



**Convention on the Rights
of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 44 OF THE CONVENTION**

Fourth periodic reports of States Parties due in 2007

ECUADOR* **

[20 March 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

** The annexes may be consulted in the secretariat.

**WORKING GROUP ON THE RIGHTS OF THE CHILD FOR INFORMATION
ON THE FOURTH REPORT UNDER THE CONVENTION
ON THE RIGHTS OF THE CHILD**

**List of institutions invited to participate in the report – State and civil society
(alphabetical order)**

- Association of Municipalities of Ecuador - AME
- CARE
- Child Welfare Police (DINAPEN)
- Christian Children’s Fund - CCF Ecuador
- Committee of Users of the Law on Free Maternity Care
- Compassion International
- Confederation of Indigenous Nationalities of Ecuador - CONAIE
- Conscientious Objectors’ Group of Ecuador (GOCE)
- Consortium of Local Councils -CONAJUPARE
- Consortium of Non-governmental Organizations in Support of Ecuadorian Families and Children - CONFIE
- Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE)
- CRS –PROJECT SOY
- Defence of Children International
- Ecuadorian Confederation of Catholic Establishments (CONFEDEC)
- Ecuadorian Federation of Indigenous Nationalities and Peoples - FENOCIN
- Ecuadorian Red Cross
- Faith and Joy (Fe y Alegría)
- FEINE (Federación Ecuatoriana de Indígenas Evangélicos)
- Floriculture Social Fund (Foro Social Florícola)
- Foro de la Niñez [Forum for Children]
- GTZ (German Development Corporation)
- International Organization for Migrations in Ecuador
- Jesuit Refugee Service in Ecuador- SJRM
- Judicial and Investigative Police
- Corporación Kimirina
- Kindernothilfe (KNH) – ECUADOR
- Ministry of Coordination of Social Development
- Ministry of Economic and Social Inclusion (MIES)
- Ministry of Education
- Ministry of External Relations
- Ministry of Labour and Employment
- Ministry of National Defence

- Ministry of Public Health
- Ministry of the Interior
- Ministry of Tourism
- Monitoring Agency for the Rights of Children and Adolescents (Observatorio de los Derechos de la Niñez y Adolescencia)
- National Institute for Children and the Family (Instituto Nacional del Niño y la Familia- INNFA)
- National Judicial Council
- National Committee for the Progressive Eradication of Child Labour (CONEPTI)
- National Confederation of Neighbourhoods of Ecuador -COMBADE
- National Congress
- National Women's Council -CONAMU
- National Planning Secretariat -SENPLADES
- National Telecommunications Council
- Office of the International Labour Organization in Ecuador
- Office of the Public Prosecutor (Fiscalía General de la Nación)
- Ombudsperson
- Our Youth Foundation (Fundación Nuestros Jóvenes)
- Peace and Justice Service (SERPAJ)
- Permanent Assembly for Human Rights - APDHU
- Plan International
- Representative of Community Ombudspersons
- Save the Children
- Social Contract
- Superintendence of Telecommunications
- Supreme Court of Justice
- United Nations Children's Fund in Ecuador
- United Nations Development Fund for Women in Ecuador
- United Nations Development Programme in Ecuador
- United Nations High Commissioner for Refugees (UNHCR)
- United Nations Population Fund in Ecuador
- United States International Development Agency in Ecuador
- Working Child Programme
- World Vision International

**Institutions which collaborated in the fourth CRMW report – State and civil society
(alphabetical order)**

- Child Welfare Police (DINAPEN)
- Christian Blind Mission- CBM
- Christian Children’s Fund - CCF Ecuador
- Council for Children and Adolescents - CNNA
- Fe y Alegría [Faith and Joy]
- Floriculture Social Fund (Foro Social Florícola)
- Foro de la Niñez [Forum for Children]
- GTZ (German Development Corporation)
- International Organization for Migrations in Ecuador
- Jesuit Refugee Service in Ecuador- SJRM
- Kimirina
- Ministry of Coordination of Social Development
- Ministry of Economic and Social Inclusion (MIES)
- Ministry of Education
- Ministry of External Relations
- Ministry of Labour and Employment
- Ministry of National Defence
- Ministry of Public Health
- Ministry of the Interior
- Monitoring Agency for the Rights of Children and Adolescents (Observatorio de los Derechos de la Niñez y Adolescencia)
- National Women’s Council - CONAMU
- National Institute for Children and the Family (Instituto Nacional del Niño y la Familia- INNFA)
- National Planning Secretariat -SENPLADES
- Office of the International Labour Organization in Ecuador
- Office of the Public Prosecutor (Fiscalía General de la Nación)
- Pedro Moncayo Cantonal Council for Children and Adolescents
- United Nations Development Fund for Women in Ecuador
- United Nations High Commissioner for Refugees (UNHCR)
- United States International Development Agency in Ecuador
- Working Child Programme

**FOURTH OFFICIAL REPORT OF ECUADOR ON IMPLEMENTATION OF THE
CONVENTION ON THE RIGHTS OF THE CHILD**

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ACRONYMS

ACNNA	Agencia de Comunicación de Niños Niñas y Adolescentes [Communications Agency for Children and Adolescents]
CONAMU	Consejo Nacional de Mujeres [National Women's Council]
CNNA	Consejo Nacional de la Niñez y Adolescencia [National Council for Childhood and Adolescence]
CONSEP	Consejo Nacional de Sustancias Estupefacientes Psicotrópicas [National Council on Narcotic and Psychotropic Substances]
CONARTEL	Consejo Nacional de Radio y Televisión [National Radio and Television Council]
CCNA.	Consejos Cantonales de la Niñez y Adolescencia [Cantonal Councils for Children and Adolescents]
DAINA	Dirección de Atención Integral a la Niñez y Adolescencia [Directorate of Comprehensive Care for Children and Adolescents]
FLACSO	Facultad Latinoamericana de Ciencias Sociales [Latin American Faculty of Social Sciences]
IESS	Instituto Ecuatoriano de Seguridad Social [Ecuadorian Social Security Institute]
ISSFA	Institutos de Seguridad Social de las Fuerzas Armadas [Armed Forces Social Security Institutes]
ISPOL	Instituto de Seguridad de la Policía Nacional [National Police Social Security Institute]
JCPD	Juntas Cantonales de Protección de Derechos [Cantonal Boards for Protection of Rights]
ME	Ministerio de Educación [Ministry of Education]
MRE	Ministerio de Relaciones Exteriores, Comercio e Integración [Ministry of External Relations, Trade and Integration]
MSP	Ministerio de Salud Pública [Ministry of Public Health]
MT	Ministerio de Trabajo y Empleo [Ministry of Labour and Employment]
PMT	Programa Muchacho Trabajador [Working Child Programme]
SENAMI	Secretaría Nacional del Migrante [National Secretariat for Migrants]
STFS	Secretaría Técnica del Frente Social [Technical Secretariat of the Social Front]
SIPI	Sistema de Información para la Infancia [Information System for Children]
SNDPINA	Sistema Nacional Descentralizado de Protección Integral a la Niñez y Adolescencia [Decentralized National System of Comprehensive Protection of Children and Adolescents]

I. INTRODUCTION

1. In January, 2003, the Republic of Ecuador submitted to the Committee on the Rights of the Child the combined second and third periodic reports on its implementation of the Convention on the Rights of the Child, in accordance with article 44. The Convention has been in force in Ecuador since 2 September 1990 and was published in *Official Gazette* No. 400 of 21 March 1990.
2. The Committee considered these reports at its 1034th and 1035th meetings, held on 23 May 2005, and its 1052nd meeting on 3 June 2005, and adopted concluding observations, whose contents have been considered in preparing the fourth periodic report.
3. This report was prepared in the framework of the Children's Rights Group of the Commission for Public Coordination of Human Rights. The information was compiled by the National Council for Childhood and Adolescence, pursuant to the mandate in article 195, subparagraphs (i) and (o), of the Childhood and Adolescence Code, which entrusts that entity with the preparation of reports concerning the situation of the rights of children and adolescents at the national level, as well as the application international legal instruments and the monitoring of compliance with the commitments assumed by Ecuador on the basis of these instruments.
4. Information was gathered through broad participation by public institutions, civil society and international cooperation entities working in the field of protection of the rights of children and adolescents in general. For purposes of organization, several preparatory meetings were held to prepare and gather information and submit it to these institutions, which comprise the Children's Rights Group. The sources of information are official.
5. The report was prepared on the basis of the harmonized guidelines of the Committee on the Rights of the Child, the concluding observations on previous reports of Ecuador, the policies of the 10-year National Plan of Action for the Comprehensive Protection of Children and Adolescents, and the provisions of the Childhood and Adolescence Code.
6. The report contains a brief historical and social overview of the period 2003-2007 and deals with various topics such as: General Implementation Measures under the Provisions of the Convention, and measures taken to harmonize national legislation and policies with the provisions of the Convention.
7. This section presents a summary of major laws, policies, programs, plans and actions in regard to the comprehensive protection of children and adolescents and their application during the period 2003-2007 with a view to facilitating the effective exercise of the rights of children and adolescents. The following sections address the specific sectoral aspects that point to particular achievements of Ecuador in this respect, in keeping with the guidelines of the Committee on the Rights of the Child.
8. The Council for Children and Adolescents, as a statutory body in charge of presenting this report as part of the Commission for Public Coordination of Human Rights, expresses its appreciation and gratitude to all institutions and individuals who contributed in the preparation the fourth periodic report, noting especially how gratifying it has been to observe the emergence of an active citizenry which is beginning to mobilize in support of the life and development of children and adolescents.
9. Ecuador extends its greetings to the Committee on the Rights of the Child and is pleased to submit for consideration by its members this report, which aims to project a vision of progress in

the majority of rights under the Convention and of aspirations to further improve in regard to those shortcomings that it hopes to overcome.

