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**Promotion et protection de tous les droits de l'homme,
civils, politiques, économiques, sociaux et culturels,
y compris le droit au développement**

Visite en Équateur

Rapport du Rapporteur spécial sur les droits de l'homme et l'extrême pauvreté, Olivier De Schutter*

Résumé

Le Rapporteur spécial sur les droits de l'homme et l'extrême pauvreté, Olivier De Schutter, s'est rendu en visite officielle en Équateur du 28 août au 8 septembre 2023. L'objet de cette visite était d'examiner les efforts déployés par l'Équateur pour lutter contre la pauvreté et protéger les droits humains des personnes vivant dans la pauvreté. L'Équateur est en proie à un cycle vicieux de pauvreté et d'insécurité. La pauvreté engendre l'insécurité, laquelle, à son tour, entrave la capacité du pays à lutter contre la pauvreté. L'incidence de la pauvreté est plus élevée chez les femmes, dans la population autochtone et parmi les personnes qui vivent en milieu rural. En conclusion de son rapport, le Rapporteur spécial formule une série de recommandations visant à améliorer la situation des groupes autochtones et des femmes, à rendre la protection sociale plus efficace et à imposer plus progressive et à mieux protéger les droits des travailleurs.

* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original et en espagnol seulement.



Annexe

Rapport du Rapporteur spécial sur les droits de l'homme et l'extrême pauvreté, Olivier De Schutter, sur sa visite en Équateur

I. Introduction

1. The Special Rapporteur on extreme poverty and human rights, Olivier De Schutter, conducted an official country visit to Ecuador from 28 August to 8 September 2023. He is grateful to the Government for its cooperation prior to, during and following up on the visit.
2. During his visit, the Special Rapporteur met with the President, Guillermo Lasso, his Ministers of Foreign Affairs, Education, and Economic and Social Inclusion and the Technical Secretary of the “Ecuador grows without child malnutrition” strategy. He also met with the Deputy Ministers of Economy and Finance, Public Health, Urban Development and Housing, Rural Lands and Ancestral Territories, Social Inclusion, Water, Sanitation, Irrigation and Drainage, and Labour and Employment. He met representatives from various ministries, including the Ministries of Women and Human Rights, Economy and Finance, Agriculture and Livestock, Education, Public Health, Labour, Environment, Water and Ecological Transition, Urban Development and Housing, Economic and Social Inclusion, and Foreign Affairs. In addition, he met with representatives of the National Councils for the Equality of Peoples and Nationalities, for the Equality of Persons with Disabilities, for Gender Equality, for Intergenerational Equality and on Equality in Human Mobility. He engaged in dialogue with the Secretariat of Bilingual Intercultural Education and Ethno-Education, the National Secretariats of Planning, Management and Development of Peoples and Nationalities, the National Statistics and Census Institute and the National Social Security Institute. The Special Rapporteur also met with representatives of the Ombudsperson’s Office, the Prefect of Pastaza province, the Mayor of the city of Puyo and representatives from the municipality of Quito.
3. The Special Rapporteur travelled to Quito, to the Chota, La Concepción and Salinas ancestral territory, Puyo and Riobamba. He met with the Afro-Ecuadorian communities of El Rosal, Estacion Carchi, La Concepción and Salinas, and with both female and male representatives of the following Indigenous nationalities: Achuar, Andwa, Kichwa, Sapara, Shiwiar, Shuar and Waorani of the Amazon region. He also visited and met with Indigenous communities in Pull Grande and Comité de Desarrollo Galte in Guamote canton and Compañía Labranza in Colta canton. He talked with many members of civil society organizations, activists and human rights defenders, including environmental rights defenders in all the places he visited, as well as members of the National Coalition of Women of Ecuador. The Special Rapporteur also took part in meetings with representatives of academia and think tanks.
4. The Special Rapporteur is thankful for the support he received from the United Nations Resident Coordinator Office, the United Nations country team and particularly the Regional Office for South America of the Office of the United Nations High Commissioner for Human Rights. He expresses his gratitude to all the individuals, communities and groups he met and who graciously shared their lived experiences with him.

II. Context

5. The visit took place a week after the presidential and parliamentary elections held on 20 August 2023, following the dissolution of the National Assembly on 17 May. The second round of the presidential election took place on 15 October, when Daniel Noboa was elected President of Ecuador from 2023 to 2025, to serve out the term begun by Guillermo Lasso.
6. Both the electoral debate and the media reporting at the time of the visit focused largely on the growing insecurity in the country, dramatically illustrated by the assassination

of one of the presidential candidates, Fernando Villavicencio, on 9 August 2023. The homicide rate in Ecuador quadrupled between 2018 and 2022, reaching almost 26 homicides per 100,000 individuals in 2022.¹ By the end of 2023, it had risen to almost 45 homicides per 100,000, potentially making Ecuador the most violent country in Latin America.² Ecuadorians have witnessed a worrying recrudescence of crime related to drug trafficking. Extortion and kidnapping have increased by up to 300 per cent compared to 2022, according to the Office of the Attorney General.

7. A vicious cycle has emerged. Poverty results in insecurity and the lack of job opportunities makes young people an easy target for criminal gangs as crime, including the smuggling of goods across borders, becomes a desirable option for many. Insecurity, in turn, impacts the ability of the country to fight poverty. Businesses are subjected to extortion in the form of *vacunas* (protection money), schools are so unsafe that some parents pull their children out, and both insecurity and poor economic prospects favour emigration, particularly to the United States of America. While Ecuador is one of the Latin American and Caribbean States with the largest number of people with refugee status (hosting 76,265 officially recognized refugees in 2023),³ between 2021 and 2022, approximately 200,000 Ecuadorians left the country – a significant increase from previous years.⁴ People planning to emigrate now use land routes which, albeit dangerous and long, are cheaper than the alternatives, thus attracting a larger number of people.

8. This vicious circle of poverty and insecurity can only be broken by investing in people and providing young people with better prospects by guaranteeing their right to education, health and social protection. Some significant progress has been achieved in recent years. In particular, the minimum wage was increased by 6 per cent in 2023 and the Government committed to continue increasing it over the next decade. An additional \$1.2 billion was invested in social protection, and social protection coverage was significantly increased by extending the scope of the campesino social security scheme, the scheme for unpaid workers in the home and the voluntary insurance scheme. Perhaps most remarkably, chronic child malnutrition fell by 4 per cent in 2023.⁵

9. The Special Rapporteur's visit provided an opportunity to identify areas where more progress could be made, including regaining young people's trust. Part of the challenge will be to identify sources of funding. The two referendums also held on 20 August 2023, on oil exploitation in the 43-ITT oil block, located inside Yasuní National Park, and on whether metallic mining should be prohibited in the Chocó Andino in Pichincha province, respectively, gave the Government a clear mandate to move beyond extractivism. Of the more than 10 million voters, 58.95 per cent voted in favour of banning oil exploitation in Yasuní National Park and 68 per cent of the voters residing in the municipalities involved voted to ban metallic mining in the Chocó Andino.

10. One immediate consequence of these referendums was that credit rating agencies such as Fitch, Moody's and S&P downgraded the long-term foreign currency issuer default rating from B- to CCC+. The broader lesson, however, is that a new development model, less reliant on natural resource exploitation, should be designed. Indeed, the Special Rapporteur met a large number of individuals and groups who expressed their concerns about the impacts of the extractive industry throughout the country. In Chimborazo and Pastaza provinces, Indigenous communities explained that mining projects were polluting the soils and water

¹ Peter Appleby and others, "InSight Crime's assessment of homicides in 2022", InSight Crime, 8 February 2023.

² Mario Alexis González, "En Ecuador se registra un promedio de 21 homicidios diarios", *Primicias*, 23 October 2023.

³ Office of the United Nations High Commissioner for Refugees (UNHCR), "Ecuador: informe operacional – 2023 en resumen", No. 1, January 2023; and María Clara Martín, "Repercusiones para el Ecuador de la firma de paz entre el Estado Colombiano y las FARC. Perspectivas desde el contexto de la protección de refugiados", *Revista de Ciencias de Seguridad y Defensa*, vol. IV, No. 2 (2019), p. 46.

⁴ National Statistics and Census Institute (INEC), "Registro estadístico de entradas y salidas internacionales 2022" (Abril, 2023).

