

## ECUADOR

### CRC/C/80 (1998)

#### Concluding observations of the Committee on the Rights of the Child

24. The Committee considered the initial report of Ecuador (CRC/C/3/Add.44) at its 479th to 481st meetings (see CRC/C/SR.479-481), held on 22 and 23 September 1998, and adopted \* the following concluding observations.

#### A. Introduction

25. The Committee welcomes the submission of the initial report of the State party. Though the report was constructive and comprehensive, the Committee regrets that it did not strictly follow the guidelines. The Committee also takes note of the written replies to the list of issues (CRC/C/Q/ECU/1) and the additional information provided to it in the course of the dialogue, which enabled it to assess the situation of the rights of the child in the State party. The Committee welcomes the frank, self-critical and cooperative tone of the dialogue the State party's delegation undertook with the Committee. However, it regrets the absence of a delegation from the capital, directly involved in the implementation of the Convention in the State party.

#### B. Positive aspects

26. The Committee welcomes the recent adoption by the State party of a National Plan for Human Rights (March 1998) and welcomes the expanded provisions for the protection of human rights, including the promotion and protection of the rights of the child.

27. The Committee notes with appreciation the enactment of the new Constitution (August 1998), which includes provisions for the promotion and protection of human rights, including the rights of the child.

28. The Committee welcomes the measures taken by the State party to include the teaching of the Convention in the school curricula and for the establishment of bilingual education programmes for indigenous children.

29. The Committee notes with appreciation the establishment of the "Alcaldes Defensores de los Niños" programme (City Mayors for the Defence of Children).

---

\* At the 505<sup>th</sup> meeting, held on 9 October 1998

30. The Committee welcomes the implementation of international cooperation programmes to facilitate the full implementation of the Convention on the Rights of the Child, especially in the field of human rights training. Additionally, it welcomes the willingness of the State party to engage in further technical cooperation in the field of the right to development.

31. The Committee also welcomes the accession (1995) of the State party to The Hague Convention of 1993 on the Protection of Children and cooperation in Respect of Intercountry Adoption and to ILO Convention No. 169 concerning Indigenous and Tribal Peoples.

### C. Factors and difficulties impeding the implementation of the Convention

32. The Committee notes that natural disasters, in particular the climatological phenomenon known as "El Niño", have had a negative impact on the most vulnerable sectors of the population, including children, especially owing to the damage caused in the agriculture sector and to infrastructure.

33. The Committee also notes the negative impact on children of economic factors such as structural adjustment and external debt.

34. The Committee notes that widespread poverty, longstanding socio-economic disparities and uneven land distribution within the State party affect the most vulnerable groups, including children, and hamper the enjoyment of the rights of the child in the State party.

### D. Principal subjects of concern and Committee recommendations

35. While the Committee notes the enactment of the Children's Code (1992) and of the recent constitutional reform, it remains concerned that disparities still exist between the principles and provisions of the Convention and domestic legislation. The Committee recommends that the State party take all appropriate measures to facilitate the process of full harmonization of domestic legislation with the principles and provisions of the Convention, especially taking into account the holistic nature of this treaty.

36. The Committee expresses its concern at the lack of adequate coordination between various governmental entities dealing with children's issues, both at the national and local levels. The Committee recommends that the State party take further steps to reinforce, within the framework of the National Plan for Human Rights, the existing coordinating mechanisms (for example, the National Commission for Children (CONAME)), including at the municipal level, in order to strengthen coordination between the various governmental bodies involved in children's rights. Greater efforts should be made to ensure closer cooperation with non-governmental organizations working in the field of human rights, in particular the rights of the child.

37. The Committee is concerned about the absence of an adequate, systematic, comprehensive and desegregated data collection mechanism for all areas covered by the Convention, especially addressing the most vulnerable groups of children, including children born out of wedlock, children belonging to indigenous groups, Afro-Ecuadorean children, children living in institutional care, children living and/or working on the streets, girl children and children living in rural areas. It recommends that the State party develop a comprehensive system for collecting disaggregated data,

in order to gather all necessary information on the situation of children in the various areas covered by the Convention, including children belonging to vulnerable groups, as a basis for assessing progress achieved in the realization of children's rights and to help design policies for better implementation of the provisions of the Convention. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF.

38. The Committee expresses its concern regarding recent budget cuts which have had a negative impact on the provision of social programmes, especially those relating to children. The Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention and to ensure the appropriate distribution of resources at the local and central levels. Budgetary allocations for the implementation of economic, social and cultural rights should be ensured to the maximum extent of available resources and, where needed, within the framework of international cooperation, as well as in the light of the principles of non-discrimination and the best interests of the child (arts. 2 and 3 of the Convention). The Committee also recommends that the State party take all available measures for the full implementation and systematic monitoring of the National Plan of Action for Children.