II. OVERVIEW OF THE ECONOMIC-POLITICAL SITUATION OF THE COUNTRY¹

10. The decade 1995-2005 brought about major setbacks in reducing poverty and social inequality, considering that, from the second half of the 1990s, there was an increase in poverty and extreme poverty (39 per cent in 1995 to 52 per cent in 1999), followed by a reduction in the poverty rate during the first half of the decade beginning in 2000 (38 per cent in 2006).

11. These indicators changed in the first half of the decade beginning in 2000, which saw a slight reduction of poverty and extreme poverty. There are several factors involved, such as the recovery of the Ecuadorian economy after the banking crisis, the increase in oil investment and rising international oil prices, remittances from emigrants and improvements in real wages.

12. Ecuador is gradually giving shape to the implementation of some changes, although, during the period covered by this report, it experienced political instability and economic uncertainty, while new public policies prompted high expectations among the population.

13. Three heads of state have led the country during 2003-2007. Engineer Lucio Gutiérrez took office in January 2003; two years later, Congress removed him from office amid an upsurge of citizen discontent prompted by growing criticism of the Government. As a result, power was assumed by his deputy, Dr. Alfredo Palacio, who took office as President on 20 April 2005. This period was characterized by continuity in the implementation of welfare-oriented social policies focused on benefiting certain social groups. In the 2006 elections, the new political movement Alianza País won the presidency, taking charge of the Executive in January 2007, with economist Rafael Correa Delgado becoming the first President of the Republic of Ecuador to gain broad social support that has grown stronger throughout his term of office.

14. The campaign of the current chief executive reflected the public sentiment that there was an absolute need for change; that change, now a political strategy, aims at the establishment of a National Constituent Assembly with the ability to lay the foundations for a new democracy.

15. Further, with the current Government, social protection as a measure to narrow the gaps of the social debt to the poorest population is taking on relevance in Government policies and a vision seeking to couple economic policy and social policy is becoming more plausible.

16. The new Government took office with an alert citizenry mobilized around the enforceability of rights and also around the creation of new institutions that are taking shape with the installation of the Constituent Assembly.

17. The gradual establishment of the organs under the Constitution and the Childhood and Adolescence Code as components of what will be the Decentralized National System of Comprehensive Protection of Children and Adolescents (SNDPINA) has the backing the current Government, evidenced in increasing resource allocation to social sector, especially aimed at comprehensive protection of children and adolescents.

¹ Based on "Situation Assessment" by the Comité Ecuménico de Proyectos (CEP), October, 2007, with support from Development and Peace (Canada), EED-Evangelical Churches Service for Development of Germany, Bread for the World of Germany, and Hivos of the Netherlands.

18. Where children and adolescents are concerned, the period 2003-2007 was marked by the launching of the various processes that have led to the entry into force of the new Childhood and Adolescence Code – from July 2003 – and the development and approval of the National Plan for the Comprehensive Protection of Children and Adolescents – October 2004 – which were developed through extensive consultations and participation.

III. GENERAL MEASURES IMPLEMENTING THE PROVISIONS OF THE CONVENTION

A. Measures taken to harmonize national legislation and policies with the provisions of the Convention.

19. This section presents a summary of major laws, policies, programmes, plans and actions in regard to the comprehensive protection of children and adolescents, and their performance during the period 2003-2007 with a view to facilitating the effective exercise of the rights of children and adolescents. The following sections address the specific sectoral aspects that point to particular achievements of Ecuador in this respect, in keeping with the guidelines of the Committee on the Rights of the Child.

20. The Constitution establishes the hierarchy of legal norms in Ecuador: the Constitution is the supreme law and international treaties and conventions stand at the same level, followed in order of precedence by the basic laws that govern fundamental rights and prevail over ordinary laws. At the same time, there are, among others, legislative acts such as the ordinances governing the operation of regional governments, then the regulations that serve to give effect to the law. Following these are executive orders issued by the President of the Republic, ministerial agreements issued by the ministers of various departments of the State, resolutions and other normative acts of public authorities.

21. The State of Ecuador has signed and ratified most international human rights instruments of the United Nations system and the inter-American system,²³ which are largely harmonized in domestic law and guarantee the rights of children and adolescents; so it is with the Childhood and Adolescence Code, approved and published in *Official Gazette* No. 737 on 3 January 2003.

Legal Reforms

22. The National Congress, in the period under review, made the following reforms:

a) **Criminal Code Amendments:** Criminal Code Reform Act (of 23 June 2005, published in *Official Gazette* No. 45), which defines the crime of sexual exploitation of minors. These reforms are the result of several incidents of exploitation and serious rights violations, which brought to light gaps in the definition of the offense and the corresponding penalties.

b) **Labour Code Amendments: Act amending the Labour Code** (16 December 2005, published in *Official Gazette* No. 167), to harmonize standards in this body of law with the Childhood and Adolescence Code as regards all that the latter provides concerning prevention and eradication of child labour exploitation and prohibited and dangerous work.

² See, in annex, international human rights instruments to which Ecuador is a party (information from Ministry of External Relations).

³ i.e. children and adolescents.

c) **Reforms to the Law on Free Maternity and Child Care**, (Consolidation published in *Official Gazette* No. 349, 5 September 2006), which highlights the increase in incomes, expansion of benefits before, during and after childbirth, emergency care, and provision of blood.⁴

d) Pursuant to article 201⁵ of the Childhood and Adolescence Code, local governments in Ecuador's 219 cantons issued 106 ordinances up to November 2007 constituting the Decentralized National System of Comprehensive Protection of Children and Adolescents.

Executive decrees to guarantee the rights of children and adolescents

23. Some chief executives, in the exercise of executive power, have issued several executive orders to more firmly secure the rights of children and adolescents in the country. Among the main ones are the following:

a) **Comprehensive protection of the rights of children and adolescents** in Ecuador, declared as State policy by Executive Decree No. 179 published in *Official Gazette* No. 37 of 13 June 2005, with a view to achieving their comprehensive development within a framework of freedom, dignity and equity.

b) **Health emergency**, Decree No. 175 of 11 March 2007. The national Government declared an emergency in the National Health System, which has achieved rapid mobilization and allocation of resources for hospital infrastructure and equipment in long-underserved provinces.

c) **Education emergency**: Executive Decree No. 188 of 16 March 2007 declared a state of emergency in the national educational system, which allowed the national Government to mobilize resources to meet neglected needs in the sector, such as infrastructure rehabilitation, school furniture, basic services in remote rural schools, retirement of teachers and others.

d) **Eradication of gender violence** was recognized as State policy by Executive Decree No. 620 of 13 September 2007, adopting a human rights approach to the eradication of gender violence focused on children, adolescents and women, for which purpose a plan was developed for generating and implementing actions and measures including joint mechanisms and inter-agency coordination at all levels of government.

e) **Amendments to the Regulations of the Law on Teaching Careers and Teacher Salary Structure**: Executive Decree No. 708 of November 11, 2007, with the aim of improving the monitoring and quality of teachers, in compliance with the constitutional mandate that establishes the obligation to be accountable to society for the quality of education.⁶

f) **Creation of 12,000 new teaching positions**, pursuant to Executive Decree No. 709 of 5 November 2007, in keeping with the Ten Year Educational Plan, in order to expand educational coverage and improve quality.

⁴ Fuller information on this legal reform is presented in Section VI, "Health and Welfare".

⁵ This article lays down the responsibility of municipalities in the formation of cantonal councils for children and adolescents.

⁶ Constitution of Ecuador, 1998, article 70.

g) **Regulations of the Law on Education for Democracy:** Executive Decree No. 711 of 5 November 2007, pursuant to the Ten Year Educational Plan, to include education in values, democracy, integration, equality, justice and human rights as a cross-cutting component.

Ministerial Agreements

24. The competent sectoral ministries, in keeping with their spheres of jurisdiction regarding protection of the rights of children and adolescents, have issued the following ministerial agreements:

Ministry of Tourism, Interior

a) **Ministerial Agreement No. 160** of 9 August 2007 to prevent and combat illegal gambling, improper gambling by minors, and compulsive gambling.

Ministry of Education

b) **Ministerial Agreement No. 3393** of 27 August 2004 amends special regulations on procedures and mechanisms for addressing and treating sexual offenses in the educational system.

c) **Ministerial Agreement No. 403** of 10 January 2006 institutionalizes sex education in public, private, public/religious ("*fiscomisional*") and municipal educational institutions.

d) **Ministerial Agreement No. 089** of 8 March 2007 prohibits discrimination against pregnant students, provides support for such students, and recalls the implementation of the sex education programme.

e) **Ministerial Agreement No. 182** of 22 May 2007 institutionalizes the Code of Conduct for all school facilities in the country, at the different levels and modalities of the system, as an instrument collectively shaped by the educational community to undergird standards, internal rules and become the new model of conduct for this community.

f) **Ministerial Agreement No. 196** of 30 May 2007 amends special regulations on procedures and mechanisms for addressing and treating sexual offenses in the educational system.

