately affected by lower quality education at primary and secondary levels.

B. Preschool education

33. The promotion of preschool education is well recognized as a State obligation in the laws and policies in Ecuador. Article 28 of the Constitution includes access to “initial education” as mandatory. The Decennial Education Plan 2006–2015 has as its first goal universalizing access to preschool education. Article 40 of the Intercultural Education Act defines “initial education” from 3 to 5 years of age as the process of the integral development of psychological-social skills. States and families have shared responsibilities in ensuring preschool education, with the State being mainly responsible for offering education from 3 to 5 years old, and families mainly responsible for those below 3 years of age. The Intercultural Education Act also establishes the need to ensure coordination between preschool and primary education.

34. Public preschool education is currently administered by both the Ministry of Education and the Ministry of Social Inclusion through the Institute for Childhood and the Family (*Instituto de la Niñez y la Familia*). A transition is in process in the sector, with the Ministry of Education (through the National Education Authority) becoming mainly responsible for establishments assisting children aged 0–3 (the entire sector was previously under the Ministry of Social Inclusion).

¹² Grupo Faro (see footnote 7 above), p. 14.

¹³ Ministerio de Educación de Ecuador (see footnote 10 above), pp. 21–22.

¹⁴ Grupo Faro (see footnote 7 above), p. 14.

35. Despite noting an increase in the absolute number of children receiving preschool education and in the number of teachers working in the sector, it was estimated that in 2012 only 27 per cent of 3- and 4-year-old children benefitted from preschool education.¹⁵ Another evaluation noted that the goal of universalization of preschool education by 2015 is unlikely to be met.¹⁶ The evaluation showed that only around 50 per cent of children under 5 years of age were covered by some sort of preschool education programme in 2010, while noting difficulties in measuring progress due to the lack of accurate information, particularly on private preschool and childcare entities. It was also noted that there is a need to further promote coherence among the multiple public and private childcare providers, as many of these have just recently been integrated into the education system.

36. While noting advances, the Special Rapporteur considers that enhanced attention and investments to both the coverage and the quality of the preschool education system are needed. The role of the State in guaranteeing good quality early childhood education should never be underestimated, given its importance for a child's development.

C. Technical and vocational education

37. The technical and vocational education system in Ecuador comprises technical schools at the secondary level (integrated into the overall curricula for secondary education) and higher level technical schools. Limited investments in this strategic sector in past appear to have impaired its development and capacity.

38. In order to ensure adherence to minimal quality standards for technical education, the Government has implemented a process of evaluation and accreditation of 407 technical institutes, having suspended 125 institutions considered inoperative. Currently, 282 institutions are accredited to function in the country.¹⁷

39. In his report to the General Assembly in 2012 (A/67/310), the Special Rapporteur emphasized the emerging consensus on the importance of technical and vocational education and its relevance for the realization of the right to quality education, the promotion of social justice and sustainable development. In this regard, the Special Rapporteur once again underscores the need for further investments in this type of education. Further investment in technical and vocational education could play a central role in promoting the skill development needed in today's world.

D. Higher education

40. The Higher Education Act and its regulations provide the framework for the national higher education system. The Constitution recognizes academic freedom. As will be noted below, the pursuit, development and transmission of knowledge through research and teaching is emerging as a priority, with the recognition of the importance of the autonomy of higher education institutions and their responsibilities.

41. As already indicated, both the new legislation and the overall development strategy (National Plan for Good Living) emphasize the responsibility of the State in the promotion of higher education in Ecuador. Recent legal reforms are a positive step toward the recognition of the right to higher education, and contribute to protecting education as a public good and devising a system to ensure adherence to adequate quality standards in all

¹⁵ Ministerio de Educación, (see footnote 10 above), pp. 9–10.

¹⁶ *Educiudadanía, Acompañamiento del Plan Decenal de Educación* (2010), pp. 6–7.

¹⁷ Consejo Sectorial De Conocimiento Y Talento Humano, *Informe De Rendición De Cuentas* (2011), p. 24.

higher education institutions. The PROMETEO project brings together scientists and researchers in research projects in strategic areas in public institutions and universities in Ecuador.