⁵ Secretaría Técnica Ecuador Crece Sin Desnutrición Infantil, "Ecuador redujo el índice de desnutrición crónica infantil al 20,1%", Quito, 2023.

sources on which they depend for agricultural production. Other groups presented him with examples of mining projects, both legal and illegal, that affected their access to resources. Two of the most publicized examples are the large-scale Fruta del Norte gold mine and the open-pit Mirador mine for copper and gold extraction, located in the southeast and the south of Zamora-Chinchipe province, respectively, threatening the livelihoods of members of the Shuar nationality. Several other mining projects raise similar concerns, such as concessions in the cantons of Pangua and Sigchos in Cotopaxi province, in La Merced de Buenos Aires parish in Imbabura province, in the canton of Las Naves in Bolívar province and in Las Pampas and Palo Quemado parishes in the canton of Sigchos. While the Special Rapporteur cannot comprehensively cover the details of each of these cases in the present report, he was alarmed by allegations that the consultation requirements established in article 398 of the Constitution and the 2009 mining law were routinely circumvented, and that projects were allowed to go ahead despite the strong opposition of the local communities.

III. Assessment of poverty and inequality

A. Population and regional disparities prevail

11. The incidence of poverty is higher among women, the Indigenous population and people who live in rural areas. In 2008, when the Independent Expert on the question of human rights and extreme poverty visited Ecuador, 34.97 per cent of Ecuadorians had incomes below the national poverty line, which is set by the National Statistics and Census Institute (\$63 per capita per month),⁶ and 16.45 per cent were living below the extreme income poverty line.⁷ Since then, poverty and inequality have significantly decreased in Ecuador. Income poverty fell from 36 to 22.5 per cent between 2009 and 2014.⁸ Inequality also receded: the Gini coefficient decreased from 0.48 to 0.46 between 2013 and 2016.⁹ The fall in oil prices halted this encouraging trend: in 2016, the poverty rate remained at 22.9 per cent, virtually at the same level as in 2014, before undergoing some variations and reaching 25 per cent in 2019, before the coronavirus disease (COVID-19) pandemic.¹⁰ The reduction in poverty by almost 14 percentage points between 2009 and 2014 is attributable to greater investment in social policies (coverage of the active population increased from 26.1 to 44.2 per cent between 2006 and 2016)¹¹ and an increase in household income owing to the rise in the minimum wage from \$160 to \$386 between 2006 and 2018. Those factors drove the growth of the middle class in Ecuador: while in 2003, 21.5 per cent of the population belonged to the middle class, by 2016 it had reached 44.1 per cent. The increase was even steeper in urban areas, where it rose from 27.8 per cent to 50.3 per cent.¹² An additional factor was the increase in the employment rate of women, improving households' purchasing power: the female labour force increased by 80 per cent in the period 2001–2010,¹³ although much more remains to be done in this regard. While the labour

⁶ Since December 2007, the National Statistics and Census Institute has registered income poverty by updating the official consumption poverty line using the Consumer Price Index. For this purpose, individuals whose total per capita income, in relation to their household, is below the poverty line are identified as income poor. The proportion of poor individuals to the total population is then calculated. The same methodology is followed to calculate extreme income poverty.

⁷ A/HRC/11/9/Add.1, para. 22.

⁸ INEC, "Encuesta nacional de empleo, desempleo y subempleo 2023 (ENEMDU): indicadores de pobreza y desigualdad" (Junio, 2023), p. 9.

⁹ Ibid., p. 14.

¹⁰ Ibid., p. 9.

¹¹ Ministerio Coordinador de Desarrollo Social, *Informe de Desarrollo Social 2007–2017*, 1^{ra} ed. (Quito, 2017), pp. 9–14.

¹² Observatorio Social del Ecuador, *Situación de la niñez y adolescencia en Ecuador: una mirada a través de los ODS* (Quito, 2019), p. 21. See also Ministerio de Economía y Finanzas, "Gobierno nacional anunció el aumento salarial de 2018 para fomentar la competitividad", Quito, 2017.

¹³ See <https://www.ecuadorencifras.gob.ec/la-mujer-ecuatoriana-en-numeros/>.

participation rate of Ecuadorian men in January 2023 was 78.5 per cent, the rate for women was just 54.3 per cent.¹⁴

12. The National Statistics and Census Institute defines households as poor if their income or consumption falls below the cost of a basket of goods and services essential to satisfy basic needs. By this measure, poverty decreased from 62.8 per cent to 35.8 per cent between 1999 and 2014.¹⁵ Significant disparities persisted between urban and rural poverty, however: in 2014, the urban poverty rate measured by unsatisfied basic needs was 24.4 per cent, while the rural poverty measured by the same indicator was 59.9 per cent.

13. In 2020, as a result of the COVID-19 pandemic, the country's gross domestic product (GDP) contracted by 7.8 per cent. Business closures resulting in unemployment increased the vulnerability of households. Income poverty rose by 8 per cent, affecting 33 per cent of the population (5.65 million people).¹⁶ In 2022, high inflation, social unrest and political instability hampered the Government's efforts to fight poverty. Despite these adverse circumstances, by the end of 2022, poverty in Ecuador – measured according to the international poverty line of \$6.85 a day (2017 purchasing power parity) – had decreased slightly to reach pre-pandemic levels at 29.9 per cent, affecting 5.4 million Ecuadorians.¹⁷ The most recent data available at the time of the Special Rapporteur's visit (from June 2023) indicated that income poverty stood at 27 per cent, with urban poverty at 18 per cent and rural poverty at 46.4 per cent.¹⁸ Young people are especially affected: in 2022, 34.44 per cent of people aged between 15 and 24 years old were living in poverty. According to data from the National Statistics and Census Institute, extreme income poverty stood at 10.8 per cent, reaching 5.2 per cent in urban areas and 22.6 per cent in rural areas.¹⁹

14. At the same time, the human development index for 2021 (at 0.740, up from 0.651 in 1990) placed Ecuador in the high human development category.²⁰ Effective enjoyment of human rights depends more on multidimensional poverty than on income poverty alone, since access to education, health care, water and sanitation, and adequate housing may depend less on purchasing power where the corresponding services are decommodified and provided as public goods. Multidimensional poverty decreased between 2009 and 2017, with an overall reduction from 51.5 to 34.6 per cent at the national level. Multidimensional extreme poverty decreased from 28.6 to 14.2 per cent during the same period. The urban-rural divide, however, remains alarming. The multidimensional poverty rate stood at 38.1 per cent at the national level in 2022, affecting 23.2 per cent of people in urban areas and 70.1 per cent of people in rural areas. The multidimensional extreme poverty rate affected 5.1 per cent of people in urban areas and 41.3 per cent of people in rural areas.²¹ The official objective, to reduce rural multidimensional poverty from 70 per cent to 55 per cent,²² remains far beyond reach. The main obstacles are the lack of access to water and sanitation, chronic child malnutrition, precarious employment, insufficient social protection coverage, the low quality of education and poor housing.

¹⁴ Revista Gestión, "El mercado laboral ecuatoriano castiga a las mujeres, ¿se puede cambiar el panorama?", 1 March 2023.

¹⁵ INEC, "Informe de resultados ECV 2013–2014" (Quito, 2015), p. 19.

¹⁶ Juan Pablo Ayala Ayala, Lizbeth Correa Marquinez and John Campuzano Vásquez, "Indicador de pobreza por ingreso en Ecuador y el efecto Covid-19, del 2010 al 2020", *Revista Sociedad & Tecnología*, vol. 4, No. 2 (2021).

¹⁷ See https://databankfiles.worldbank.org/public/ddpext_download/poverty/987B9C90-CB9F-4D93-AE8C-750588BF00QA/current/Global_POVEQ_ECU.pdf.

¹⁸ INEC, "Encuesta nacional de empleo, desempleo y subempleo 2023", p. 8. In June 2023, the national poverty line stood at \$89.29 for household income per month per capita, whereas the national extreme poverty line stood at \$50.32 for household income per month per capita.

¹⁹ Ibid.

²⁰ See <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>.

²¹ See https://www.ecuadorencifras.gob.ec/documentos/web-inec/POBREZA/2022/Diciembre_2022/202212_PobrezayDesigualdad.pdf, pp. 23–25.