Decisions of the National Council of Children and Adolescents

25. The National Council for Childhood and Adolescence as the national body responsible for enforcing the rights of children and adolescents has issued the following priority decisions:

a) Creation of **Family Assignment Committees** as bodies responsible, within the administrative phase of the adoption process, for assigning a suitable family for a particular child or adolescent who has been declared eligible for adoption, according to the child's needs, characteristics and conditions, in compliance with articles 170 and 195, subparagraph (h) of the Childhood and Adolescence Code. Resolution No. 017 of 19 April 2004;

b) Approval of the **10-year National Plan of Action for Comprehensive Protection of Children and Adolescents**, pursuant to subparagraph (b) of section 195 of the Childhood and Adolescence Code. Resolution No. 22 of 26 October 2004;

c) Designation of the **Central Authority for International Return of Children and Adolescents** (in the person of the President of CNNA), under various international instruments signed by Ecuador, and in compliance with article 52 of the Constitution and article 195 of the Childhood and Adolescence Code. Resolution No. 023 of 27 October 2004.

d) Creation of the **International Relations Unit of the Central Authority** for compliance with international instruments within the Executive Secretariat of the National Council for Childhood and Adolescence, regulating the operation of the Unit. Resolution No. 27 of 26 October 2005;

e) **Undertaking** between the members of the National Council for Childhood and Adolescence to jointly promote and realize the common goals of the Social Agenda for Children and Adolescents 2007-2010, "Stand Together for Equity from the Beginning of Life". Signed on 31 May 2007;

f) **Undertaking** by the Ministry of Interior and Police, the Attorney General of Ecuador, the Commission on Women, Children and Families of the National Congress, the National Council for Childhood and Adolescence and the General Police Headquarters, to pursue joint actions in the framework of comprehensive protection to prevent, investigate and punish crimes of trafficking in persons, trafficking and exploitation of children and adolescents, in addition to institutional measures to strengthen the Attorney General's Office and the Child Welfare Police, DINAPEN. Signed on 31 May 2007.

10-year National Plan of Action of Comprehensive Protection of Children and Adolescents

26. Beginning in 2003 with the creation of the Childhood and Adolescence Code and the formation of the National Council for Childhood and Adolescence, the State has devised comprehensive policies for children and adolescents which include the rights of children and adolescents. Thus, in October 2004, by Resolution No. 022, the National Council for Childhood and Adolescence approved the 10-year National Plan of Action, the first planning document with a rights approach.⁷

27. The Plan was developed through the joint efforts of various social and institutional actors of the State and of society in general, who, with a view to the year 2014, conducted the necessary analysis, studies, evaluations and proposals that resulted in 29 policies that provide the framework for the construction of policies for children and adolescents, with their respective goals and strategies. These policies are aimed at three age groups:

- a) Children from birth through age five (nine policies);
- b) Children aged six to 11 (ten policies);
- c) Children aged 12 to 18 (ten policies).

⁷ See annex I

28. The 29 policies of the 10-year National Plan of Action, broken down into three age groups, are as follows⁸.

Table 1. Policies of the ten-year plan of protection for children and adolescents

<i>Policies for children under age 6</i>	<i>For children ages 6 to 12</i>	<i>For adolescents ages 12 to 18, male and female</i>
<p>Policy 1: Health protection and care for women of reproductive age through free and universal care during pregnancy, childbirth and postpartum</p> <p>Policy 2: Ensure a healthy life for children under age 6</p> <p>Policy 3: Protection from natural and provoked disasters and risks</p> <p>Policy 4: Ensure adequate and timely nutrition for all children</p> <p>Policy 5: Ensure access by children under 5 to quality child development services, programmes and projects</p> <p>Policy 6: Ensure effective, universal and compulsory quality schooling for all children under 6 in initial education and first grade, consistently with the principles of equity, multi-culturalism, pluralism and solidarity.</p> <p>Policy 7: Ensure that families have knowledge and skills needed to raise their children fostering to the utmost their emotional, intellectual, social and moral capacities with a sense of fairness and inclusiveness in a setting of affection and stimulation</p> <p>Policy 8: Ensure for children a home in which to live in conditions of security, identity, freedom from violence and emotional stability, as well as fundamental conditions of protection</p> <p>Policy 9: Prevention and care for all forms of mistreatment, violence, abuse and exploitation</p>	<p>Policy 10: Ensure a healthy life for children</p> <p>Policy 11: Ensure that children can enter and remain in free public education</p> <p>Policy 12: Ensure quality of teachers in the learning process and in pedagogical conditions in the country's educational institutions</p> <p>Policy 13: Promote recreation and play to foster physical, emotional and social development of children</p> <p>Policy 14: Promote access to varied forms and manifestations of art and culture</p> <p>Policy 15: Strengthen the family and community in their key role of protecting children</p> <p>Policy 16: Ensure access to basic services for children in extreme poverty or who are victims of natural disasters</p> <p>Policy 17: Provide social benefits designed to prevent and remedy violations of rights and to protect children as subjects of special protection</p> <p>Policy 18: Gradually eradicate harmful, dangerous or risky child labour</p> <p>Policy 19: Promote a culture of respect for children and foster their participation</p>	<p>Policy 20: Prevent dangers that jeopardize the life and safety of children and adolescents</p> <p>Policy 21: Strengthen the capacity of families to deal with social issues and strengthen public institutions to provide basic benefits for education, health, housing and recreation</p> <p>Policy 22: Attain the best levels of health and responsible exercise of sexual and reproductive rights among adolescents</p> <p>Policy 23: Ensure primary and secondary education with quality, competitiveness and equity</p> <p>Policy 24: Strengthen the identity, culture and expressions of adolescents</p> <p>Policy 25: Open opportunities and settings for play, recreation and sports</p> <p>Policy 26: Protection against mistreatment, sexual abuse and harassment, human trafficking and commercial sexual exploitation</p> <p>Policy 27: Eradicate prohibited and dangerous work; protect against insecure jobs and labour exploitation</p> <p>Policy 28: Strengthen the justice system and application of socio-educational measures for adolescent offenders</p> <p>Policy 29: Promote civic participation and expression by adolescents</p>

Source: National Ten-year Plan of Comprehensive Protection for Children and Adolescents, 2004.

⁸ See annexed hard-copy version of Executive Summary of the 10-Year National Plan, with its goals, as well as complete version on CD-ROM.

29. Under the 10-year National Plan of Action, the State of Ecuador is developing national plans to ensure compliance with the comprehensive policies for children and adolescents, as presented in this national report.

- a) Plan for gradual eradication of child labour, 2005;
- b) National Policy on Health and Sexual and Reproductive Rights, April 2005;
- c) National Plan for the eradication of sexual offenses in the educational system, 2006;
- d) National plan to combat trafficking in persons, illegal trafficking of migrants, sexual exploitation, labour exploitation and other forms of exploitation and prostitution of women, children and adolescents, child pornography and corruption of minors (12 October 2006, published in *Official Gazette* No. 375 of 2 October 2006;
- e) Multisectoral Strategic Plan of National Response to HIV/AIDS 2007 - 2015, 2006;
- f) Ten Year Educational Plan 2006-2015;
- g) National Plan to Prevent Adolescent Pregnancy, 25-09-2007;
- h) National Plan for the Reduction of Neonatal Mortality, 22-08-2007.

30. With the aim of positioning policies for children and adolescents in the elections of local and national authorities in 2006, the National Movement of Children and Adolescents is developing the Ethics-Policy Agenda for Children and Adolescents, which confers priority on the policies of the 10-year National Plan of Action. The Ethics-Policy Agenda was supported by a million votes from children and adolescents across the country.

National Development Plan for 2007-2010

31. Since 2007, the State of Ecuador has regained its role as planner, which had disappeared in the first half of the 1990s; it has reinstated the National Planning Secretariat that prepared the National Development Plan for 2007-2010, which incorporates comprehensive State policies concerning children and adolescents.⁹

32. The State's current planning is based on the exercise of rights and on the commitment to foster a proactive citizenry in all areas of national life.

33. The plan includes the Millennium Development Goals (MDGs)¹⁰ but goes much further, proposing "social maxima" which restore human rights and universal values, and which not only seek the reduction of poverty, but move towards reducing social, territorial, economic, environmental, and cultural inequalities. As expressed by explanatory text of the Plan:

(...) Resolutely combating the sources of economic and political inequality promotes a truly free society which is built on a radical democracy as an expression of strengthened social organization and the full realization of citizenship. The State is the initiator of this

⁹ See annex II.

¹⁰ Taken from "II National Report on the Millennium Development Goals, MDG-Ecuador", Partnerships for Development, Government of Ecuador/United Nations System in Ecuador. October 2007.

process and the guarantor of the universal realization of civil, political, economic, social, cultural and environmental rights, which is a precondition for eliminating relations of dominance, oppression and subordination between people and creating social and political scenarios to channel their empowerment and self-realization.

34. With this approach the new model of planning will direct resources territorially with a view to promoting equity in allocation to provinces, cantons and localities, stimulating encouraging local actors to take a proactive role.

35. The Development Plan is an essential step that has taken several months to materialize and is the product of a participatory process through various working groups with different sectors of society. The conclusion of the Development Plan is an important step to enable the Government to more systematically guide and evaluate its policy proposal.

36. This plan consists of twelve dimensions which emphasize the search for social cohesion and regional balance, seeking to improve people's quality of life through access to services; national sovereignty and the construction of regional integration; an economic system with solidarity, supportive of small producers and conducive to employment generation; and construction of a participatory and multi-cultural society.