42. The Ministry of Coordination of Knowledge and Human Talent, created in 2011, has a key role in the promotion of higher education and of the acquisition of the knowledge, skills and competences so necessary in today's knowledge societies. It encourages the pursuit of knowledge as a universal good, fostering talents and creative spirit as well as human dimensions of development. The Secretariat of Higher Education, Science, Technology and Innovation oversees the national system of higher education, with the responsibility for the overall design and implementation of higher education policies. The Ministry of Coordination of Knowledge and Human Talent promotes the integration of the work of various authorities in the field of education (primarily the Ministry of Education and the Secretariat of Higher Education, Science, Technology and Innovation), within the framework of the overall national development strategy. Despite this commitment to enlarge access to higher education,¹⁸ important challenges remain. The National Plan for Good Living recognized that Ecuador displayed one of the lowest indicators of access to higher education among Latin American countries. It also underlined that demographic changes and growth of secondary education would further increase the demand for higher education.¹⁹ The Government reported that the net enrolment rate in higher education in 2011 was 33.6 per cent for women and 28.3 per cent for men (A/HRC/WG.6/13/ECU/1). From 2006 to 2011, access to higher education increased from 9.5 per cent to 17.8 per cent among the Afro-Ecuadorian community, and from 6.5 per to 14 per cent among the indigenous population (A/HRC/WG.6/13/ECU/1, para. 47). When disaggregated, enrolment rates for those with lower income and those belonging to indigenous and Afro-Ecuadorian communities reflect disadvantages faced by these groups despite efforts to address inequalities in education.

43. Most students at the higher education level are enrolled in private institutions. As such, the Government is determined to expand the public higher education system in order to meet its commitments with regard to the expansion of the sector and the promotion of access to higher education free of charge.

44. The Government reported that there are four new public universities under construction. The most advanced project is the University of Arts, which is expected to start operating in September 2013. There are also ongoing projects for a National University of Education (especially for teacher training), the Regional Amazonia University (dealing with environmental issues, renewable energies, geology and biology), and the "Yachay-Knowledge City-Research University on Experimental Technology" (mainly for petrochemical sciences, renewable energy, climate change, nanosciences, communication and information). All the main research areas of the new institutions are considered to be of strategic importance for the national developmental strategy. The Government has initiated a thorough process of reforms of higher education, setting high research and academic standards. International cooperation in the field of higher education is being developed, and Ecuador already collaborates with a number of countries in this field. The Government has instituted a large number of scholarships for studies abroad in reputable universities.

¹⁸ According to information provided by Government, 15 per cent of youth with success in national higher education examination belong to families which receive "*bono de desarrollo humano*". Ministerio Coordinador de Conocimiento y Talento Humano, *Hacia el País del Conocimiento, avances y retos 2012*, p. 47.

¹⁹ Plan Nacional del Buen Vivir, p. 63.

45. Pursuant to the Intercultural Education Act, Ecuador established the General Unified Baccalaureate or high school curriculum, at the end of which a new single national entrance examination is mandatory to accede to higher education. This examination is intended to test skills and critical thinking similar to those achieved at the end of high school level.²⁰ In September 2014, universities will receive the first group of students selected through the new entrance system. The adoption of a unified system seeks to ensure equal opportunities, a merit-based approach and increased transparency in access to higher education. The Special Rapporteur commends merit-based access to higher education free of charge, recognizes the importance of ensuring a fair and transparent selection process to higher levels of education, and underlines the need to permanently review the selection process with a view to promoting equal opportunities in education.

46. Both the law and policies for higher education provide a detailed framework for promoting and monitoring the quality in higher education. In this regard, in line with the Higher Education Act, a Council for Evaluation, Accreditation, and Promotion of Quality in Higher Education (*Consejo de Evaluación, Acreditación y Aseguramiento de la Calidad de la Educación Superior*) was established and is entrusted with the task to, inter alia, promote the external evaluation and accreditation²¹ of academic institutions in order to ensure quality standards (institutions are also required to self-evaluate their quality). In April 2012, after investigation and evaluation pursuant to the Higher Education Act, 14 universities had their accreditation permanently suspended, as they were found to be handling education as a for-profit business, in contravention of the constitutional provisions and with disregard for the minimum quality standards. This is commendable as it prevents any engagement in education as business and preserves education as a public good. The Government also reported that it successfully reintegrated around 40,000 students who were attending the suspended universities into different institutions. Other institutions were notified and required to take necessary measures to enhance the quality of their programmes.