²² Secretaría Nacional de Planificación, *Plan de Creación de Oportunidades 2021–2025* (Quito, 2021), pp. 72–73 ("Objetivo 8. Generar nuevas oportunidades y bienestar para las zonas rurales, con énfasis en pueblos y nacionalidades", meta 8.1.2).

15. Significant regional disparities prevail. Morona Santiago, in the Amazonian region, is the poorest province, with an income poverty rate of 65.8 per cent. Owing to the proliferation of precarious jobs and the high unemployment rate, only 13 per cent of people there earn at least the minimum wage. In Pastaza and Napo provinces, the income poverty rates are 64.53 and 63.87 per cent, respectively. They are followed by Orellana (59.41 per cent), Sucumbíos (54.45 per cent) and Esmeraldas (50.22 per cent).²³ These regions are precisely those with the lowest coverage of household public services (water through public networks, adequate sanitation, garbage collection and electricity).²⁴ Pastaza and Napo are also the provinces with the highest income inequality in the country, with a Gini index of 0.58.

16. There is an urgent need to collect disaggregated data and to use human rights indicators in order to better address the impacts poverty has on groups in marginalized situations. The capacity of the National Statistics and Census Institute to fulfil both those functions should be strengthened. Age, gender, household type, background (to identify the circumstances of Indigenous groups, Afro-Ecuadorians and Montubio people), occupation, access to land, and location (to track variations between urban and rural areas) should all be precisely identified.

B. Specific challenges facing the groups at risk of poverty

1. Women

17. Women are disproportionately poor. This is the result of wage gaps and of women spending more time on unremunerated care work,²⁵ a situation which the Organic Act of 19 January 2024 on wage equality between women and men now seeks to address. Moreover, female work is disproportionately concentrated in informal, low-productivity sectors: 71 per cent of employed women work in informal activities.²⁶ Women also have less access to credit policies. According to the National Coalition of Women of Ecuador, 24 per cent of men obtain credit, compared with only 18 per cent of women.²⁷ Women who are self-employed also have limited access to loans, other forms of financial credit, land, equipment and machinery related to their businesses.²⁸

18. Some 78.1 per cent of Indigenous women, 57.3 per cent of Montubio women and 45.8 per cent of girls and adolescents are affected by multidimensional poverty.²⁹ In 2021, between 83 and 85 per cent of Indigenous children were in multidimensional poverty, making them the most impoverished population group in the country.³⁰ Older women are also particularly at risk. Among women over 65 years of age, 58.4 per cent of Montubio women, 52.5 per cent of Indigenous women and 20.6 per cent of Afro-Ecuadorian are multidimensionally poor, while the percentages for the men in the same groups are 50.2, 42.2 and 18 per cent, respectively.³¹ Indigenous women face high illiteracy rates (26.7 per cent) and high income poverty rates (49.3 per cent). They also face significant time constraints, being occupied 86.3 hours per week, and the highest rate of gender violence

²³ See <https://info.inclusion.gob.ec/index.php/caracterizacion-poblacion-objetivo-ancusrextpobreza-y-desigualdad-ancusrex/tasa-de-pobreza-por-ingresos-ancusrex>.

²⁴ See https://library.fes.de/pdf-files/bueros/quito/19482.pdf?fbclid=IwAR1nVDgb4hZv850mYruTvDEm0PNajxj_5pwYzFmpz4ZhoAZE1fxANqhQcuk.

²⁵ Camila Marçayata, "Una radiografía de la pobreza en Ecuador", *Revista Gestión*, 26 March 2023.

²⁶ See https://databankfiles.worldbank.org/public/ddpext_download/poverty/987B9C90-CB9F-4D93-AE8C-750588BF00QA/current/Global_POVEQ_ECU.pdf.

²⁷ Coalición Nacional de Mujeres del Ecuador, "Informe sombra ampliado al Comité de la CEDAW" (2020), cited in Naciones Unidas Ecuador, *Perfil de País según Igualdad de Género: Ecuador* (2022). CEDAW/C/ECU/CO/10, para. 35.

²⁸ Naciones Unidas Ecuador, *Perfil de País*, p. 41.

²⁹ See <https://iie-puce.com/wp-content/uploads/2022/05/Boletin-pobreza-interseccional.pdf>, p. 42.

³¹ Naciones Unidas Ecuador, *Perfil de País*, p. 42.

(67.8 per cent), the highest unpaid workload (55.8 per cent) and the lowest rate of social security affiliation (18.8 per cent).³²

19. Social security coverage remains low. In 2021, barely a third of the population was covered by social security schemes.³³ Coverage was lower for women (at 30.2 per cent, compared to 34.7 per cent for men), particularly for Indigenous women and young women (15.4 per cent and 12.1 per cent were covered, respectively).³⁴ Extending the coverage of women working in the informal sector should be a priority: in 2021, the Committee on the Elimination of Discrimination against Women recommended that Ecuador “ensure access for women who are self-employed or employed in the informal sector to childcare allowances and affordable and good-quality care services for children and sick and older family members in order to reduce the unpaid care work of women and develop social protection schemes for them, such as pensions”.³⁵

20. Poverty increases the risk of gender-based violence against women and girls. A 2019 survey found that 35.4 per cent of Ecuadorian women had suffered physical abuse and 32.7 per cent had been victims of sexual abuse at some point in their lives.³⁶ Some 65 per cent of women and girls aged over 15 years old had been victims of some form of abuse, whether psychological, physical, sexual or economic, although only between 2 and 20 per cent of the victims had formally reported the abuse.³⁷ A total of 71.8 per cent of Afro-Ecuadorian women and 64 per cent of Indigenous women had suffered from violence at some point in their lives.³⁸ Socioeconomic factors such as the areas where women live, their educational level, participation in the labour market and access to resources correlate with the risk of being subjected to gender-based violence.³⁹

2. Peoples and nationalities

21. Indigenous, Afro-Ecuadorian and Montubio people are disproportionately affected by poverty. In 2022, income poverty affected 54.26 per cent of the country’s Indigenous population and 33.77 per cent of Afro-Ecuadorians.⁴⁰ This is the result of institutional discrimination and racism and the lack of economic opportunities. Article 74 of the Organic Act on Higher Education provides that the representation of all population groups in higher education should be proportional to their representation in the population. This pledge remains largely unfulfilled. While self-reported Afro-Ecuadorian and Indigenous groups are estimated to account each for at least 7 per cent of the country’s population, they account for only 2.5 and 3 per cent of undergraduates, respectively.⁴¹ Overall, 24 per cent of white people have a university degree, compared to 13 per cent of mestizos, 7 per cent of persons of African descent, 2 per cent of Indigenous People and 1.4 per cent of Montubio people.⁴²

22. The National Council for the Equality of Peoples and Nationalities is responsible for ensuring that gender, ethnic, generational, intercultural, disability and human mobility issues are mainstreamed into public policies, and for assessing public policies in these areas.⁴³

³² Karen Lucero, “La mujer indígena, la más vulnerable entre los vulnerables”, *Revista Gestión*, 10 September 2020.

³³ Andrés Mideros and Nora Fernández, “El bienestar como tarea pendiente en Ecuador: hacia nuevos pactos para garantizar la protección social universal”, November 2021, p. 11.

³⁴ *Ibid.*, p. 14.

³⁵ CEDAW/C/ECU/CO/10, para. 36 (d).

³⁶ INEC, “Encuesta nacional sobre relaciones familiares y violencia de género contra las mujeres: boletín (November 2019), p. 7.

³⁷ Naciones Unidas Ecuador, “Resumen ejecutivo: perfil de país según igualdad de género – Ecuador” (Quito, 2023), p. 22.

³⁸ INEC, “Encuesta nacional”, p. 7.

³⁹ Agnes Edeby and Miguel San Sebastián, “Prevalence and sociogeographical inequalities of violence against women in Ecuador: a cross-sectional study”, *International Journal for Equity in Health*, vol. 20 (2021).

⁴⁰ Marayata, “Una radiografía de la pobreza”.

⁴¹ A.M. Bonilla-Marchán and others, “Undergraduate students in Ecuador: a data analysis”, *Revista Internacional de Investigación en Educación*, vol. 12, No. 25.

⁴² See <https://irgg.yale.edu/sites/default/files/files/Jhon%20Anton%20Roundtable%20Remarks.pdf>.

⁴³ Organic Act on National Equality Councils, arts. 3 and 9.