39. While recognizing the efforts of the State party to disseminate the Convention and to train professionals working for and with children on the provisions and principles of the Convention, as well as to translate the Convention into the Quechua and Shuar languages, the Committee is of the view that these measures need to be reinforced. The Committee also remains concerned at the lack of adequate and systematic training for professional groups working with and for children. It encourages the State party to strengthen its efforts to disseminate the principles and provisions of the Convention as a measure to sensitize society about children's rights. Furthermore, training on the Convention should be conducted for professional groups, such as judges, lawyers, law enforcement and army officials, civil servants, teachers, personnel working in institutions and places of detention for children, health personnel, including psychologists, and social workers. Dissemination of the provisions and principles of the Convention to non-governmental organizations, the mass media and the public at large including children themselves should be enhanced.

40. With regard to the implementation of article 1 and related articles of the Convention regarding the definition of the child, the Committee is concerned about the disparities existing in domestic legislation. The Committee is also concerned at the use of the biological criterion of puberty to set different ages of maturity for boys and girls. This practice is contrary to the principles and provisions of the Convention and constitutes a form of gender-based discrimination which affects the enjoyment of all rights. The Committee recommends that the State party review its domestic legislation to ensure full conformity with the principles and provisions of the Convention.

41. While acknowledging the measures taken by the State party, the Committee is still concerned at the predominance of discrimination on the basis of ethnic origin, gender, social status and disabilities. The Committee expresses its concern at the increasing disparities between rural and urban areas, as well as at the growing number of the population living in urban poor and marginalized areas. In the light of the general principle of non-discrimination (art. 2 of the Convention), the Committee recommends that the State party continue taking all available measures to reduce economic and social disparities, including those between rural and urban areas. Measures

to prevent discrimination against the most disadvantaged groups of children, including children belonging to indigenous communities, Afro-Ecuadorian children, girl children, children with disabilities, children born out of wedlock, children in institutional care, and children living and/or working on the streets should be reinforced.

42. The Committee is concerned that the general principles of the best interests of the child (art. 3) and respect for the views of the child (art. 12) are not fully applied and duly integrated into the policies and programmes of the State party. The Committee recommends that further efforts be made to ensure that domestic laws take fully into account the principles of the best interests of the child and respect for the views of the child, and his or her right to participate in the family, at school, in other institutions and in society in general. These principles should also be reflected in all policies, administrative decisions and programmes relating to children.

43. While the Committee takes note of the measures taken by the State party in the area of birth registration, it remains concerned at the lack of awareness and understanding on registration procedures, especially in rural areas. In the light of article 7 of the Convention, the Committee recommends that the State party continue with its efforts to ensure the registration of all children immediately after birth. Furthermore, the Committee encourages the State party to ensure, in cooperation with non-governmental organizations and with the support of intergovernmental organizations, that birth registration procedures are widely known and understood by the population at large.

44. The Committee is deeply concerned at the information provided in the State party's report that "child abuse is a culturally accepted and justified practice". In this regard, it expresses its concern at the insufficient awareness regarding the harmful consequences of ill-treatment and abuse, including sexual abuse, both within and outside the family. Concern is also expressed at the insufficient resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for such children and their limited access to justice are also matters of concern. In the light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party take all appropriate steps, including setting up social programmes and introducing rehabilitation measures to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests that law enforcement should be strengthened with respect to such crimes and that adequate procedures and mechanisms to deal with complaints of child abuse should be developed. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF and international non-governmental organizations.

45. While the Committee notes the State party's efforts to reduce the infant mortality rate and the under-five mortality rate, it is still concerned about the prevalence of malnutrition, high rates of maternal mortality and the limited access to health services in remote rural areas. It suggests that the State party allocate appropriate resources and consider seeking technical assistance, when needed, to reinforce its efforts to make basic health care accessible to all children. In particular, concerted efforts are required to combat malnutrition and ensure the adoption and implementation of a national nutritional policy for children. International cooperation for the establishment of programmes such

as the WHO/UNICEF "Integrated Management of Childhood Illness" is recommended. In addition, the Committee recommends that breast-feeding be promoted in all health facilities and among the public at large.

46. With regard to adolescent health, the Committee is particularly concerned at the high and increasing rate of teenage pregnancy, the incidence of suicides by girls and insufficient access by teenagers to reproductive health education and counselling services, including outside of schools. The Committee is also concerned at the increasing rate of substance abuse. It suggests that a comprehensive and multidisciplinary study be undertaken on adolescent health problems as a basis for promoting adolescent health policies and strengthening reproductive health education and counselling services. The Committee also recommends that further efforts be undertaken to develop child-friendly counselling services, as well as care and rehabilitation facilities for adolescents. Measures to prevent and combat substance abuse among adolescents should be strengthened.

47. The Committee expresses its concern at the high incidence of environmental threats, including to the health of children, in particular in oil exploitation areas of the Amazonia region. In the light of article 24 (c) of the Convention, the Committee recommends that the State party take all appropriate measures, including seeking international cooperation, to prevent and combat the damaging effects of environmental degradation, including pollution, on children.