47. The Special Rapporteur has repeatedly underlined the need to promote higher quality standards and to monitor both public and private education institutions, sanctioning abusive practices. In this regard, he welcomes the efforts undertaken to ensure higher quality standards in the Ecuadorian system.

48. The lack of human and technical capacity is an obstacle for the further development of higher education in Ecuador. The Government aims to expand expenditure in research to a proportion of at least 1.5 per cent of GDP in 2013 and reported that spending on research and development rose from 0.2 per cent of GDP in 2006 to 0.48 per cent of GDP at the end of 2010. The Special Rapporteur applauds the efforts to further invest in research and higher education, while noting the importance of continued support, given the limitations from which the Ecuadorian university system suffered in past.

²⁰ Ministerial Agreement No. 242-11 of 5 July 2011 (implementation of the new high school curriculum) and Ministerial Agreement No. 307-11 of 23 August 2011.

²¹ Higher Education Act, art. 174.

IV. Achievements and key challenges

A. Promotion of equal opportunities in education

49. The Government has recognized the central role of education in the promotion of equality and social justice, and initiated various efforts to assist marginalized groups. The Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion for 2009–2012 includes the promotion of the right to education as one of its central areas of concern.

50. The Government reported some improvements. Enrolment rates in higher education rose over the last five years from 9.5 per cent to 17.8 per cent among the Afro-Ecuadorian community, and from 6.5 per cent to 14 per cent among the indigenous population (A/HRC/WG.6/13/ECU/1, para. 47).

51. As indicated, the emphasis in the new legal framework on an intercultural approach to the overall education system has opened an important path for ensuring the inclusion of a more culturally sensitive approach to education policies. However, despite additional investments reported by the Government in the promotion of quality standards and teacher training, the bilingual education system still needs to enhance its financial and technical capacity to ensure good quality and culturally adequate education to the various indigenous groups in the country.

52. Historical disadvantages in the access to all levels of education remain a serious concern for Afro-Ecuadorians, the Montubio and indigenous groups. In 2010, indigenous peoples were estimated to receive only 5.55 years of schooling (the lowest schooling average among all ethnic groups). The Montubio and Afro-Ecuadorians displayed slightly higher numbers (7.19 and 8.45 years of schooling, respectively), but were also at a disadvantage if compared to the white schooling average (11 years, the highest average) or the national average (9.39 years).²² Moreover, despite renewed commitments to eliminate illiteracy, 30.2 per cent of indigenous peoples and 16.7 per cent of the Montubio remained illiterate in 2012, while the national illiteracy average was 7.9 per cent.²³ These stark differences seem to reflect the accumulated impact of successive decades of inadequate education, particularly for groups living in certain remote regions, and insufficient attention to the cultural requirements of these groups.

53. Various legal instruments, including the Constitution, call for the promotion of an inclusive education system, in line with international human rights standards, ensuring opportunities for children with disabilities to be integrated within the mainstream education system. A number of initiatives and projects have been undertaken by the Office of the Vice-President, in cooperation with the Ministry of Education, including the elaboration of manuals and guides for persons with disabilities. The Ministry of Education reported that there has been a nearly 50 per cent increase in the number of children with disabilities enrolled in schools from 2007 to 2012.²⁴ Nevertheless, not all children with disabilities are yet able to attend schools or kindergarten due to the lack of human and technical capacity to promote their integration into the education system.

54. In keeping with Ecuador's legal and policy commitments to promote universal access and equality of opportunities in education, obstacles which disproportionately affect

²² National Institute of Statistics and Censuses (INEC), 2010 Census.

²³ Ministry of Education of Ecuador, *Dirección Nacional de Análisis e Información Educativa*, illiteracy rates document, downloadable at www.educacion.gob.ec.

²⁴ Ministerio de Educación (see footnote 10 above), p. 38.

the education of persons living in poverty, Afro-Ecuadorians, the Montubio, indigenous peoples and persons with disabilities must be overcome. The disadvantages posed by economic deprivation often appear closely associated with all discriminatory patterns, affecting the most marginalized groups of society.