Currently, the Council is the result of a merger of three previously independent bodies: the Council for Afro-Ecuadorian Development, the Council for the Development of the Indigenous Nationalities and Peoples of Ecuador and the National Council for the Montubio People of Ecuador. The result is that certain groups are now less visibly represented: Afro-Ecuadorians, for instance, have only one representative within the new National Council, limiting their ability to influence government policy. Representatives of organizations with whom the Special Rapporteur met expressed concern about the limited role of the Council, which has no means of implementing development projects. The result is reportedly that Afro-Ecuadorian people no longer receive resources for the direct implementation of demand-driven projects.

(i) *Afro-Ecuadorians*

23. Officially, 4.8 per cent of the population self-identified as Afro-Ecuadorian in 2022 (814,468 people),⁴⁴ although that figure significantly underestimates the size of this group.⁴⁵ Despite the recognition of the rights of Afro-Ecuadorian people in article 58 of the Constitution, serious concerns have been raised regarding the lack of protection of their rights. In 2020, the Working Group of Experts on People of African Descent reported that “Afro-Ecuadorians continue to suffer racial discrimination, particularly with regard to their access to justice, security, land, clean water, education, health care, housing and economic opportunity”.⁴⁶ It also expressed concern about the criminalization of human rights defenders and people of African descent who opposed extractive projects. Despite the constitutional guarantee of the right to their lands and territories, Afro-Ecuadorians had complained that thousands of hectares of ancestral lands had been given to extractive industries. The Working Group recommended ensuring access to justice and reparations, including restoration, compensation, guarantees of non-repetition and rehabilitation, for Afro-Ecuadorians affected by extractive projects. It also recommended that the Government undertake redistribution of land, taking into account ecological, developmental and equity considerations. It further recommended that Ecuador ensure the legal security of Afro-Ecuadorians with regard to the land, territories and natural resources that they have traditionally occupied and used, and that it “ensure adequate consultation and obtain the free, prior and informed consent of Afro-Ecuadorians on the establishment and management of protected areas and other protection measures in respect of their lands and territories”.⁴⁷

(ii) *Indigenous Peoples and nationalities*

24. Despite the fact that Ecuador has ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO) and its acceptance of the 2007 United Nations Declaration on the Rights of Indigenous Peoples, Indigenous groups remain subject to social and material exclusion and discrimination. The 2008 Constitution provides that Ecuador is an intercultural and plurinational State and acknowledges the collective rights of Indigenous Peoples and nationalities to land and territory, ancestral possession, ancestral medicine, collective intellectual property, ancestral knowledge and cultural heritage. Article 57 (17) of the Constitution also recognizes their right to free, prior and informed consultation concerning decisions that affect their territories. Yet, practical implementation has been wanting, despite the commitment included in the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) in 2020.

25. Indigenous Peoples and nationalities have a right to the protection of their lands and territories. The Special Rapporteur notes in this regard, with regret, that the judgment the Inter-American Commission on Human Rights delivered more than 10 years ago in the case of the *Kichwa Indigenous People of Sarayaku v. Ecuador* has still not been fully implemented.⁴⁸ In that case, the Kichwa Indigenous People of Sarayaku challenged the

⁴⁴ See <https://www.collegesidekick.com/study-docs/4699126>, p. 18.

⁴⁵ Estefanía Celi, “Byron Villacís sobre el censo: ‘No es una ciencia extrema contar la población’”, *Primicias*, 17 September 2023.

⁴⁶ A/HRC/45/44/Add.1, para. 70.

⁴⁷ *Ibid.*, paras. 39, 73 and 80 (o), (v), (hh) and (ii).

⁴⁸ *Kichwa Indigenous People of Sarayaku v. Ecuador*, Judgment, 27 June 2012.

granting in 1996 of a permit to a private oil company to carry out oil exploration and exploitation on their territory. The Court held that the State had violated those people's rights to consultation, to Indigenous communal property and to cultural identity. The Court also found that, by allowing the laying of explosives on Sarayaku territory, the State had jeopardized their rights to life and to personal integrity, protected under articles 4 (1) (prohibition of arbitrary deprivation of life) and 5 (1) (right to physical, mental and moral integrity) of the American Convention on Human Rights.⁴⁹

26. The Court insisted that Ecuador should ensure the participation of the Kichwa Indigenous People of Sarayaku at all stages of the oil exploitation process, and that their right to free, prior and informed consent should be protected.⁵⁰ The mere reference in article 57 (7) of the Constitution to the right of Indigenous communities to free, prior and informed consultation, within a reasonable period of time, on the plans and programmes for prospecting, producing and marketing non-renewable resources located on their lands and which could have an environmental or cultural impact on them is not sufficient in that regard. The Court found that specific legislation was needed to clarify the content of that right, consistent with the requirements of articles 10, 11, 19, 28, 29 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples, which refer to the requirement to seek Indigenous peoples' free, prior and informed consent on measures affecting them. There is a similar requirement in the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

27. The Expert Mechanism on the Rights of Indigenous Peoples clarified the implications of this requirement,⁵¹ and the Committee on Economic, Social and Cultural Rights, in its general comment No. 26 (2022), reaffirmed that this is also a requirement under the International Covenant on Economic, Social and Cultural Rights (para. 16). Furthermore, the ILO Committee of Experts charged with examining the application of ILO conventions, protocols and recommendations has underlined the interconnectedness between consultation and participation.⁵² In order to obtain the free, prior and informed consent of Indigenous Peoples, meaningful consultation should be organized with them prior to and during projects. The Human Rights Committee has also noted that Indigenous Peoples have the right to participate in ways that go beyond consultation and that participation in the decision-making process must be effective.⁵³ Ecuador should make this issue a priority, following the finding by the Constitutional Court, in its judgment of 17 November 2023, that Executive Decree No. 754 amending the regulations on the Organic Code on the Environment is unconstitutional.

28. Indigenous Peoples and nationalities also have a right to basic health and education services and to improved employment opportunities. Companies doing business on their lands and territories have the responsibility to undertake human rights due diligence to avoid further violations of collective rights and rights of nature, to ensure access to justice and reparation and to prevent anything that could increase the vulnerability of those peoples and nationalities. It remains critical to protect human rights and environmental defenders. The lack of respect for their rights is particularly evident in the Amazonian provinces of Morona Santiago and Pastaza, despite the Organic Act on Comprehensive Planning for the Amazon Special Territorial District, which has been in force since 2018. Indigenous communities listed access to education, particularly higher-level education, at the top of their priorities.

29. The National Council for Equality of Peoples and Nationalities is considered by the Government as the representative of Indigenous Peoples in decision-making processes, alongside Afro-Ecuadorian and Montubio communities. The above-mentioned restructuring of the Council invalidated the institutional autonomy of Indigenous Peoples, leading the Special Rapporteur on the rights of Indigenous Peoples to express his concern, in 2019, that the country does not have a mechanism for the direct representation of Indigenous Peoples. He highlighted the fact that "the government agencies whose activities have a significant

⁴⁹ Ibid., para. 341 (2) and (3).

⁵⁰ Ibid., paras. 2, 300 and 301.

⁵¹ A/HRC/36/53.

⁵² ILO, Committee of Experts on the Application of Conventions and Recommendations, general observation on Indigenous and tribal peoples (2010/81).

⁵³ *Poma Poma v. Peru* (CCPR/C/95/D/1457/2006), para. 7.6.

impact on the fundamental rights of Indigenous Peoples do not have procedures for joint decision-making that are needed under the plurinational and intercultural approach”.⁵⁴

IV. Social protection

30. Ecuador spends 9.6 per cent of its GDP on social protection, with health care accounting for 4.4 per cent and other forms of social protection for 5.2 per cent.⁵⁵ This is well below the Latin American and Caribbean average, which is around 14 per cent of GDP.⁵⁶ While almost 5 per cent of GDP is allocated to old age social protection (representing only 8 per cent of the population),⁵⁷ Ecuador invests far too little on children and working age adults, and coverage remains very low. Barely more than a third of the population (34.8 per cent) benefits from at least one social protection benefit.⁵⁸

A. Contributory schemes

31. In 2022, a total of 7,015,019 people benefited from the campesino social security scheme, the Obligatory General Insurance scheme and a special voluntary insurance regime.⁵⁹ Contingencies covered are illness, maternity, paternity, occupational hazards, unemployment, old age, disability and death, in addition to others that may be incorporated by law. Efforts have been made to extend coverage to categories of the working population that are usually not covered. Unpaid carers, for instance, may enter a specific scheme for unpaid workers in the home, which the State subsidizes in proportion to the household’s income level. Social insurance performs a vital role in protecting income security for workers affiliated to these schemes.