48. With regard to the implementation of article 27 of the Convention, the Committee is concerned about the widespread poverty and deteriorating living conditions affecting the majority of the population in the State party. It recommends that the State party take comprehensive measures to establish poverty alleviation programmes with special emphasis on the access to health-care and education of children, in particular the most vulnerable groups of children.

49. Although the Committee is aware of the State party's achievements in the field of education, it remains concerned at the high drop-out rate between primary and secondary school and the high repetition rate at both levels, at the gender disparities in secondary school enrolment and at disparities in access to education between rural and urban areas. It recommends that the State party strengthen its educational policies and system in order to reduce gender and geographical disparities and to establish retention programmes and vocational training for drop-out students.

50. Though the Committee is aware that the reform of the primary education curricula has included measures to fulfil the rights of the child to leisure and recreational and cultural activities, it remains concerned about the insufficiency of these measures, in particular for children living in urban-poor and rural areas. In the light of article 31 of the Convention, the Committee recommends that the State party strengthen its measures to improve children's access to leisure and to recreational and cultural activities, especially for the most vulnerable groups of children.

51. While the Committee acknowledges the State party's policies for the protection of refugees, it remains concerned at the lack of specific provisions in its domestic legislation concerning the rights of asylum seeking and refugee children and the right to family reunification. In the light of article 22 of the Convention, the Committee recommends that the State party undertake appropriate measures to adopt legislation to protect all the rights of asylum seeking and refugee children. Technical assistance from the Office of the United Nations High Commissioner for Refugees

(UNHCR) could be requested in this regard.

52. The Committee is concerned at the insufficient measures addressing the issues of child labour and economic exploitation, including domestic labour and sexual exploitation of children. In this regard, the lack of data and research is also a matter of concern to the Committee. The Committee is further concerned at the increasing number of children living and/or working on the streets, who require special attention because of the risks they are exposed to. The Committee recommends that the State party give specific attention to undertaking research on and monitoring the situation of children living and/or working on the streets and those involved in hazardous labour, including domestic service and prostitution. The Committee also recommends that the State party develop national policies on the prevention and the elimination of the most hazardous forms of child labour. The Committee suggests that the State party consider seeking technical assistance from ILO in this area. In addition, the Committee encourages the State party to consider ratifying ILO Convention No. 138 concerning minimum age for admission to employment.

53. While the Committee takes note of the State party's efforts to combat the trafficking and sale of children, it remains concerned about the lack of preventive measures in this area. Concerning the trafficking of boys and girls into neighbouring countries for work, including prostitution, the Committee recommends that measures be taken on an urgent basis, such as a comprehensive programme of prevention, including an awareness-raising campaign and educational programmes, in particular in the rural areas and for concerned governmental officials, and of rehabilitation of the victims. Cooperation with neighbouring countries is strongly encouraged.

54. The Committee is concerned at the absence of data and of a comprehensive study on the issue of sexual commercial exploitation of children. In the light of article 34 and related articles of the Convention, the Committee recommends that the State party reinforce its legislative framework to protect children fully from all forms of sexual abuse or exploitation, including within the family. It also recommends that the State party engage in studies with a view to designing and implementing appropriate policies and measures, including care and rehabilitation, to prevent and combat this phenomenon. The Committee recommends that the State party continue implementing the recommendations formulated in the Agenda for Action adopted at the 1996 Stockholm World Congress against Commercial Sexual Exploitation of Children.

55. With regard to the juvenile justice system in the State party, the Committee is concerned about its full compatibility with articles 37, 40 and 39 of the Convention and with other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In particular, the Committee is concerned that deprivation of liberty is not systematically used as a measure of last resort only, at the slow pace at which cases are processed, at the insufficient provision of legal aid for children and at the situation of children under seven years of age living in prisons with their parents. It recommends that the State party envisage undertaking further measures to ensure the full compatibility of the juvenile justice system with the Convention, especially articles 37, 40 and 39 and other relevant United Nations standards. Particular attention should be paid to ensuring that the deprivation of liberty is only used as a measure of last resort, that children have access to legal aid and that alternative care (for example, in foster families) should be provided for children living in prisons with one of their parents. Training programmes on the relevant international standards should be conducted for all

professionals involved with the juvenile justice system. In this regard, the Committee further suggests that the State party consider seeking technical assistance from, *inter alia*, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF through the Coordination Panel on Juvenile Justice.

56. The Committee recommends that additional information, taking into account the concerns expressed during the dialogue held with the State party, be prepared and submitted to the Committee by April 1999.

57. Lastly, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that consideration be given to publishing the report, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate on and awareness of the Convention, its implementation and monitoring within the Government and the Parliament and among the general public, including concerned non-governmental organizations.