B. Empowerment through education and poverty eradication

55. In recent years, Ecuador has made unprecedented efforts to combat poverty through the comprehensive social policies set out in the Sectoral Agenda for Social Development. From 2006 to 2011, the national poverty rate dropped from 37.6 per cent to 28.6 per cent, the rural poverty rate fell from 60.6 per cent to 50.9 per cent and the urban poverty rate fell from 25.9 per cent to 17.4 per cent. The extreme poverty rate fell from 15.7 per cent in 2008 to 13.1 per cent in 2010 (A/HRC/WG. 6/13/ECU/1, paras. 17 and 21). The persistent challenge of poverty elimination requires an enhanced emphasis on empowering the victims of poverty through education.

56. The prevalence of poverty appears to be directly related to fewer years of schooling.²⁵ The Decennial Education Plan recognized the need to eliminate economic barriers for the promotion of universal basic education. The Government is accelerating measures for converting temporary schools into good quality regular schools so that children in these schools have better educational opportunities. In order to eliminate potential economic barriers, the Government, for example, outlawed any demand for financial contributions from students for enrolment in public schooling. The Government has also invested in the free distribution of school books and materials to students from poor households. Despite these important measures, at the local level, a lack of information and abusive practices by some schools may still expose families to costs that can hamper the schooling of their children.

57. Moreover, investments in the expansion and consolidation of the *bono de desarrollo humano* (a cash transfer programme for families living in poverty that has been implemented for over a decade) appear to have contributed to an increased schooling of those living in poverty.²⁶ Additional strategies to promote local development and alleviate the financial burden of education for those living in poverty include an initiative to locally produce, purchase and distribute school uniforms (“Weaving Development” or *Hilando el Desarrollo*) and the School Feeding Programme. Both strategies were progressively adapted for timely delivery of clothing and food of adequate quality. The Special Rapporteur recognizes the importance of all such measures, given the deprivation experienced particularly by poor children living in rural settings.

C. Responding to quality imperatives

58. The Constitution provides for an institutional mechanism for evaluating quality in education (art. 346). The Decennial Education Plan also expresses concern with the promotion of quality in education and the establishment of a national system of evaluation and accountability of the education system, as its sixth goal. Moreover, the Decennial Education Plan includes the development of quality goals relating to improving school

²⁵ In 2010, only 27.5 per cent of the Ecuadorian population living in poverty benefited from secondary education and only 10.1 per cent would progress access to higher education.

²⁶ According to the Government, a child belonging to a household benefiting from the cash transfer scheme had a 10 per cent higher probability of being enrolled in basic education than a child from a similar economic background not benefiting from the transfer.

infrastructure, teachers' qualifications and their working conditions, which are directly related to promoting quality in education.

59. An important initiative taken with the objective of providing higher quality education to marginalized groups is the development of the Millennium Education Units. The Units are schools which offer primary and secondary education and which are strategically built within economically marginalized areas with the aims of providing high quality education to their students and supporting other education establishments also located in the surrounding areas. At the time of the visit of the Special Rapporteur to Ecuador, 14 Units were in place. The Special Rapporteur had the opportunity to visit a Unit and a Replica School, another initiative promoting high quality education in marginalized areas that consists of replicating the work of existing well-regarded Units in marginalized areas. In these visits, he was able to witness the impressive investments made in the creation of these new schools. While welcoming the investment in high quality education and recognizing its potential catalytic effect in the deprived areas, the Special Rapporteur also cautions that due attention should be paid to ensure that these costly efforts do not end up exacerbating disparities in education, with a small group of students lucky to be enrolled in these new Units, while the large majority of Ecuadorians continue to attend other, underresourced schools.

60. A number of initiatives were taken by the Ministry of Education to better monitor the quality of education in recent years. Pursuant to the Intercultural Education Act, the Ministry of Education initiated the process for the establishment of a National Institute of Evaluation in order to undertake an assessment of the Ecuadorian education system. At the same time, the Ministry developed a set of standards to measure the quality of the educational system. Standards elaborated thus far relate to learning achievements, teaching performance and school management.