32. The social protection system faces important challenges, including limited administrative capacity and inefficiencies that affect the quality of social protection services. Governance reforms (in particular, the coordination between the Ministry of Health and the Ecuadorian Social Security Institute) should ensure that benefits are provided without unnecessary delays or complications. The system also struggles to reach the most vulnerable groups, exacerbating disparities in access to health care, education and social security. The size of the informal sector (53.5 per cent of the workforce in 2023)⁶⁰ limits coverage of social protection.

33. The system’s viability depends on the ability of Ecuador to mobilize funding amid economic fluctuations. For instance, the State has contributed, with taxpayers’ money, 40 per cent of the Disability, Old Age and Death Pension Insurance Fund expenditure (representing a subsidy of \$1.58 billion in 2019),⁶¹ as the social contributions of workers and employers are not enough to pay for the benefits that are provided. Even taking into account that subsidy, the payout rate (the fund’s expenses with respect to the wage bill) will increase from 14.5 per cent in 2019 to 25.9 per cent in 2058. That means that by 2037, total revenues will not be sufficient to cover total expenses, causing the reserve to decrease until it is exhausted in 2047.⁶² The ageing of the population in Ecuador is therefore a challenge. In 2020, some 11 per cent of the population was aged over 60 years old, but in the next 30 years,

⁵⁴ A/HRC/42/37/Add.1, para. 18.

⁵⁵ See <https://www.social-protection.org/gimi/WSPDB.action?id=19>.

⁵⁶ ILO, “World social protection report 2020–22: regional companion report for Latin America and the Caribbean” (Geneva, 2021), p. 18.

⁵⁷ See <https://www.unfpa.org/data/world-population/EC>.

⁵⁸ ILO, “World social protection report 2020–22”, p. 17.

⁵⁹ Instituto Ecuatoriano de Seguridad Social, “Boletín estadístico número 27: año 2022” (Quito, 2022), p. 21.

⁶⁰ INEC, *Encuesta Nacional de Empleo, Desempleo y Subempleo – ENEMDU: Indicadores laborales, I trimestre de 2023*, p. 13.

⁶¹ Rodrigo Ibarra, “Financial and actuarial state of the Ecuadorian social security system”, Society of Actuaries, *International News* (May 2020), p. 6.

⁶² Pablo Casalí and others, “¿Cuáles son los principales nudos críticos del Instituto Ecuatoriano de Seguridad Social?: resultados de un proceso técnico y participativo” (Quito, ILO, 2020), pp. 16 and 17.

that figure will reach 21 per cent.⁶³ Estimates show that the pension burden will go from 6.38 active employees per pensioner in 2020 to 2.11 active employees per pensioner in 2058, which will jeopardize the social protection system's sustainability in the coming years.⁶⁴ The country's susceptibility to natural disasters makes this challenge harder to address. Ecuador is considered to be highly vulnerable and poorly prepared to face climate change, ranking below the global average.⁶⁵

34. Gender disparities compound these challenges. Women face specific barriers, including limited access to formal employment, gender-based wage gaps and societal expectations that affect their social protection coverage (54.34 per cent of active and occupied women were not affiliated to social security in 2015, rising up to 65.21 per cent in 2021).⁶⁶ Indeed, the Committee on Economic, Social and Cultural Rights found, in *Trujillo Calero v. Ecuador*, that Ecuador had violated the International Covenant on Economic, Social and Cultural Rights by failing to guarantee the right to an old age pension to a woman who had taken a career break in order to provide care.⁶⁷ The Committee's recommendations in its Views have still not been fully implemented.

35. Addressing these disparities is indispensable to ensure that the social protection system in Ecuador is able to tackle poverty effectively. In 2019, the Committee on Economic, Social and Cultural Rights expressed its concern about the sustainability of the social security system, bearing in mind the increase in the number of persons affiliated to it, and about the serious disparities in effective access for the most disadvantaged groups. While the Committee made some significant recommendations in that regard,⁶⁸ Ecuador has yet to fully implement them.⁶⁹

B. Non-contributory schemes

36. Individuals who are not covered by social insurance must rely on social assistance. In recent years, Ecuador has significantly extended the coverage of social assistance. In 2020, \$500 million were allocated to social assistance, covering 30 per cent of the households in the three lowest deciles. By 2022, the amount allocated to social assistance had reached \$1.2 billion and 80 per cent of the three lowest deciles benefited from it, with 625,000 additional households receiving support.⁷⁰ The bulk of this amount is spent on the human development voucher, which provides targeted support to low-income households. The accessibility of the human development voucher was further improved by the introduction, in May 2021, of bank accounts available free of charge, giving people the ability to receive a direct payment, a safer option than having to go to the bank cashier desk. About a fifth of the beneficiaries of the human development voucher received the payments through that new system.

37. Significant challenges remain, however. First, while the coverage of social assistance has been extended, social assistance schemes still fail to protect the lowest income decile adequately. The Social Registry Unit is insufficiently equipped to ensure that households falling below the poverty line are properly identified: one 2020 study estimated an exclusion error rate of 48 per cent for the human development voucher scheme.⁷¹ To reduce this exclusion rate and improve targeting, a rights-based approach should be taken: non-take-up

⁶³ Tim Miller and Iván Mejía-Guevara, "El envejecimiento de la población en Ecuador: la revolución silenciosa", in *Personas adultas mayores, ensayo sobre sus derechos* (2020), p. 4.

⁶⁴ Casali and others, "¿Cuáles son los principales nudos críticos?", p. 17.

⁶⁵ See <https://gain.nd.edu/our-work/country-index/rankings/>.

⁶⁶ Clotilde Mahé, Wladimir Zanoni and María Laura Oliveri, "Women's informal labor market participation in Ecuador", Inter-American Development Bank, Technical Note No. IDB-TC-2617 (December 2022), p. 6.

⁶⁷ E/C.12/63/D/10/2015.

⁶⁸ E/C.12/ECU/CO/4, paras. 37 and 38.

⁶⁹ Lina Victoria Parra Cortés, "Algunas lecciones del Comité de DESC sobre la protección del derecho a la seguridad social. Caso *Trujillo Calero vs. Ecuador*", *Revista Defensa y Justicia*, 11 October 2023.

⁷⁰ Data provided by IMF.

⁷¹ Stephen Kidd and Diloá Athias, *Hit and Miss: An assessment of targeting effectiveness in social protection with additional analysis* (Development Pathways, June 2020), p. 23.

can be largely reduced by clearly defining the beneficiaries of each scheme, proactively reaching out to them and providing clear information (including in languages other than Spanish) about the benefits and eligibility conditions and by ensuring access to complaints mechanisms in cases of exclusion.⁷²

38. Secondly, the levels of the benefits provided are inadequate to effectively protect people from poverty and they are not regularly updated to take account of increases in the cost of living. For instance, while the National Statistics and Census Institute estimated the income required to cover basic needs (*Canasta Familiar Básica*) to be \$785.47 per month in August 2023 (for a family unit of 4, based on 1.6 wages per household), the human development voucher provided only \$55 per month to its beneficiaries found to be below the poverty line of \$88 per month, or, for those in extreme poverty (with an income below \$50 per month), representing 270,000 households in 2023, up to \$150 under what is known as the variable human development voucher.

