

## UN-HABITAT:

### Ecuador - Overview of the current Housing Rights situation and related activities

#### 1) Background and normative/institutional framework for the promotion and protection of housing rights: constitution, legislation, policy measures, national jurisprudence, housing rights institutional arrangement (e.g. national housing rights institutions)

- While Ecuador is one of the smallest countries in Latin America, it is known for its **cultural diversity**. Its more than 12 million inhabitants include 13 indigenous nationalities who share collective rights recognized by the Constitution, and who inhabit the three geographic areas of the country. Each nationality retains its own language and culture.
- **Political, civic, economic, social, and cultural rights** are enshrined in the 1998 Constitution. Article 16 establishes the respect for Human Rights, and Article 17 elaborates that the State protects Human Rights as defined in international legal instruments.
- **Housing Rights**, in particular, are dealt with in Article 23 that recognizes the right to a quality of life that includes access to health, food and nutrition, drinkable water, sanitation, education, work, employment, leisure, housing, clothing and other necessary social services.
- According to Article 32, in order to realize the right to housing and to protect the environment, Local Authorities can expropriate, reserve, and control areas for future **housing development**, in accordance with the Law. Article 32 further states that the State is to promote **social housing**.
- Ecuador's Constitution states that the Ecuadorian territory is indivisible. For the administration of the State and for political representation, there will be provinces, cantons and parishes. There will be indigenous and Afro-Ecuadorian territorial circumscriptions, established by the law. However, the Constitution does not establish how "circumscriptions" will be organized and administered, leaving this matter to be developed through future laws. Hence the issue of "circumscriptions" continues to be a topic of great complexity and conflict.
- Until 1989 the administration of joint property was in the hand of the husband women's access to land was limited by legal norms, cultural trends and institutional weakness that made it easier or more common for men to obtain land titles, and to buy or sell land or properties. In 1989, a legal reform enforced joint decision-making and joint signatures.
- According to Article 19, the Constitution guarantees the right to property as long as the land complies with its social function (social function means land is used for purposes that benefit the community as a whole).
- In reference to eviction, the Constitution allows municipalities to evict and control property in order to develop future programmes aimed at ensuring housing rights, or the right to live in a healthy environment. It also establishes the State's obligation to develop housing programmes of social interest. The State can evict people from land in order to comply with social purposes determined by law. These evictions have taken place particularly in urban areas in order to build infrastructure, roads, parks and other public services. Depending on the owner's capacity to present claim, the corresponding compensatory payment for these areas has varied between commercial and official rates.
- The Law of tenancy regulates tenancy. This law governs the relation resulting from a contract of tenancy of housing units located within the urban perimeter. It establishes minimum conditions with which these units must comply, and recognizes the tenants' right to pay a fair rent that cannot be increased unreasonably, or without adequate notice. This law also determines the rules of procedures for evictions.

- Though the Constitution and laws in place are important tools, as is described in the following paragraphs, the State has difficulties to guaranty and effectively protect the right to adequate housing.

**2) Promotion and protection of housing rights on the ground: national legislation and voluntary commitments, national housing rights activities, public awareness of housing rights, cooperation with housing rights mechanisms, etc.;**

- Ecuador is in the process of adopting a new Constitution, which is an opportunity to strengthen its focus on housing rights.
- Activities and workshops have been organized with the parliamentarians to advocate for improving the housing rights situation in the country.
- A social contract for housing (*El Contrato Social por la Vivienda*) has been created in July 2005. This movement is spearheaded by civil society organizations and is advocating for a clearer commitment to the right to adequate housing and habitat in the new Constitution, in order to ensure living standards that preserve human dignity.

**3) Achievements, best practices, challenges and constraints;**

- A crucial limitation in the analysis of the current housing rights situation is the absence of reliable, disaggregated data, updated systematically. Statistics do not provide the objective social indicators necessary to construct public policies.
- 70 percent of the population in Ecuador is living in urban areas, where access to adequate land is limited.
- There is both a quantitative and qualitative housing deficit, which affects more than 4 millions inhabitants.
- One out of three dwellings in Ecuador does not have access to safe drinking water or adequate sanitation, necessary for basic health and hygiene.
- Half of ... dwellings that are being created every year are not sustainable, i.e. illegal, non-durable building materials, location in risk areas not suitable for residential purposes, no access to basic services, etc.
- More than 26 percent of the population lives in crowded houses, with more than three member of the household sharing the same bedroom.
- Local governments (municipalities) do not have the capacity to provide urban dwellers with basic services at an adequate scale.

**4) Key national priorities, initiatives and commitments that the country intends to undertake to overcome above challenges and constraints and to improve the housing rights situation on the ground**

- In 1993, following the creation of the Ministry for Urban Development and Housing (MIDUVI) a national policy for urban development, housing and environmental sanitation was established. Its five main objectives include providing better access to water and sanitation in rural communities and smaller municipalities; promoting credit and funding for housing programmes for poorer sectors by the private sector; and promoting the participation of organized communities and municipalities in the organization and administration of their territories. There is no mention of indigenous organizations, territories or the cultural adequacy of programmes, nor does the policy address benefits to women. Until year 2006 no substantive impacts and results were achieved due to political instability, institutional weakness, lack of funding, among other constrains.
- Currently, the new government has demonstrated political will to reduce the above mentioned deficits related to housing rights. There are two government programmes: the first one aimed

at building or improving rural and urban housing. In order to receive funds to a maximum of USD 3,500, beneficiaries of this programme must prove legal ownership of their land, and only individually-owned property is included. The second programme aims to increasing the coverage of water and sanitation in small towns and rural areas.

**5) Ongoing and planned capacity-building and technical assistance activities that contribute to the progressive realization of the right to adequate housing, by UN-HABITAT and/or other actors**

- UN-HABITAT has been spearheading the network/social movement/campaign “Contrato Social por la Vivienda (CSV)” that advocates for the **promotion of the right to adequate housing**, with special emphasis on indigenous peoples.
- One of the major tools of this campaign is a publication based on the case study on Ecuador, published in the 2005 research report by the UN Housing Rights Programme (UNHRP), entitled “Indigenous Peoples Right to Adequate Housing – A Global Overview”.
- This publication is being produced through an **inter-agency collaboration**, initiated by UN-HABITAT, with OHCHR, UNDP, UNIFEM and SENPLADES (Ministry for Planning and Development).
- The publication will inform the **elaboration of a political agenda** - with the Government - on issues related to adequate housing for indigenous peoples in Ecuador.
- Workshops for awareness creation among parliamentarians and to support their work on housing rights are currently being organized by SENPLADES (Ministry for Planning and Development) and UN HABITAT.
- UN-HABITAT participated in the regional meeting of the Inter-Agency Support Group on indigenous issues that was held in Quito 5-6 November 2007. At this meeting, IASG together with its Consultative Group of Indigenous Leaders, worked towards identifying **joint activities for the dissemination and implementation of the recently adopted UN Declaration on Indigenous Peoples**. UN-HABITAT highlighted the importance of indigenous peoples’ land and housing rights, e.g. its direct impact on health and welfare. Particular attention was given to indigenous peoples’ rural-urban migration and the poor and precarious living conditions, cultural and educational gaps they are faced with urban areas.