61. The National System of Evaluation and Social Accountability (*Sistema Nacional de Evaluación y Rendición de Cuentas*) has carried out evaluations since 2008. Evaluations of students, teachers and school directors were carried out on a yearly basis (although in 2012, no student evaluation was conducted due to the introduction of a new curriculum).²⁷ Financial rewards were provided to teachers achieving outstanding performances, while teachers with inadequate results were offered additional training.

62. The development of a unified evaluation system is crucial for assessing progress made and the challenges encountered by the education community. While noting the importance of recent efforts to assess student learning achievements in traditional areas of knowledge, the Special Rapporteur underlines the need to also invest in the promotion of a more holistic assessment of learning achievements, in line with the overall development concept of *sumak kawsay*.

63. Lower quality standards in education are often related to the limited technical capacity of teachers and poor working conditions. The lack of qualification and motivation of teachers was identified as a particular concern in Ecuador. In this regard, a number of initiatives are being implemented to improve both the qualification of teachers and their working conditions. Since 2009, the Government developed various training initiatives through the Integral System of Professional Development in Education. Activities are divided into four priorities: initial preparatory training for teachers; training for teachers changing their position; continuing education programmes; and pedagogical and institutional support. The Government is also developing monitoring initiatives for capacity-building.

²⁷ Ministerio de Educación (see footnote 10 above), pp. 44–47.

64. The Government also reports that the establishment of a National University of Education, as set forth by the Intercultural Education Act (art. 76), would provide teacher training and enhance pedagogical qualifications of teachers and directors.

65. Lower salaries and limited career progression perspectives were also recognized to have contributed to the limited capacity of Ecuadorian teachers in the past. The introduction of the new legal framework for education establishing detailed criteria for the recruitment and career progression of teachers is promising for improving the status of the teaching profession – especially the review of teachers’ contract situations. Since 2011, for example, over 17,000 positions were created, offering the possibility of regularizing teachers who had temporary contracts. Teacher salaries were increased significantly since 2010.

66. The Special Rapporteur welcomes all these efforts to promote better qualification of teachers, their training and to make teaching careers more attractive. The consolidation of higher quality standards will require continued long-term investments.

D. Financing education

67. The need to ensure an adequate public budget for education on a sustainable basis is clearly recognized by recently adopted laws and policies. The Decennial Education Plan and the National Plan for Good Living acknowledge that previous decades of inadequate and irregular funding have seriously impaired the education system in Ecuador.

68. The Constitution establishes that the State must provide adequate funding to public education on a regular basis (Article 348). It also indicates that the distribution of resources should promote equal opportunities and that the competent authorities should be sanctioned if resources are not disbursed in accordance with the law. In its eighteenth transitory disposition, the Constitution further establishes that “[t]he State shall progressively allocate public resources from the General Budget of the State for initial primary education and secondary education leading to a high school diploma, with annual increments of at least [0.5 per cent] of gross domestic product (GDP) until the share amounts to [6 per cent] of GDP”. This same commitment was already expressed in the Decennial Education Plan 2006–2015.

69. Annual public education budgets increased significantly between 2006 and 2012. According to the Ministry of Education, the public education budget in 2006 corresponded to 2.9 per cent of GDP, and by 2012 it corresponded to 4.2 per cent of GDP.²⁸ The Special Rapporteur welcomes the repeated commitments to ensure adequate financial resources to education. As he underlined in a previous report to the United Nations General Assembly (A/66/269), the fulfilment of State obligations concerning the realization of the right to education requires assigning adequate resources for education on a consistent and predictable basis, and national legal and policy frameworks ensuring investment in education play a crucial role in this regard.

70. In this respect, due attention must be paid to equitable budget allocation and disbursement, in particular to their impact on the promotion of equal opportunities. For example, the repercussions of prevailing socioeconomic disparities in education must be looked into on a permanent basis in order to ensure that resources are adequately targeted. In this regard, the introduction of a decentralized territorial approach to the organization of the education system, as described by the Intercultural Education Act, offers an opportunity

²⁸ Ministerio de Educación, *Informe De Avance Cumplimiento De Las Políticas Del Plan Decenal De Educación 2011–2012*, p. 53.

to promote more efficient resource utilization, taking into consideration geographically disaggregated social and economic indicators.²⁹

E. Ensuring participation in education

71. The recently reformed laws and policy strategies for education in Ecuador highlight the importance of the participation of teachers, students, their families and communities in the education process. Article 26 of the Constitution establishes the right and responsibility of all persons, families and society to participate in the education process. This emphasis was notable already in the design and adoption of the Decennial Education Plan. This Plan was developed in a participatory process involving discussions among public and private school systems, unions and civil society and adopted through a national referendum. The active involvement of multiple education actors in the design of this Plan and its adoption through a referendum certainly confer a unique legitimacy to this instrument.