37. The Plan includes the following objectives:

- a) Foster equality, cohesion and social and territorial integration;
- b) Improve the capacities and potential of citizens;
- c) Enhance hope and quality of life for the population;
- d) Promote a healthy and sustainable environment, and ensure access to safe air, water and soil;
- e) Guarantee national sovereignty, peace, and foster Latin American integration;
- f) Ensure stable, just and dignified employment;
- g) Restore and broaden the public sphere and public fora.
- h) Uphold national identity and strengthen diverse identities and multi-culturalism;
- i) Promote access to justice;
- j) Ensure access to public and political participation;
- k) Establish a supportive and sustainable economic system;
- l) Reform the State for the collective welfare.

The Social Agenda for Children and Adolescents 2007-2010

38. In 2007, the State, in fulfilling the mandate for children and adolescents expressed in the Ethics-Policy Agenda and in the voting of children and adolescents in 2006, and with the goal of concretizing comprehensive policies to protect children and adolescents under the 10-year

National Plan of Action, devised the Social Agenda for Children and Adolescents 2007-2010 "Stand together for equity from the beginning of life".¹¹

39. The Social Agenda for Children and Adolescents emerged from the need to address current circumstances in Ecuador, which require a deep collective commitment in which monitoring and enforceability are decisive factors in building a country that effectively guarantees human rights and specifically the rights of children and adolescents.

40. In the preparation and presentation of the Agenda and its implementation at the present time, discussion and analysis of its scope at the local level have been especially important, as each province is implementing the social agenda in its respective cantons, i.e. building public policies consistent with different realities and territorial differences, while following a national model and working in the framework of the Decentralized National System of Comprehensive Protection for Children and Adolescents.

Public policy objectives relating to children and adolescents

41. The State's priorities for the period 2007-2010 are the following public policy objectives:

- a) Policy 1: Ensure that no child under 28 days dies from preventable causes (right to survival);
- b) Policy 2: Ensure that no child or adolescent is hungry or malnourished (right to survival);
- c) Policy 3: Ensure that no child or adolescent is left without education (right to development);
- d) Policy 4: Protect them from any form of violence and abuse (right to protection);
- e) Policy 5: Ensure that no child or adolescent performs prohibited or dangerous work (right to protection);
- f) Policy 6: Promote social participation and citizenship-building of children and adolescents (right to participation).

42. Immediately implementing these policies to achieve the realization of the rights of children and adolescents, and making them sustainable, includes objectives related to the new institutional model proposed by the Childhood and Adolescence Code and the Decentralized National System of Comprehensive Protection of Children and Adolescents, and presents a challenge to the State of Ecuador, namely:

- a) Renewing efforts to continue construction of the national decentralized agencies of the Decentralized National System of Comprehensive Protection of Children and Adolescents, especially the cantonal boards for protection of rights;

¹¹ The Agenda was presented to the country on 31 July 2007 by means of a video-conference, with the participation of Ministers of State members of the National Council for Childhood and Adolescence: Education, Health, Labour and Social Welfare (now MIES), as well as INNFA and the Minister of Tourism. See Annex III.

b) Promoting social participation and citizenship-building for adults and for children and adolescents as part of the accountability processes required to ensure compliance with the Social Agenda for Children and Adolescents;

c) Promoting the implementation of a new management model that integrates and connects existing interventions, so that the institutions work as networks of comprehensive protection of the rights of children and adolescents;

d) Encouraging the participation of local governments, local councils, public and private agencies working for children and adolescents, national and international cooperation agencies, private business and the church within the Cantonal Councils for Children and Adolescents, to promote rapid and effective implementation of the Social Agenda for Children and Adolescents;

e) Promoting a new service model that ensures rights-based comprehensive protection of children and adolescents.

43. Under the present Constituent Assembly, the National Council of Children and adolescents has relied on a participatory approach to develop a proposal for the children and adolescents sector, to continue securing the rights of children and adolescents under the Convention on the Rights of the Child and the Childhood and Adolescence Code, and also to strengthen the Decentralized National System of Comprehensive Protection of Children and Adolescents.

B. Existing or planned mechanisms at national or local level for coordinating policies relating to children and monitoring implementation of the Convention

Decentralized National System of Comprehensive Protection of Children and Adolescents

44. Article 52 of the Constitution of Ecuador establishes this system to ensure and guarantee the exercise of the rights of children and adolescents.

45. In accordance with Article 150 of the Childhood and Adolescence Code, the Decentralized National System of Comprehensive Protection of Children and Adolescents is "a cohesive and coordinated set of bodies, agencies and services, public and private, that define, execute, oversee and evaluate policies, plans, programmes and actions in order to ensure comprehensive protection of children and adolescents; define measures, procedures, sanctions and remedies, in all fields, to ensure the recognition, exercise, enforcement and restoration of the rights of children and adolescents."

46. Since the entry into force of the new Childhood and Adolescence Code in July 2003, the mandates contained in book three of that body of law have been implemented gradually. Those mandates coincide with the aforementioned constitutional provision and are also consonant with article 4 of the Convention, which lays down the obligation to take actions that lead to realizing the rights granted to children and adolescents.

Bodies of the comprehensive protection system

47. The formation of the organs of the comprehensive protection system, in addition to the legal reforms described above, is part of a long and complex process that has required the participation of many stakeholders. The results discussed in this report reflect the effort of a group of institutions, coordinated by the National Council for Childhood and Adolescence, to promote the creation of the Decentralized National System of Comprehensive Protection for

Children and Adolescents, which is proving itself in an innovative new institutional framework conducive to applying the doctrine of comprehensive protection. Among the most important milestones attained are the following:¹²

48. **National Council for Childhood and Adolescence.** This is the lead agency of the Decentralized National System of Comprehensive Protection for children and adolescents. Its main function is the definition and monitoring of public policy for the comprehensive protection of children and adolescents. Established in 2003, its National Executive Secretariat began operation in October of 2004.

49. Among its major achievement is the establishment of guidelines and technical assistance for building the Decentralized National System of Comprehensive Protection for Children and Adolescents. Technical assistance is focused on developing local capacities in the formation of public policies with a rights approach, monitoring and enforceability, registration of service entities, administrative and financial autonomy, establishment of cantonal boards for the protection of rights, social participation and citizenship building.

50. The National Council for Childhood and Adolescence has since its inception played the role of organizing public policies and participation by public and private entities in the construction of policies for children and adolescents, which has enabled it to take the lead in regard to the rights of children and adolescents and to attract increased resources to enhance the application of the Childhood and Adolescence Code throughout the country.

51. At present the State of Ecuador has increased the resources of the National Council for Childhood and Adolescence by more than 1,000 per cent since it began operation.

Table 2. Historical budget of the National Council for Childhood and Adolescence

<i>Year</i>	<i>Initial</i>	<i>Increment</i>	<i>Total</i>
2005	6,760.00	672,439.66	679,199.66
2006	613,405.33	204,312.88	817,718.21
2007	1,096,450.32	41,752.83	1,138,203.15
2008	1,138,203.15	264,640.09	1,402,845.24

Source: National Council for Childhood and Adolescence

Preparation: National Council for Childhood and Adolescence

52. Despite governmental changes, the National Council for Childhood and Adolescence has been able to maintain its technical and political stability and direct its institutional efforts towards the fulfilment of the provisions of the Childhood and Adolescence Code.

53. **Cantonal Councils for Children and Adolescents.** As provided by article 201 of the Childhood and Adolescence Code, the Cantonal Councils for Children and Adolescents are collegial bodies at the cantonal level, comprising equal numbers of representatives of the State and civil society, entrusted with developing local policies and proposing them to the Cantonal Council. They enjoy legal personality under public law and organizational, functional and budgetary autonomy. Like the national council, the cantonal councils play their part in organs

¹² Taken from “Social Agenda for Children and Adolescents 2007 – 2010”, Chapter II, “Strengths and results of a lengthy process”, pages 6-7. Published in July, 2007.

entrusted with the definition, planning, monitoring and evaluation of policies under the Decentralized National System of Comprehensive Protection.

54. Thus far, 106 Cantonal Councils for Children and Adolescents have been established nationwide.¹³ It should be noted that more than ten cantons in the country have engaged in similar processes of structuring, pursuing the goal of covering all of the 219 in the country.¹⁴

55. **Cantonal Boards for Protection of Rights** have been established in 18 cantons and municipalities. These are municipal organs with functional and administrative autonomy, and enjoy public authority to protect threatened or violated rights. They order protective measures for the restoration of threatened or violated rights, decisions which enable individuals and/or organizations to:

- a) Halt the threat or violation of the right;
- b) Support and protect the child or adolescent;
- c) Support the family of the child or adolescent and those around him;
- d) Conduct monitoring and surveillance to ensure that the situation does not recur.

56. Today the National Council for Childhood and Adolescence is pursuing a project for the creation of 40 Cantonal Boards for Protection of Rights extending to 2008; approximately 40 of the 219 cantons are in the process of creating these bodies.

Table 3. Cantonal Councils for Children and Adolescents (CCNA) and Cantonal Boards for the Protection of Rights (JCPD)

<i>Province</i>	<i>Number of cantons</i>	<i>CCNAs formed</i>	<i>JCPDs formed</i>
Azuay	15	8	3
Bolívar	7	2	0
Cañar	7	4	0
Carchi	6	1	0
Chimborazo	10	5	0
Cotopaxi	7	2	0
El Oro	14	7	5
Esmeraldas	7	4	0
Galápagos	3	3	2
Guayas	25	19	1
Imbabura	6	4	2
Loja	16	9	0
Los Ríos	12	3	0
Manabí	22	6	2
Morona Santiago	12	3	0
Napo	5	1	0

¹³ Taken from Monitoring System of the National Council for Childhood and Adolescence, as of 15 November 2007.