V. Workers' rights

39. Unemployment in Ecuador fell from 13.3 per cent in June 2020, at the height of the COVID-19 pandemic, to 3.8 per cent in June 2023. Yet, underemployment (often leading to lower wages) increased from 18.2 per cent to 20.1 per cent in the same period.⁷³ A structurally weak labour market has hampered the fight against poverty in the country. More than two thirds of workers (68 per cent) are in informal employment, with women (71 per cent) and young people (85 per cent) the most affected.⁷⁴

40. While the minimum wage was increased to \$450 per month in 2023 (and the Government, under the former administration, committed to increase the minimum wage by \$25 annually over the next 10 years), it remains low in comparison to the cost of living. Ecuador should aim to set the minimum wage either at a level that allows workers to achieve an adequate standard of living (a "living wage") or a rate that corresponds to at least 60 per cent of the median wage in the country. It should also ensure that the minimum wage is regularly updated to take account of changes in the cost of living in order to protect the purchasing power of those who depend on it: this is a requirement of international human rights law.⁷⁵

41. The main challenge, however, relates to enforcement of labour legislation. There are many instances of labour rights violations, such as poor working conditions, unfair wages, long working hours and inadequate safety standards. As at March 2024, there were 178 labour inspectors and 121 social security inspectors to cover the entire country. This is grossly insufficient for a population of 18 million. The understaffing of labour inspectorates and their lack of resources go a long way towards explaining the underenforcement of labour legislation, both in the formal, but especially in the informal sectors of the economy.

42. The Furukawa case, about which two special procedures of the Human Rights Council expressed their concerns in 2019,⁷⁶ illustrates the dramatic consequences that can result from the lack of adequate monitoring, particularly in the agribusiness sector. The case concerned slavery-like conditions that were found to exist in farms located in the abaca plantations owned by the Japanese company Furukawa Plantaciones C.A.

43. Comparable situations allegedly occurred in certain haciendas where, according to testimonies received, people were subject to bonded labour, including in Tapiapamba (producing sugar cane), Tulquizán (producing avocados and fruit) and Chamanal (producing maize and beans). Most of the families concerned are of Afro-Ecuadorian descent and the

⁷² For further guidance, see A/HRC/50/38.

⁷³ María Laura Oliveri and others, "El camino hacia empleos de calidad en Ecuador", Factor Trabajo, 3 November 2023.

⁷⁴ See https://databankfiles.worldbank.org/public/ddpext_download/poverty/987B9C90-CB9F-4D93-AE8C-750588BF00QA/current/Global_POVEQ_ECU.pdf.

⁷⁵ A/78/175.

⁷⁶ See communication JPN 4/2019, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24816>.

victims include children as young as 12 years of age who were required to perform work remunerated significantly below the minimum wage in a form of debt bondage. Addressing these issues should be an absolute priority.

44. In order to make progress in enforcing workers' rights, the State also needs to tackle the barriers encountered to freely unionize and engage in collective bargaining, which are essential tools for workers to improve their working conditions. Other issues that deserve particular attention include persistent gender-based discrimination in the workplace, affecting women's access to fair wages, equal opportunities and protection against harassment. While migrants are entitled to social protection, those working in informal sectors struggle to access labour rights protections owing to their lack of legal documentation such as government-recognized identification papers. Furthermore, ensuring occupational health and safety standards across industries remains a challenge, with inadequate compliance and monitoring contributing to workplace accidents and health risks.

VI. Broadening domestic resource mobilization

45. Some of the challenges outlined above can be addressed without additional resources: for instance, the quality of education could be improved by making the curriculum more relevant and adopting better pedagogical methods, or improving the targeting of social assistance. Other policies, however, will require additional resources for social investment, and Ecuador has limited fiscal space. In fact, in September 2020, the International Monetary Fund (IMF) approved a 27-month extended fund facility of 4.615 billion special drawing rights (661 per cent of quota, equivalent to \$6.5 billion).⁷⁷ Ecuador is now one of 16 countries that exceeded 187.5 per cent of its IMF quota in 2021, with the result that between 2023 and 2033, Ecuador is estimated to make surcharge payments of \$1,079 billion.⁷⁸

46. Various avenues could be explored to expand the fiscal space available. They could include extending social security coverage and contributory revenues; increasing tax revenues; eliminating illicit financial flows; reallocating public expenditure and enhancing the quality of spending; using fiscal and foreign exchange reserves; managing sovereign debt through borrowing and restructuring; adopting a more accommodating macroeconomic framework; and increasing aid and transfers.⁷⁹ The Special Rapporteur identifies the following three priorities.

A. Increasing the progressivity of the tax system

47. Tax reform comes first. The Organic Act for Economic Development and Fiscal Sustainability came into force in 2022, in the wake of the COVID-19 pandemic.⁸⁰ The aim was to increase the progressivity of the tax system by reinforcing the sustainability of public finances, reorganizing the Ecuadorian tax and fiscal system, and providing legal certainty to facilitate post-pandemic economic recovery. The reform was undertaken to comply with the agreement signed with IMF in October 2020, which required a tax reform to raise tax revenues by \$2 billion by 2022.⁸¹

48. It did not meet expectations, however. In 2022, tax revenues amounted to \$15.1 billion (13.1 per cent of GDP). That is only 0.3 percentage points higher than in 2021, an increase resulting from the most recent tax reform, which provided for two temporary wealth taxes (on individuals and companies) that would be in effect until March 2023 and changed the

⁷⁷ See <https://www.imf.org/en/News/Articles/2020/10/01/pr20302-ecuador-imf-executive-board-approves-27-month-extended-fund-facility>.

⁷⁸ Francisco Amsler and Michael Galant, "The growing burden of IMF surcharges: an updated estimate" (Washington, D.C., Center for Economic and Policy Research, April 2023).

⁷⁹ Isabel Ortiz and others, *Fiscal Space for Social Protection: A Handbook for Assessing Financing Options* (ILO and UN-Women, 2019), pp. 10 and 11.

⁸⁰ Ley Orgánica para el Desarrollo Económico y Sostenibilidad Fiscal, supplement to Official Gazette No. 587 of 29 November 2021.

⁸¹ See https://grupofaro.org/wp-content/uploads/2023/03/Diagnostico-Finanzas-fiscales-y-politicas-tributarias-en-Ecuador_compressed.pdf.

calculation of income tax.⁸² By the end of 2023 however, the tax-to-GDP ratio remained equal and progressivity fell by 1.8 per cent, with a greater dependence on value added tax (VAT) revenue compared to 2022.⁸³

49. In order to create additional fiscal space in the medium and long term, the former administration sought to achieve a more ambitious structural reform. Owing to the political crisis throughout the first semester of 2023 however, the Government was unable to adopt the Organic Decree-Law for Strengthening the Family Economy until June 2023.⁸⁴ The aim was to strengthen family businesses, taking into account both their income and expenditure levels, and the sustainability of public finances. Personal income tax was reformed, a single income tax on sports bets was introduced and adjustments were made to the Simplified Regime for Entrepreneurs and Popular Businesses to better distribute the tax effort.

50. The 2023 Decree-Law achieved an increase in annual deductible expenses, which may be up to \$15,294, depending on the number of dependents accounted for. In Ecuador, 341,000 taxpayers pay income tax, and the reform was intended to benefit 99.8 per cent of them, enabling an average saving of \$558 in their income tax payment. The Government expected the middle class would pay \$195 million less in annual taxes with these measures.⁸⁵ Nonetheless, experts have pointed out that the Decree-Law reversed the progress made by the first reform, which increased the tax burden on higher-income individuals through changes in income tax, and eliminated some corporate income tax benefits at 25 per cent, similar to the average rate in the region.⁸⁶ Moreover, the current corporate income tax system in the country imposes a flat rate of 25 per cent on both domestic and foreign companies, in contrast to the progressive tax rates ranging from 5 to 37 per cent for individuals. A single corporate tax rate does not differentiate based on varying income levels among companies in accordance with the Ecuadorian tax system, and thus does not contribute to progressivity in taxation.⁸⁷

51. During his visit, the Special Rapporteur was informed that the 2023 Decree-Law sought to rectify the Government's strategy, which had led to the passing of the 2022 Organic Act without any opposition, rather than being compelled to negotiate its objectives with Congress. The previous income tax scheme for individuals was considered to be too complex and unfair and to disproportionately affect the middle class, owing to its "pronounced progressivity".⁸⁸ According to official estimates, the permanent impact of the 2021 reform (i.e., without considering the temporary wealth taxes established in that reform and detailed below) would be approximately 0.6 points of GDP. With the 2023 reform, the permanent increase in revenue is likely to be reduced to 0.4 per cent of GDP.⁸⁹

52. Ecuador could broaden its tax base further. Total tax revenues represented only 19.4 per cent of the country's GDP in 2021.⁹⁰ A more progressive tax system could include: reducing opportunities for tax evasion and avoidance and improving the efficiency of tax collection (tax evasion in 2017 amounted to almost 7 per cent of GDP);⁹¹ evaluating the use

⁸² Data provided by the Ministry of Economy and Finance.