72. Despite having participated in the formulation of certain education policies, some civil society organizations reported having difficulties in the dialogue with authorities entrusted with the task of implementing and evaluating education policies. Indigenous and rural communities, for example, reported not having been consulted in the process leading to the closure of some local school units and the relocation of students. Authorities also recognized experiencing problems in the dialogue with some sectors of civil society.

73. Teachers and students obviously have a role in the consolidation of any reforms in the educational process. The Special Rapporteur recalls the importance of ensuring their continued participation, in particular given the impact of the ambitious changes currently implemented in the entire Ecuadorian education system. In its recent review of the report of Ecuador, the Committee on Economic, Social and Cultural Rights (E/C.12/ECU/CO/3) recommended ensuring the broad-ranging involvement of the public and private education sectors, including parents and guardians, teachers' unions and social movements, in the implementation of State policies in the field of education.

F. Violence and education

74. The prevalence of violence in and around the school system can seriously undermine the enjoyment of the right to education of entire communities. It is widely understood that violence often leads to poor education performances and school dropouts. The Constitution makes the State responsible for eliminating all forms of violence in the education system and for safeguarding the bodily, psychological and sexual integrity of students (Article 347). The Intercultural Education Act includes the protection from violence as one of the objectives of education (Article 3).

75. Despite these legal provisions, violence both within the school and the home remains as an important concern, particularly in urban areas. The National Human Rights Institution (*Defensoría del Pueblo*) reported having received multiple reports of situations of violence and abuse and noted the lack of timely responses and accountability by the State in most of the cases. In Quito and Guayaquil respectively, 24.5 per cent and 23.3 per cent of children reported being victims of sexual abuse.³⁰

76. The Government has adopted a number of initiatives to protect children from violence, including the National Plan for the Eradication of Gender-based Violence. The Ministry of Education is included among the multiple partners to implement the Plan. The

²⁹ *Ibid.*, p. 37.

³⁰ United Nations Children's Fund, *Violencia escolar en América Latina y el Caribe*, p. 31.

Special Rapporteur considers that the education system must be well prepared not only to contribute in the detection of cases of violence, but also to promote preventive strategies. In this regard, effective mechanisms of complaint must be in place and accessible to ensure the rapid protection of victims.

V. Conclusions and recommendations

77. Ecuador accords the highest priority to education, placing it at the heart of all efforts for nation-building. Its commitment to fulfilling international obligations to promote, protect and guarantee the right to education is unequivocal. The Constitution and laws as well as policies governing the education system clearly demonstrate this. Aligned with the relevant international human rights standards, these laws and policies recognize the importance of providing good quality education at all levels to all Ecuadorians, with equal opportunities. Similarly, the commitments expressed in national policy plans underline the key importance of enhanced investment in education for the consolidation of sustained progress.

78. Above all, the Special Rapporteur would like to commend the constitutional foundation of the concept of social interest in education, and the commitment by the Government to preserving education as a common good. The constitutional recognition of the right to education, not only as a human right in and of itself, but also as essential for the exercise of all other human rights, is also highly appreciable. Moreover, the right to education is one of the core elements in giving shape to the concept of “good living” (*sumak kawsay*).

79. The Special Rapporteur applauds that Ecuador was the first country to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. This bears witness to the importance attached to the protection of human rights and their justiciability.

80. The legal and policy frameworks for promoting and protecting the right to education appear to have already generated positive results. Remarkable progress has been made in universalizing access to education, which is now obligatory up to the end of high school, and free up to the tertiary level. The education budget, which was clearly insufficient in the past, has been significantly expanded over the last six years. Coordinated efforts to address the impact of economic obstacles through cash transfers and the elimination of costs in education appear to have increased enrolment levels in the poorest sections of society. Public schools have gained better esteem, attracting more students. Education authorities also accord high priority to the development of instruments to promote and monitor quality in education.