¹⁴ Information from CNNA, 2007.

<i>Province</i>	<i>Number of cantons</i>	<i>CCNAs formed</i>	<i>JCPDs formed</i>
Orellana	4	1	0
Pastaza	4	1	0
Pichincha	8	8	3
Santa Elena	3	3	0
Santo Domingo de los Tsáchilas	1	1	0
Sucumbíos	7	6	0
Tungurahua	9	3	0
Zamora Chinchipe	9	2	0
Total	219	106	18

Source and preparation: National Council for Childhood and Adolescence, November 2007.

57. **Courts for Children and Adolescents.** In 2004, the State undertook the task of transforming its juvenile courts into courts for children and adolescents, thus initiating a specialized organization of the administration of justice for children and adolescents. To this was added the appointment of State's Attorneys for Adolescent Offenders within the Office of the Attorney General (Ministerio Público).¹⁵

58. **National Advisory Councils for Children and Adolescents, and Cantonal Advisory Councils** are fora for the participation of children and adolescents in the design of public policies. On 30 July 2007 the National Advisory Council was constituted, the first such forum for participation in Latin America. The **National Advisory Council for Children and Adolescents** is made up of 22 children and adolescents aged eight to 16, representing each province of the country. From these, five children and adolescents, with their alternates, were appointed to the governing board of the National Advisory Council, for a term of two years.

59. Members of the National Advisory Council for Children and Adolescents were chosen through a democratic and participatory process that was conducted in each of the provinces, starting at the cantonal level. This participatory, democratic civic process was conducted by public notices in two national dailies calling upon all children's organizations, groups, networks or fora at the cantonal level to participate in the process of electing the National Advisory Council for Children and Adolescents.

60. Currently there are approximately 80 cantonal advisory councils for children and adolescents nationwide. Provincial teams are also in the process of being established.

61. **Community Ombudsman Offices.** The country currently has over 500 community Ombudsman offices, a substantial percentage of which are conducted through the Working Child Programme (TPMT) of the Central Bank of Ecuador. These are monitoring bodies which, by way of popular committees, exert oversight over actions concerning preservation or violation of rights that may occur by institutions and authorities and act accordingly, through reporting,

¹⁵ Comment: Although this constitutes a step forward, since it seeks to put into practice the mandate of the law and the spirit of the Convention, there remain shortcomings inherited from the design and organization of the previous system of administration of justice, as will be seen below in Section VIII, containing information about the difficulties Ecuador has so far encountered in applying article 40 of the Convention.

giving notice, and/or follow-up, as the case may be. They also conduct training and dissemination in the community concerning rights.

62. **Office of the Ombudsman.** The mission of this office is to arouse awareness and conduct advocacy within its sphere of competence regarding observance and application of individual and collective human rights by the State and by private entities obliged to do so. Accordingly, activities of implementation and monitoring have been coordinated so that cases of inobservance may lead to the requirement to comply with the rights of children and adolescents.

63. **Child Welfare Police (DINAPEN).** This organ is part of the Decentralized National System of Comprehensive Protection of Children and Adolescents. At the request of the competent authority, it investigates breaches of the rights of children and adolescents. The National Council for Childhood and Adolescence has since 2006 supported the training of members of the Child Welfare Police and this year is preparing a plan for its modernization.

64. Moreover, as one of the mechanisms for coordinating the implementation and monitoring of public policies regarding children and adolescents in 2003-2007, Ecuador continues to make progress in the structuring of information systems that are useful to support social policies. In the field of children and adolescents, a useful initiative has been launched by the Executive Secretariat of the National Council for Childhood and Adolescence, aimed at creating the National Information System for Children and Adolescents (SINNA), to coordinate and combine the existing partial systems in the social area, and to give impetus to local information systems in order to conduct the planning, follow-up and monitoring of local agendas for children and adolescents.

65. The construction of the National Information System for Children and Adolescents began in 2005, based on the Standard Management System created in 2003-2004 for childhood development programmes for children aged 0 to 5. In that system, some basic variables for recording and collecting information about children under different programmes had already been established and standardized, laying the groundwork for the design of national indicators for children.

66. On that basis, it became possible to expand the effort in order to include programmes of special protection and programmes for adolescent offenders. The latter included involvement by the Ministry of Economic and Social Inclusion through its Directorate for Comprehensive Care of Children and Adolescents (DAINA), updating its System of Information on Children (SIPI).

67. In 2004, the National Council for Childhood and Adolescence decided to adopt the Standard Management System as one of the official systems of the National Council for Childhood and Adolescence in order to standardize variables and agree upon time periods for updating and formats of reports.

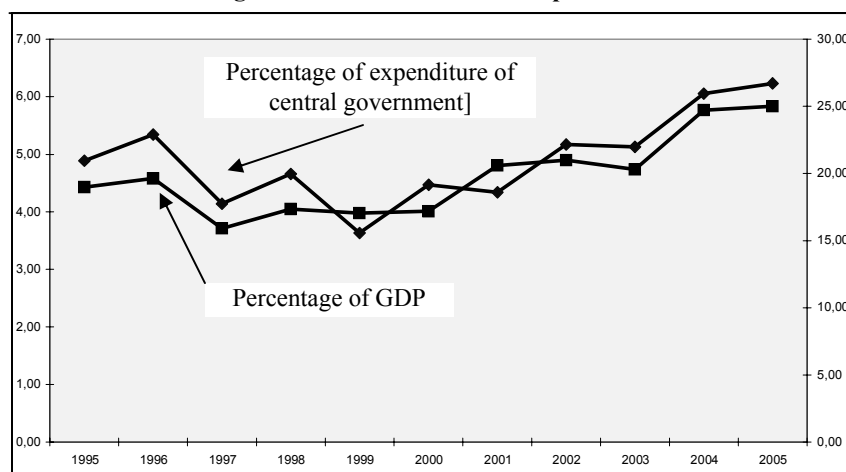
68. In 2006, the National Council for Childhood and Adolescence and the Social Front Technical Secretariat (STFS) decided to adopt the SINIÑEZ module of the Comprehensive System of Social Indicators of Ecuador (SIISE) as the central module of the National Information System on Children and Adolescents. The SINIÑEZ module was restructured in order to present a rights approach and national indicators on children and adolescents according to topics (health, education, etc.); according to rights (under the Childhood and Adolescence Code); and according to the Ten Year Plan for the Comprehensive Protection of Children and Adolescents.

69. Coordination is also taking place between State institutions so that available technology will make it possible to interconnect all of the organs of Decentralized National System of Comprehensive Protection of Children and Adolescents, linking all of the available information systems, with levels of segregation of information by age group, gender, ethnicity, geographical location according to locality, etc.

70. One mechanism for analyzing the priority of social policies concerning children and adolescents in Ecuador is analysis of fiscal policy, i.e. the distribution of the budget.⁷¹

According to the United Nations Children’s Fund (UNICEF)¹⁶, the effort exerted by Ecuador since 2000 to achieve a sustained increase in public expenditure for the social sectors is one of the highlights of the country’s recent social development. As shown in figure 1, it has permitted the share of social public spending in gross domestic product to increase by 1.4 percentage points, (from 4.4 per cent to 5.8 per cent of GDP) and has enabled the share of social expenditure within total public expenditure to increase by six percentage points (from 21 per cent to 27 per cent). This greater macroeconomic and fiscal share of social spending was a result of the significant increase in social expenditure in real terms, which rose by 76 per cent between 1995 and 2005.

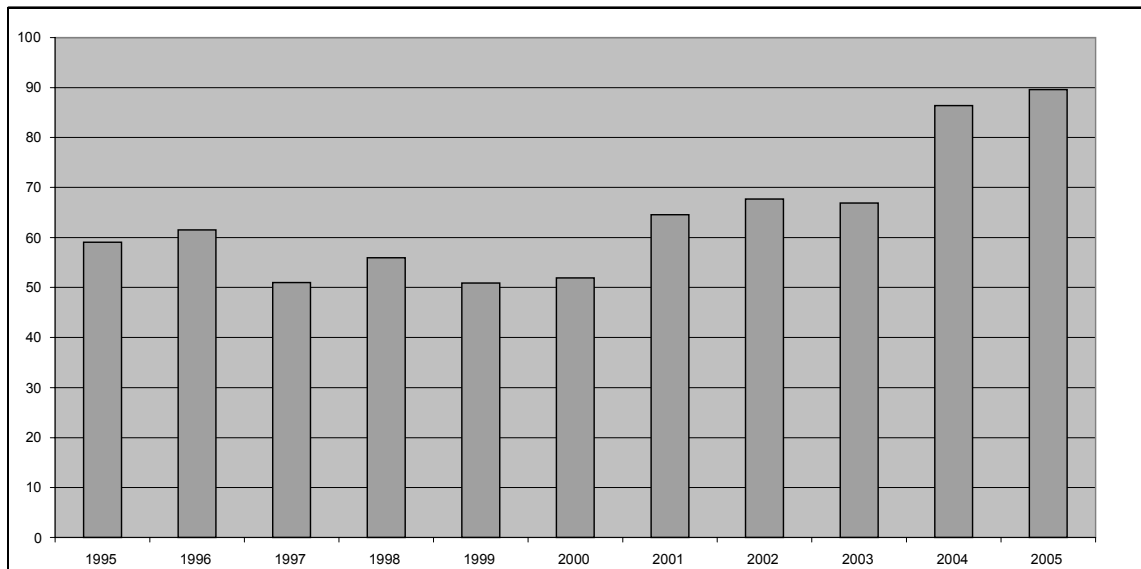
Figure 1. Relevance of social expenditure



72. Due to this effort, per capita resources allocated to education, health, housing, employment and social welfare increased between 1995 and 2005 up to 52 per cent in real terms (at 2000 prices), equivalent to an increase US\$ 30 per capita (from US\$ 60 to US\$ 89). This improvement occurred after the decline of 1999, when it dropped to US\$ 50 per person as a result of the severe crisis that the country encountered in those years (see figure 2).