⁸³ Data provided by United Nations Development Programme (UNDP) in Ecuador and from the budget of the Ministry of Economy and Finance, April 2023.

⁸⁴ Decreto Ley Orgánica para el Fortalecimiento de la Economía Familiar, supplement to Official Gazette No. 335 of 20 June 2023.

⁸⁵ "Gobierno presentó una reforma tributaria que apunta a reducir el impuesto a la renta de contribuyentes y emprendedores", *El Universo*, 11 May 2023.

⁸⁶ José Hidalgo Pallares, *Impuestos en el Ecuador: sistema tributario y opciones para elevar los ingresos permanentes del fisco* (UNDP Latin America and the Caribbean, Policy Document Series No. 45, 2023), p. 7.

⁸⁷ Israel Sebastián Moscoso Almachi and Esthela Paulina Silva Barrera, "El principio de progresividad y la tarifa única del impuesto a la renta de sociedades en Ecuador", *Ciencia Latina Revista Científica Multidisciplinar*, vol. 7, No. 4 (July–August 2023).

⁸⁸ Information provided by the Ministry of Economy and Finance.

⁸⁹ Pallares, *Impuestos en el Ecuador*, p. 43.

⁹⁰ See <https://www.oecd.org/tax/tax-policy/folleto-estadisticas-tributarias-en-america-latina-y-el-caribe.pdf>.

⁹¹ Economic Commission for Latin America and the Caribbean, *Fiscal Panorama of Latin America and the Caribbean 2020* (LC/PUB.2020/6-P, Santiago, 2020), p. 91.

of tax expenditures and tax incentives, and focusing them on Sustainable Development Goals; strengthening personal income tax; extending the scope of property and wealth taxes; adopting taxes for the digital economy, applying corrective taxes such as green taxes and those relating to public health, and strengthening existing taxes;⁹² reducing the contribution of consumption taxes (VAT) to total tax revenue; rationalizing fossil fuel subsidies (as discussed further below); analysing and reforming excise duties; undertaking a green tax reform that incorporates incentives or benefits to foster a change in the behaviour of economic actors (individuals and companies), aimed at preventing, mitigating or eliminating the negative effects on the environment of their activities;⁹³ and reviewing and optimizing tax spending and incentives for new investments.⁹⁴

53. At the same time, the tax burden on the people who can least afford to pay should be reduced, considering that low-income earners are likely to spend more on essential goods and stimulate the domestic economy in the process. Improving the portion of tax revenue that comes from direct income tax and property taxes (accounting for 22 and 26 per cent respectively in 2021) and decreasing the portion from indirect consumption taxes (32 per cent in 2021),⁹⁵ as well as increasing the taxation levels of the highest income brackets and applied to corporate incomes (or at least to income from corporations of a certain size) would contribute to this. A progressive taxation system should encompass graduated tax rates and income brackets, wherein tax rates increase with higher income levels, ensuring higher earners contribute proportionally more than lower-income individuals.

54. Congress approved a new tax reform in December 2023, a regulation on urgent economic matters focused on addressing youth unemployment, a significant challenge for Ecuador.⁹⁶ The measures proposed by the law consist mainly of incentives, tax exemptions for companies and the incorporation of temporary contracts in free trade zones. The impact of the reform on youth employment will depend on the progress made in resolving the country's structural problems: quality of institutions, economic and political instability, insecurity, economic growth and labour law enforcement.⁹⁷ Overall, the additional generated revenue must be allocated to sustain and reinforce the fight against poverty in the coming years, mitigating the budgetary stress that Ecuador will face from the peak of debt amortization payments in 2025.⁹⁸

B. Negotiating further debt-for-nature swaps

55. Debt swaps are a tool that could be used to expand the fiscal space for social investment and for environmental action in case of debt-for-nature swaps. In an international context marked by the need for massive scaling up of financial resources for countries to invest in the Sustainable Development Goals and climate-related targets, these swaps can appear promising. In May 2023, Ecuador announced the exchange of \$1.63 billion of international bonds (representing approximately 2 per cent of the country's total public external debt as at April 2023⁹⁹) at a discount rate for a loan of \$656 million, representing the largest debt-for-nature swap ever.¹⁰⁰ The deal was arranged by Credit Suisse to finance marine conservation in the Hermandad Marine Reserve in the Galapagos Islands and has

⁹² Economic Commission for Latin America and the Caribbean, *Fiscal Panorama of Latin America and the Caribbean 2021* (LC/PUB.2021/5-P, Santiago, 2021), pp. 47 and 48.

⁹³ Pallares, *Impuestos en el Ecuador*, p. 42.

⁹⁴ Information provided by UNDP.

⁹⁵ See <https://www.oecd.org/tax/tax-policy/folleto-estadisticas-tributarias-en-america-latina-y-el-caribe.pdf>.

⁹⁶ Ley Orgánica de Eficiencia Económica y Generación de Empleo, supplement to Official Gazette No. 652 of 20 December 2023.

⁹⁷ See <https://grupofaro.org/wp-content/uploads/2024/02/FS-Ley-de-Eficiencia-Economica-2.pdf>.

⁹⁸ Information provided by IMF.

⁹⁹ See <https://www.finanzas.gob.ec/https-wwwdeuda-publica-nueva-metodologia/>. In 2023, the total public debt of Ecuador amounted \$75,367,630.83, of which external public debt was \$48,027,667.08. According to information provided by the Government, the exact amount is \$1,628.76 million.

¹⁰⁰ Information provided by the Government.

involved various private and public actors.¹⁰¹ It was supported by the United States International Development Finance Corporation,¹⁰² which provided \$656 million in political risk insurance for the loan, and by the Inter-American Development Bank,¹⁰³ which provided \$85 million in insurance that could be triggered under the conditions indicated in the Facility Agreement.¹⁰⁴ According to official statements, the swap is expected to save around \$1.1 billion in lifetime savings through reduced debt services costs,¹⁰⁵ and to generate resources over a period of 18.5 years to capitalize an endowment for the Galapagos Life Fund,¹⁰⁶ a non-profit organization established to direct the marine conservation efforts of the Galapagos National Park Service and in the Galapagos Islands.¹⁰⁷

56. The Galapagos debt-for-nature swap has come under scrutiny for several reasons.¹⁰⁸ These include the involvement of private intermediaries, which results in increased transaction costs for the nation, and uncertainty about who truly benefits, given the lack of clarity and transparency in the transactions associated with the debt-for-nature swap agreement.¹⁰⁹

57. There are other issues that may have negative implications for human rights. For example, official documents the Special Rapporteur consulted do not reveal whether a human rights impact assessment of the deal was carried out. Such an analysis would have been in line with the guiding principles on foreign debt and human rights and the guiding principles on human rights impact assessments of economic reforms. Moreover, it is not clear from the information received what processes will be in place to monitor the use of funds devoted to the protection of the Hermandad Marine Reserve and how local communities will be involved in those processes and in decision-making about the projects to be implemented. Ultimately, the Special Rapporteur cannot assess from the information received how those funds will foster economic, social and cultural rights and sustainable development for the communities living in the area.

58. Debt relief is essential for effective climate action, as heavy debt burdens can restrict countries' capacity to fund both economic recovery and climate change mitigation and adaptation efforts, while also supporting human rights realization. However, in some cases countries are offered debt relief through debt-for-climate/nature swaps while simultaneously increasing their debt through climate finance loans, particularly for adaptation purposes. While innovative approaches to the concurrent debt and climate crises are worth exploring, they require careful consideration. An IMF analysis concluded that debt-for-nature swaps can be "superior to conditional grants when they can be structured in a way that makes the climate commitment de facto senior to debt service; and they could be superior to comprehensive debt restructuring in narrow settings, when the latter is expected to produce large economic

¹⁰¹ For example, it involved GPS Blue Financing Designated Activity Company, incorporated under the laws of Ireland under registry code 728558, and the creation of the Galapagos Life Fund, a Delaware not-for-profit corporation, creating concerns in relation of the structure of these entities as the locations are considered tax havens.

¹⁰² See <https://www.dfc.gov/media/press-releases/financial-close-reached-largest-debt-conversion-marine-conservation-protect>.

¹⁰³ See <https://www.iadb.org/en/news/ecuador-completes-worlds-largest-debt-nature-conversion-idb-and-dfc-support>.