81. Despite these notable achievements, more needs to be done to ensure the full realization of the right to quality education for all. The entrenched nature of inequalities, in particular the marginalization of indigenous people, Afro-Ecuadorians and the Montubio, will require long-term targeted support to these groups. The consolidation of higher quality standards at both the primary and higher levels of education will also require continued teacher training programmes and enhanced investments aimed at improving infrastructure and educational facilities. More effective implementation of the legal framework of the right to education provides a solid basis for progress in the years ahead.

82. Taking into consideration the above and his findings during the mission, the Special Rapporteur would like to offer the following recommendations:

A. Elimination of disparities in education, with special attention to marginalized groups and children from poor households

83. Ecuador should continue paying special attention to the need for elimination of disparities – especially rural and urban – in education, which adversely affect marginalized groups, such as indigenous peoples, Afro-Ecuadorians, the Montubio, persons with disabilities, and all those who are victims of poverty. Historical inequalities can only be uprooted through long-term attention to often interrelated economic, physical, social and cultural barriers to access to good quality education.

84. Specific strategies and policies are needed to ensure marginalized groups, in particular, indigenous peoples, Afro-Ecuadorians, people living in rural areas and the poor, are able to realize their right to education. As provided for in article 30 of the Convention on the Rights of the Child, the State must take appropriate measures to ensure that children are able to learn and use the language, religion and customs of their families. Further investments are needed to guarantee better quality in the bilingual education system, including strengthening teacher training programmes. Educational texts and curriculum, teachers must respect and integrate the intercultural heritage of Ecuador, particularly in areas populated by Afro-Ecuadorian and indigenous peoples. Continued attention must be paid to ensure that no costs are imposed locally on poor families, and where necessary support for transportation to schools should be provided.

B. Intensifying normative action for improving the quality of education

85. The drive towards quality education is central to reforms in Ecuador. As such, normative action for ensuring quality must be intensified. The implementation of a set of standards being put in place should receive particular consideration. It should be ensured that such standards apply to both public and private schools throughout the country, as required by the International Labour Organization/United Nations Educational, Scientific and Cultural Organization Recommendation concerning the Status of Teachers.

86. As Ecuador further refines its quality monitoring mechanisms, enhanced attention must be paid to ensure that the evaluation efforts take into account learning achievements in a holistic perspective, in line with the overall development concept of *sumak kawsay*. The assessment of quality should be driven by a promotional spirit, emphasizing the creation of equal opportunities of education for all those who remain disadvantaged, rather than further marginalizing individuals and schools that fail to reach the adopted standards.

87. Teachers play a key role in imparting quality learning and promoting higher quality education. Any effort to promote quality in education would fail without their commitment and active participation. As such, teacher training programmes should be scaled up to ensure that all teachers are offered adequate training opportunities throughout their professional life. Efforts to make the teaching profession more attractive, ensuring better work conditions and career perspectives, must continue receiving attention. The role and responsibilities of teachers should be defined clearly in keeping with the Recommendation concerning the Status of Teachers, mentioned above.

88. In this context, it would be appropriate if Ecuador would engage with the teaching profession to create a code of conduct. Such a code can be valuable to outline disciplinary measures covering fault such as teacher absenteeism, bearing in mind the

responsibilities of teaching profession in line with national and international norms and standards.

C. Devoting maximum financial resources for education and their optimal utilization

89. The responsibility of the State with regard to funding education is well described in the Constitution and in other relevant laws. In keeping with the constitutional provisions and obligations with respect to the right to education, Ecuador should continue to increase public funding to education to reach the target of 6 per cent of gross national product. At the same time, specific efforts must be made to ensure the optimal utilization of funds at all levels. In particular, attention must be paid to assessing the impact of additional resources in the promotion of equal opportunities in education and of higher quality standards.

D. Increased support to preschool education

90. Additional resources must be directed towards the expansion of the preschool education system in Ecuador. The failure to provide education and care at early ages is often related to unequal opportunities later in life, and could undermine progression to higher levels of education. The preschool education curriculum and teaching should also be culturally sensitive and inclusive, and professionals providing such services should be properly trained.