¹⁶ Document prepared by Daniel Badillo M. for the Ecuador Office of UNICEF. May 2006.

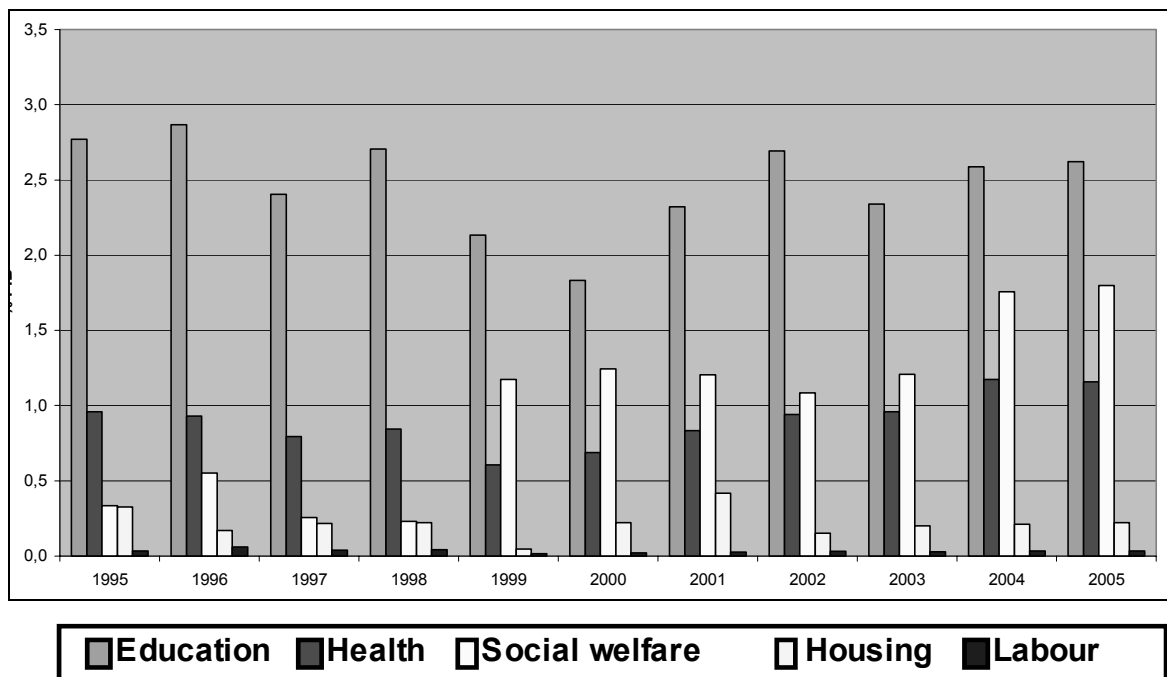
Figure 2. Per Capita Social Expenditure – Constant dollars (2000)



73. The level of social spending is a relevant consideration, but it is also important to know its composition and which areas have been driving growth in such spending, ascertaining their recent trend.

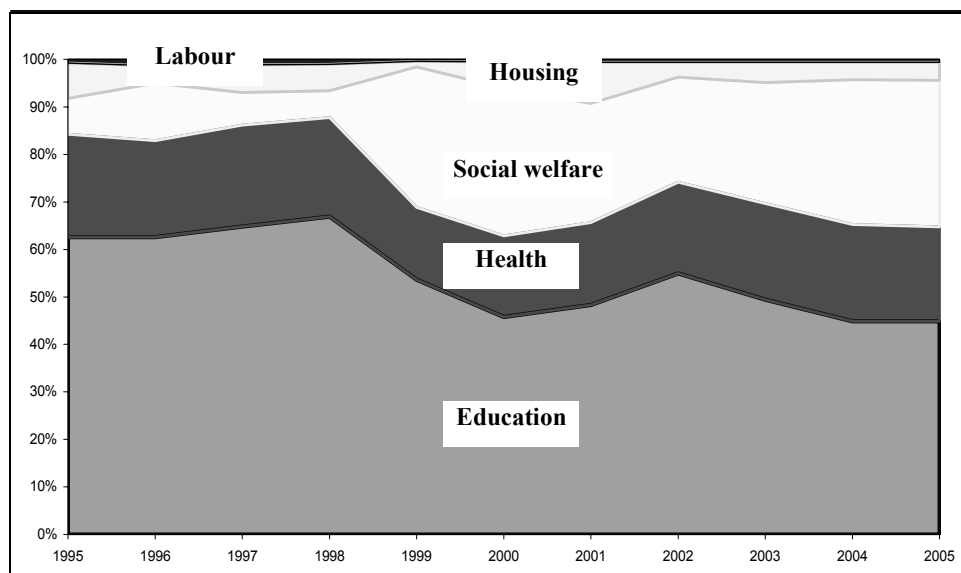
74. As shown in Figure 3, increased social public spending in the country over the past 11 years is attributable largely to the dynamics of expenditures earmarked for social welfare (rising from 0.3 per cent to 1.8 per cent of GDP) and, to a lesser extent, for health (rising from 0.9 per cent to 1.2 per cent of GDP).

Figure 3. Social Expenditure by Sector (% of GDP)



75. Figure 4 shows clearly what has been the direction and focus of social spending, and thus of social policy, in recent years. While in 1995 nearly 85 per cent of social expenditure was allocated to spending on human capital, i.e. education and health (nourished, educated and healthy people), in 2005 this percentage dropped to 65 per cent (losing 20 percentage points), in favour of spending on social welfare, which increased significantly (from eight per cent to 31 per cent).

Figure 4. Composition of Social Expenditure (Percentage at constant prices)



76. It is important to note that the most significant component of expenditure by the social welfare sector is monetary transfers made to the country's poorest people, through the Human Development Voucher (compensation policy), and Government transfers to the Ecuadorian Social Security Institute (IESS) to finance 40 per cent of the payment of pensions for their retirees, as well as transfers to the Social Security Institutes of the Armed Forces (ISSFA) and the National Police (ISPOL) –subsidies policy.

77. Since 2005 the State of Ecuador has carried out debt swaps with two countries, with resources devoted largely to the social area. 23 debt swap agreements were concluded with Spain for US\$ 50 million: US\$ 20 million for education and US\$ 30 million for small-scale hydroelectric plants; 29 agreements were concluded with Italy for US\$ 6.6 million.

78. Since 2007, the State has carried out a shift in social policy, prioritizing social spending, to pay the debt; this strategy has a direct impact on basic services available to children and adolescents. Thus, it has suspended payment of interests on the public debt originated by the servicing of AGD Bonds held by the Central Bank, devoting them specifically to investment in health and education. The National Government declared a national emergency in 2007 with respect to health, education and prisons, among other areas, in order to create legal channels for the provision of extraordinary revenues to finance emerging activities in those sectors.

79. It is known that there have been serious limitations in Ecuador's public policies governing the social areas to permit the central Government or cantonal governments to access sufficient, timely, durable and growing resources enabling them to comply with the rights laid down in the Childhood and Adolescence Code and the obligation to restructure the institutions in place in order to guarantee those rights. Accordingly, the use of emergency decrees has been an

innovation employed by the present Government to introduce flexibility and growth in allocation of resources for particular sectors, thus becoming an expeditious tool for the management of resources in the area of social policy.

80. According to data from the Faro Group¹⁷, in regard to the analysis of the budget outline for the year 2007, the National Government effected an increase in social spending such that the central Government budget reached US\$ 9,768 million; the budget allocated to the social area is US\$ 2,588 million; the health sector budget is US\$ 595 million; education is US\$ 1,290 million; and social welfare is US\$ 505 million –i.e. the latter three sectors receive US\$ 2,390 million, which is 92 per cent of this “social” budget and 26.5 per cent of the central Government budget. In other words this 92 per cent is broken down as follows: 50 per cent for Education, 23 per cent for Health, 19 per cent for Welfare. The remaining eight per cent is shared by Housing (7 per cent) and Labour (1 per cent).

Table 4. Social expenditure as percentage of GDP; trends of fiscal investment in the three main social sectors, in relation to GDP

<i>Sectors</i>	<i>Percentage of GDP</i>	
	<i>2006</i>	<i>2007</i>
Education	3.0%	2.9%
Health	1.39%	1.35%
Social Welfare	0.8%	1.2%

Source: Faro Group, State budgets, 2006 and 2007

81. Despite the increase in appropriations in absolute terms, there is a slight decrease, in tenths and hundredths, in the percentage of GDP for education and health, and an increase of four tenths in the social welfare sector.