¹⁰⁴ See https://ire.finanzas.gob.ec/content/2023/06/Project%20Darwin%20-%20Facility%20Agreement%20dated%2025%20April%202023_Redacted.pdf.

¹⁰⁵ See <https://www.ambiente.gob.ec/ecuador-anuncia-el-canje-de-deuda-por-naturaleza-mas-grande-del-mundo-para-proteger-las-islas-galapagos/>.

¹⁰⁶ See <https://www.swissre.com/our-business/public-sector-solutions/thought-leadership/ecuador-debt-for-nature-communication.html>.

¹⁰⁷ See https://www.ambiente.gob.ec/wp-content/uploads/downloads/2023/06/Decreto_ejecutivo_no._735.pdf.

¹⁰⁸ See <https://www.cadm.org/Financiacion-de-la-agenda-30x30-para-los-oceanos-Hay-que-rechazar-los-canjes-de>; <https://www.accionecologica.org/no-3-canje-de-deuda-por-oceanos/>; <https://www.tni.org/en/article/the-financialization-of-conservation>; and <https://latindadd.org/arquitectura-financiera/canje-de-galapagos-un-legado-ignominioso1/>.

¹⁰⁹ See <https://latindadd.org/arquitectura-financiera/organizaciones-que-trabajan-en-deuda-y-justicia-climatica-denuncian-problemas-con-el-canje-de-deuda-de-galapagos/#posicioningles>.

dislocations and the debt-climate swap is expected to materially reduce debt risks (and achieve debt sustainability)”.¹¹⁰

59. According to official documentation, the Galapagos debt-for-nature swap is favourable as it will reduce public debt stock and public debt services. It will also have a positive effect in terms of transaction flows, flattening out the maturity profile and deconcentrating the servicing of the debt in some periods.¹¹¹ Yet, according to the official documentation, the impact of the debt-for-nature swap on the servicing of the debt will essentially be felt only after 2025 (and mostly between 2031 and 2035), when amounts to be paid will be lower than they would have been with no deal. On the contrary, the amount paid in 2023 and the amounts to be paid in 2024 and 2041 will be higher than they would have been with no deal, presumably shrinking public resources that could have otherwise been used to invest in human rights.

60. On 5 September 2023, the Government announced an initiative to establish an “Amazonian corridor”, with the long-term objective of securing an even more ambitious debt-for-nature swap. In this instance, the aim is to ensure that the conservation efforts in the Amazonian rainforest are rewarded, allowing the State to expand the fiscal space available for social investment. While the idea is promising in principle, the implementation should be carefully designed to build on the lessons learned from the Galapagos debt-for-nature swap and from similar experiences elsewhere. In particular, it is important to address the need for transparency on what social or environmental action investments will have to be made; how resources will be spent; and how that will be presented in the budget. It will also be crucial to conduct a human rights impact assessment beforehand and to ensure that human rights safeguards, a grievance mechanism and access to remedy are integrated into the deal.

61. For countries such as Ecuador that have scarce access to grants, concessional finance or international markets, well-structured debt swaps can contribute to generating additional resources for achieving the Sustainable Development Goals or funding climate projects. However, making debt relief conditional on climate or environmental action in developing countries, which are less responsible for the climate crisis, could perpetuate existing global inequalities. Debt-for-nature swaps accomplished through debt buy-back operations and involving the issuance of new bonds to refinance existing distressed debt perpetuate both debt dependency and reliance on financial markets. Reliance on debt swaps should not divert attention from the urgent need for debt cancellation and the provision of debt-free climate finance; nor should they be a means to sidestep necessary reforms in the international debt architecture.

C. Rationalizing fuel subsidies

62. A third way to increase fiscal space is by rationalizing fossil fuel subsidies. In 2022, \$4.5 billion, representing about 4 per cent of GDP, went to such subsidies. This is roughly equivalent to the total budget of the Ministry of Education and is almost four times the budget spent on social assistance. Yet, such subsidies are regressive and not climate sensitive: they disproportionately benefit the richest 20 per cent of the population,¹¹² especially in the case of subsidies for diesel. They are also incompatible with the need to move towards more sustainable consumption and production, as Governments have pledged to do under Goal 12 of the Sustainable Development Goals. Indeed, target 12.c is to rationalize inefficient fossil-fuel subsidies, phasing them out in a manner that protects the poor and the affected communities.

63. Affordable fuel, in particular liquefied petroleum gas, is of course a lifeline for many low-income households, especially those living in remote areas. Yet, the current scheme is not sustainable. Promoting public policies that favour the transition towards alternative and

¹¹⁰ See <https://www.imf.org/en/Publications/WP/Issues/2022/08/11/Debt-for-Climate-Swaps-Analysis-Design-and-Implementation-522184>; and Iolanda Fresnillo, “Miracle or mirage: are debt swaps really a silver bullet?”, European Network on Debt and Development, 2023, p. 20.

¹¹¹ Information provided by the Government.

¹¹² Percentage calculated by the World Bank, based on data from the National Statistics and Census Institute and the Central Bank of Ecuador.

environmentally sustainable energy sources, combined with a significant increase in the levels of social assistance and investments in health and education for the poorest communities can contribute to reducing the dependence of households and the productive sector on fossil fuels. That in turn could benefit both these communities and the country as a whole.

64. The amounts saved with the gradual phasing out of fossil fuel subsidies should allow the authorities to improve the coverage and adequacy of social assistance. Nevertheless, other social investments should also be considered, especially to bridge the huge gap between the urban and the rural populations. Much could be achieved, for instance, by funding an ambitious school feeding programme, beyond the minimalist snacks currently provided to about 2 million children in some schools in low-income neighbourhoods. At the time of the Special Rapporteur's visit, the World Food Programme was already experimenting with a home-grown school feeding programme, the cost of which – \$0.56 per child – was barely higher than the \$0.34 that the snacks cost, and which has far greater nutritional value and multiplier effects, benefiting local food producers and the local community. Significant investments could also be made in irrigation schemes, including by harvesting rainwater, and in providing water and sanitation services to rural communities.

VII. Priority recommendations

65. In addition to the recommendations made above, the Special Rapporteur highlights three priority areas.

66. In order to improve the protection of groups in situations of vulnerability, the Special Rapporteur recommends that:

(a) The National Planning Secretariat should provide more disaggregated data and design human rights indicators to identify the impacts of policies on vulnerable groups and in the most disadvantaged geographic areas;

(b) The anti-discrimination framework should be strengthened by guaranteeing legal security of tenure concerning Afro-descendants' and Indigenous Peoples' traditional land, territories and natural resources and by ensuring free, prior and informed consultation and consent for establishing and managing protected areas;

(c) Access to education for members of the Afro-Ecuadorian, Montubio and Indigenous communities should be prioritized.

67. Ecuador needs comprehensive reforms to improve the effectiveness of its social protection system. Efforts should focus on improving the coverage of marginalized groups, strengthening formal employment opportunities, ensuring adequate funding mechanisms by improving the progressivity of taxation, addressing gender disparities and enhancing disaster preparedness and response strategies. Administrative efficiency could also be improved.

68. In order to guarantee the right to social security, the Special Rapporteur recommends that:

(a) Coverage of social protection should be expanded, including by increasing contributory and tax revenues and combating illicit financial flows;

(b) Gender disparities in social security affiliation should be addressed by removing the barriers faced by women, including limited access to formal employment, gender-based wage gaps and patriarchal societal expectations;

(c) The Social Registry Unit should be improved by adopting a rights-based approach to reduce the exclusion error rate of the human development voucher scheme, which includes clearly defining beneficiaries, providing adequate information and establishing an accessible complaints mechanisms to improve targeting of households below the poverty line;

(d) **The level of benefits of non-contributory social assistance schemes should be regularly reviewed in line with the cost of living to guarantee an adequate standard of living.**

69. **In order to strengthen the protection of workers' rights, the Special Rapporteur recommends that:**

(a) **The statutory minimum wage should correspond to a living wage, set at a level ensuring workers achieve an adequate standard of living or at least 60 per cent of the median wage and should be regularly updated to reflect changes in the cost of living;**

(b) **The number of labour and social security inspectors should be increased in order to effectively address poor working conditions, unfair wages, long hours and inadequate safety standards, in both the formal and the informal sectors.**