E. Continued expansion of primary and secondary level education facilities

91. The Government efforts for the expansion of enrolment at the general basic and secondary levels and for the creation of opportunities for students belonging to the lowest social strata to receive education should be intensified. Policies should be targeted at enrolment of all children in both general basic and secondary level education, as well as in ensuring their graduation. School infrastructure and educational facilities for children of indigenous communities and Afro-Ecuadorians especially need greater support to improve educational outcomes in these communities.

92. It will also be important to integrate vocational education and training into secondary education, within the framework of a professional baccalaureate. Moreover, an institutionalized system of collaboration between technical and professional education and industry and enterprises must be promoted, with pathways for higher technical education for those students with proven competence.

F. Enhanced support to technical and higher education

93. Expanding secondary education in Ecuador will increase the demand for both technical and higher education. Support to this area must therefore be enhanced, in line with national legal and developmental frameworks. This is necessary for endowing the country with human capital. Investment in research and development should receive adequate attention. Further efforts to promote quality standards in higher education institutions are also indispensable.

94. In line with the constitutional provisions and the Higher Education Act, the Government should continue to preserve public interest in education, especially higher education, preventing it from becoming a mere business or commercial pursuit. The Special Rapporteur encourages the Government to continue to take legislative measures to ensure that education remains a public good, provided in the public interest, aimed at promoting all of the components of *sumak kawsay*.

G. Ensuring continuity and participation in policy planning and implementation

95. Ecuador should continue to assess the implementation of the Decennial Education Plan. Such periodic assessment should be inspired by equitable and innovative approaches. It should be utilized to guide the development of the new policy frameworks and education development strategies in line with the constitutional provisions for the right to education.

96. Recognizing that education is primarily the responsibility of the State, it is also a social responsibility, and non-State actors should also assume their social responsibility, under the overall responsibility of the Government. Students, teachers and communities all have both rights and responsibilities in the implementation of education policies. As such, all stakeholders should contribute effectively to the implementation of the education reform agenda, which is poised on national consensus. Similarly, the evaluation of the achievements and the formulation of new strategies must draw upon the meaningful participation of the various actors of the education and school community. Continued participation of all minorities and indigenous communities as provided for in the Intercultural Education Act is critical for the successful implementation of ongoing reforms in the education system. The Special Rapporteur notes that the Intercultural Education Act itself provides for the establishment of participatory mechanisms such as the National Council of Education (Article 23) and the Plurinational Council of the Bilingual Intercultural Education System (Article 85), and encourages minorities and indigenous stakeholders to actively engage with them.

H. Promoting a violence-free, peaceful school environment

97. Ecuador must tackle the phenomenon of violence in schools. Schools should be fully involved in the promotion of a protective environment for children, and must be assisted in promoting such an environment. Combined efforts of public authorities, communities, teachers, parents and civil society organizations are needed to ensure better protection from violence in and around Ecuadorian schools. In this respect, the Special Rapporteur underlines the importance of projects such as “Safe and Friendly Cities for All” being promoted by UN Women. The State must put in place strategies and tools to promote a favourable and protective learning environment.

I. Creating wider awareness of the constitutional right to education

98. Ecuador has endowed itself with an exemplary framework of the constitutional right to education. As mentioned above, this is aligned to the international framework and deserves to be made better known and publicized, for instance, by way of research, studies and public debate in key areas. Exchange of experiences at the regional or international level on the foundation of the right to education in national legal systems in a comparative perspective would also be important.

J. Engagement with other United Nations initiatives

99. The constitutional and legislative provisions of Ecuador's educational system provide an innovative, multi-stakeholder approach that aims to provide students with an education that seeks to achieve "good living" or *sumak kawsay*. These innovations, and the experiences in implementing them, can provide important lessons that may resonate beyond Ecuador. The Special Rapporteur would encourage the Government to engage with other international and regional initiatives to disseminate these lessons and experiences, including the United Nations Secretary-General's Global Initiative on Education – Education First. In particular, the concept of *sumak kawsay* as a broad overall goal of education resonates with the promotion in the Global Citizens' Initiative, and may also provide a valuable contribution to ongoing discussions on Sustainable Development Goals described in the Rio+20 outcome document.