Exercise and dissemination of the rights of children and adolescents

82. In order to sensitize society at large to the fact that children and adolescents are “subjects of rights”, the State of Ecuador, through the National Council for Childhood and Adolescence, has undertaken various activities such as the formation of an Academic Network, the Plan of Training in the rights of children and adolescents, and technical assistance to the organs of the Decentralized National System of Comprehensive Protection of Children and Adolescents.

83. *Academic Network.* Since 2006, the National Council for Childhood and Adolescence has been working on the establishment of an academic network with the aim of creating joint working partnerships with public and/or private academic institutions interested in ensuring comprehensive protection of the rights of children and adolescents. The central idea is to use the approach of the comprehensive protection doctrine in institutions of basic, intermediate and higher education (preparatory academies, universities, technical institutes, training centres) to implement new teaching methods, curricula, strategies, and programmes of appropriate and systematic training, so that new professionals who work for and with children and adolescents, teachers, parents and students in the country can apply and participate in knowledge, use, observance and implementation of the rights of children and adolescents.

84. *Training Plan.* The National Council for Childhood and Adolescence, in response to demand from various groups and institutions with which it works, and as a strategy more

¹⁷ FARO GROUP. Joint action for public welfare. Analytical memorandum on budget outline.

successfully to pursue its activities in training personnel within the Decentralized National System of Comprehensive Protection for Children and Adolescents, designed a Training Plan in 2007 that is easy to understand and to disseminate on a large scale, aimed at involvement in and application of knowledge, use and observance of the rights of children and adolescents.

85. The proposal aims at facilitating the process of implementing the Decentralized National System of Comprehensive Protection of Children and Adolescents, through a training programme which brings together in a practical and educational way strategies, goals, contents and resources developed on the basis of lessons learned by all those who are active in the Decentralized National System of Comprehensive Protection of Children and Adolescents on subjects such as: The Convention on the Rights of the Child, the doctrine of comprehensive protection, and the Childhood and Adolescence Code. Work is proceeding with public and private schools, organized groups of teachers and professionals, media organizations, women's organizations, international organizations and non-governmental organizations that work on issues pertaining to children and adolescents and wish to deepen their understanding of the Decentralized National System of Comprehensive Protection.

86. In this context, since 2006, workshops have been held to strengthen the administration of justice with judicial officials and prosecutors for juvenile offenders. Since 8 November 2005, an agreement has been in effect with the Central University of Ecuador to provide training on the doctrine of comprehensive protection for adolescent offenders to the national police bureau specialized in children and adolescents of the National Police.

87. In addition, the National Council for Childhood and Adolescence provides ongoing technical assistance in each of the 219 cantons with the goal of shaping and strengthening the operation of the system in the country; this assistance is in the first instance directed to raising awareness among all local actors. The work with these actors focuses on the Convention on the Rights of the Child and the Childhood and Adolescence Code, with a focus on the system. Local capacities are strengthened in the organs of the Decentralized National System for Comprehensive Protection of Children and Adolescents with a view to guaranteeing the rights of children and adolescents.

IV. DEFINITION OF THE CHILD (art. 1)

88. The Childhood and Adolescence Code, in article 4, provides as follows:

A child, of either sex, is a person who has not yet attained the age of 12. An adolescent, of either sex, is a person between the ages of 12 and 18.

89. In keeping with this definition in the Childhood and Adolescence Code, work regarding children and adolescents at the national level is pursued according to the following age groups:

- a) Children under 6;
- b) Children between ages 6 and 11;
- c) Adolescents between ages 12 and 17.

90. These age groups are listed in the National Ten Year Plan of Comprehensive Protection of Children and Adolescents. The State of Ecuador, through the National Council for Childhood

and Adolescence, is currently in the process of standardizing these criteria in public and private institutions with the aim of coordinating and harmonizing information at the national level.

91. Under the above definition, the population of children and adolescents in Ecuador is as follows:

Table 5. Population of children and adolescents in Ecuador

<i>Population: total and by age group</i>	<i>Urban</i>	<i>Rural</i>	<i>Total</i>	<i>% in relation to total population</i>	<i>% in relation to population aged 0 to 17</i>
Total population of country	8,940,108	4,54,880	13,483,988	100	--
Ages 0 to 17	3,203,330	1,915,163	5,118,493	37.96	100
Ages 0 to 5	931,035	546,514	1,77,549	10.96	28.87
Ages 6 to 11	1,111,820	706,476	1,818,296	13.48	35.52
Ages 12 to 17	1,160,75	662,173	1,822,648	13.52	35.61

Source: ENEMDU 2006. Preparation: INEC

Table 6. Indigenous children and adolescents

<i>Age group</i>	<i>% indigenous</i>	<i>Number indigenous</i>	<i>Total children and adolescents</i>
(age in years)	(c/C) * 100	c	C
Children and adolescents	8.04	392,938	4,881,365
0 to 5	8.53	138,033	1,617,515
6 to 11	8.13	135,615	1,667,014
12 to 17	7.47	119,290	1,596,836

Source: Census of Population and Housing – INEC. Year: 2001

Table 7. Afro-Ecuadorian children and adolescents

<i>Age group</i>	<i>% Afro-Ecuadorian</i>	<i>Number Afro-Ecuadorian</i>	<i>Total children and adolescents</i>
(age in years)	(c/C) * 100	c	C
Children and adolescents	4.9	235,823	4,795,631
0 to 5	4.8	76,453	1,599,720
6 to 11	4.9	80,678	1,639,528
12 to 17	5.1	78,692	1,556,383
18 to 29	5.5	143,189	2,600,952
Over 30	4.7	224,997	4,760,025

Source: Census of Population and Housing – INEC. Year: 2001

V. GENERAL PRINCIPLES (art. 2.3, 6 and 12)

A. Non-discrimination (art. 2)

92. The State of Ecuador lays down equality before the law in article 23 of the Constitution: all persons are considered equal and shall enjoy the same rights, freedoms and opportunities without discrimination on grounds of birth, age, gender, ethnicity, colour, social origin, language, religion, political affiliation, economic status, sexual orientation, state of health, disability or difference of any other kind. Moreover, the Childhood and Adolescence Code, in article 6, provides for equality and non-discrimination for children and adolescents as one of its fundamental principles.

93. One area where discrimination affects children and adolescents is the educational system, particularly as regards the presence of barriers to access to education linked to economic resources and the provision of quality education to children and adolescents with special abilities. Accordingly, the State has since 2003 pursued initiatives to improve this situation, including the following:

- a) Establishment of an inclusive educational system so that children and youth with disabilities are integrated into general education;
- b) Elimination of the voluntary contribution (US\$ 25), which families made to maintain public schools;
- c) Issuance of free textbooks to students in basic education;
- d) Elimination of expulsion, suspension, denial of registration or any type of discrimination against pregnant adolescents;
- e) Provision of mechanisms for refugee or asylum-seeking children and adolescents to have access to basic education and high school;
- f) Knowledge of the Childhood and Adolescence Code, emphasizing its principles.

94. Further, with the aim of ensuring that all children and adolescents have access to services offered by the State, there have been massive identity-card campaigns for children and adolescents with the support of State institutions, UNICEF and local governments.¹⁸

B. Best interests of the child (art. 3)

95. Ecuador has made the comprehensive protection of children and adolescents a State public policy, implying a change in the conception of State protection, as the starting point is no longer the existence of children need of protection, with unmet needs or in irregular situations, but the existence and recognition of citizens with rights who may require or demand the establishment of protective mechanisms, guarantees or assumption of responsibility. From a human rights perspective, the comprehensive protection policy means that obligations are created to respect, protect, ensure and promote the human rights of children and adolescents.

¹⁸ These actions are discussed below, in the section on civil rights and freedoms.

96. By virtue of comprehensive protection, the State establishes its responsibility and that of civil society, the family and the community in securing and promoting the harmonious development of children and adolescents, for which purpose all measures taken must, as a matter of priority, take into account the best interests of children and adolescents.

97. The best interests of children and adolescents is a principle that aims at the effective exercise of all rights of children and adolescents as a priority by imposing on all administrative and judicial authorities and public and private institutions the duty to ensure that their decisions and actions comply with it. It is also a principle that no one can invoke against an explicit rule and before hearing the opinion of a child or adolescent who is able to express one. In Ecuador, a diverse and multicultural country, this principle prevails over the principle of ethnic and cultural diversity.

98. This principle is closely linked to absolute priority, which means that children and adolescents have priority in the formulation and implementation of public policies and in the provision of resources, ensuring favourable access to public services and any kind of attention they need, especially children under six years of age. In case of conflict, the rights of children and adolescents outweigh the rights of others.

99. In this periodic report, the State of Ecuador gives an account of the various policies, programmes and projects described in which it applies the principle of the best interests of children and adolescents. This principle is the foundation for building the specialized justice system, in keeping with the Constitution and the Childhood and Adolescence Code, and for a range of programmes designed to establish mechanisms to ensure compliance with various responsibilities, including family responsibilities.

C. Respect for the views of the child (art. 12)

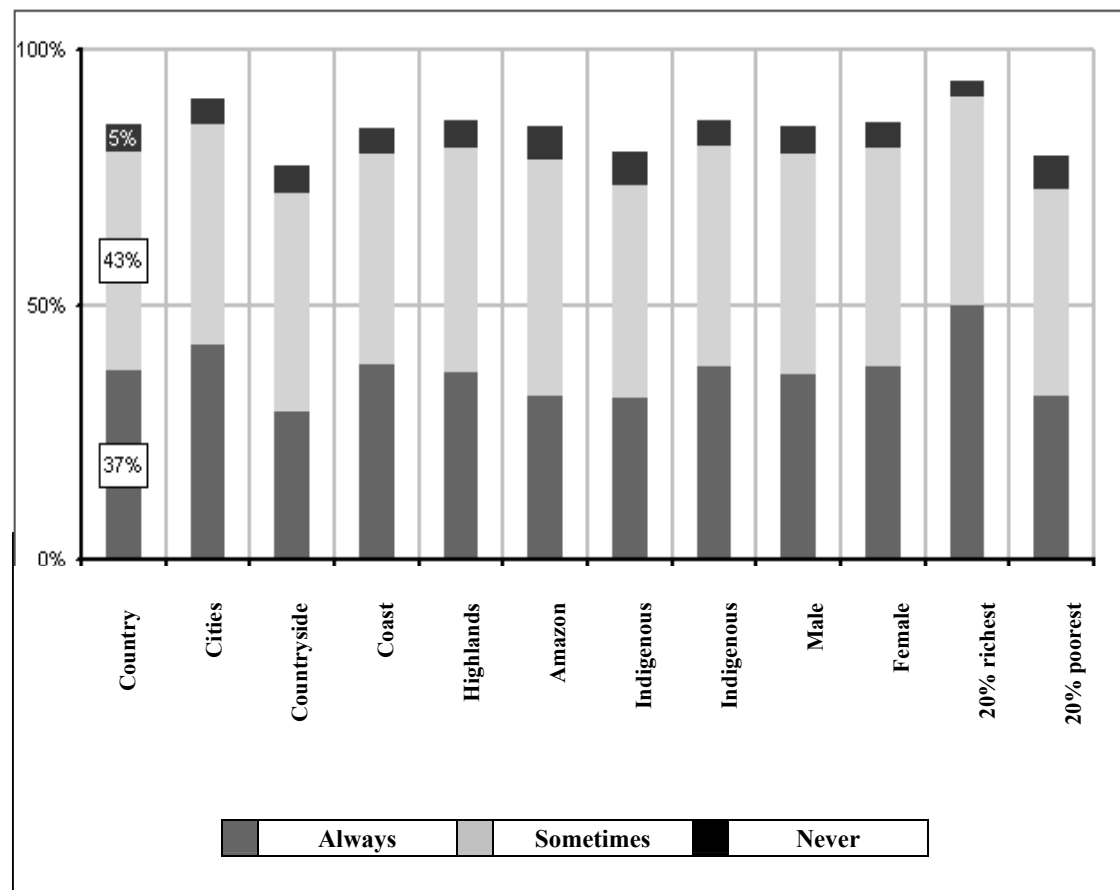
100. The Constitution guarantees children and adolescents the right "to social participation, to respect for their freedom and dignity and to be consulted on matters affecting them."¹⁹

101. The Childhood and Adolescence Code in article 60 recognizes that children and adolescents have the right to be consulted in all matters affecting them. Furthermore, article 198 provides that the National Council for Childhood and Adolescence is to promote the formation of advisory councils of children and adolescents as fora for participation that allow them to be consulted on actions undertaken to protect their rights.

102. According to the 2004 National Survey of Children and Adolescents, five per cent of children felt that their voice is never taken into account by teachers and 43 per cent felt that their opinions count only at certain times. However, four out of 10 children (37 per cent) felt that their teachers were always respectful of their views.

¹⁹ Article 49, Constitution, 1998.

Figure 5. Percentage of children aged 5 to 17 who attend school, by frequency of respect for their opinions

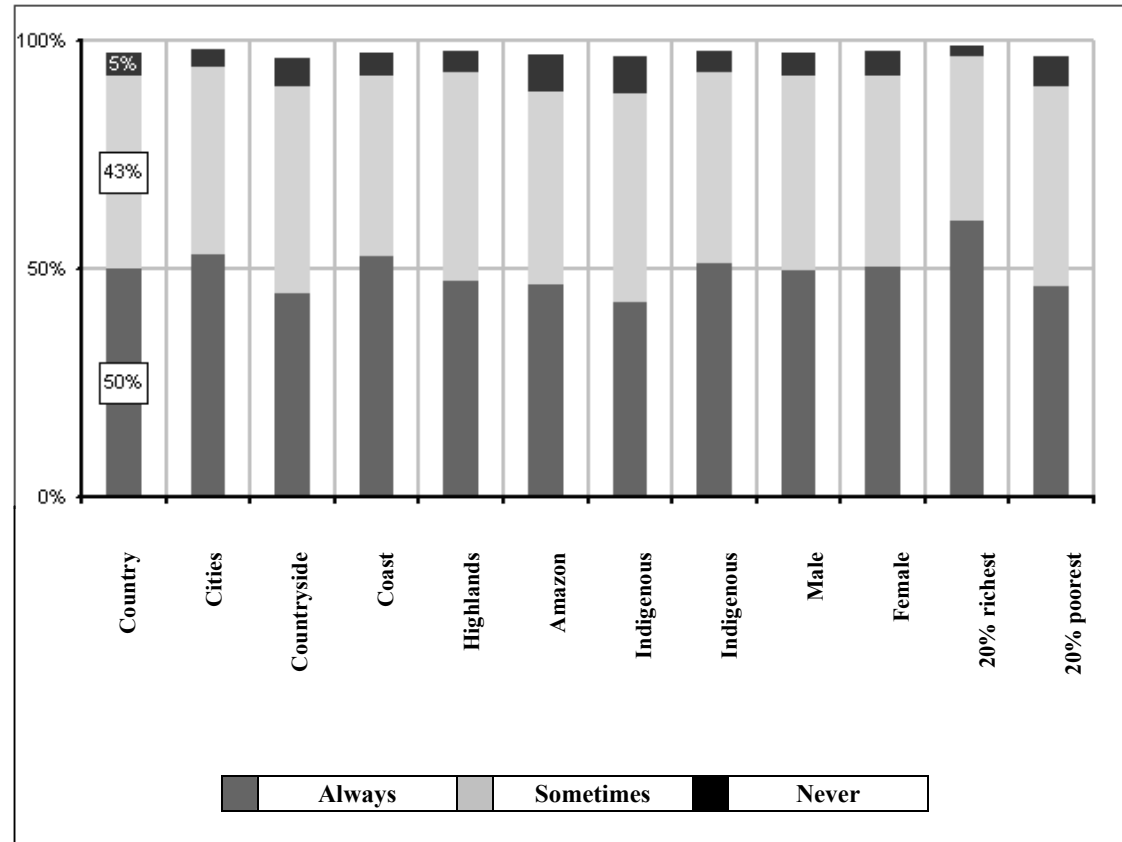


Source: INEC, SIEH, 2004 Preparation: OSE

103. However, there are three groups that have a more negative assessment of the attitudes of their teachers. In the countryside, 29 per cent of children feel that their voices always count in their schools, in contrast to 42 per cent in the cities. Among indigenous groups the proportion of children who feel they consistently enjoy respect from their teachers is lower than in the rest of the population 32 per cent and 36 per cent respectively.

104. Moreover, half of Ecuadorian children feel their parents take their views into account. In 2004, 50 per cent of children felt that their voice is taken into account at all times in their homes. Additionally, 43 per cent felt that their opinions count at times. Only five per cent of children said that their voice is not respected in any way in their homes.

Figure 6. Percentage of children aged 5 to 17, by frequency of respect for their opinions at home, 2004



Note: The question asked was: *Do your parents take your opinion into account always, sometimes or never?*

Source: INEC, SIEH, 2004. Preparation: OSE.

105. During the period 2003-2007 there have been two consultations with children and adolescents²⁰ to generate a sense of citizenship in children and adolescents and to strengthen democracy and belief by the younger generations in the importance elections for a democratic life.

106. Country consultations have involved children and adolescents from all sectors, rural, indigenous, mestizo, Afro-Ecuadorian and disabled. In October, 2004, Ecuador conducted a new democratic process to elect local authorities such as mayors, councilmen, prefects and counsellors. It was important to use this electoral event to promote a space to develop democratic educational experience among children and adolescents and to strike up a dialogue between children and adolescents and candidates to local public offices. An important input into this dialogue was to know what children and adolescents want and what they dream for their canton, their province and their country, and to ensure that future municipal authorities hear these demands and make concrete commitments about them. Thus, the Second National Consultation for Children and Adolescents was held, with 670,474 participants, representing 22 provinces and 70 cantons.

107. In 2006, the National Movement of Children and Adolescents launched a campaign under the byword "Look into my eyes and tell me if you can fight for a country that lives up to our

²⁰ Report of the Forum on Children and Adolescents, October 2007.

dreams"; an invitation to become involved went out to State organizations, civil society, community organizations, NGOs, international cooperation, trade union organizations, universities and media in order to pool efforts to introduce the Ethics-Policy Agenda for Children and Adolescents into the national electoral process, ensuring their role as political spokespersons and as valid and legitimate actors regarding their demands and their interest in safeguarding their rights. This campaign was designed as an ethical and responsible proposal to commit the country to ensuring the full exercise of their rights through responsible joint action by the citizenry.

108. More than one million children and adolescents participated in the campaign, representing 22 provinces and 190 cantons in the country, constituting over 80 per cent of cantons participating with representation by children and adolescents.

109. The results of this campaign made it possible to work in a coordinated fashion and to strengthen inter-institutional relations, to reach candidates and public opinion, and the highlight was allowing children and adolescents participate in the elections of adults with a process of reflection and voting about their ethical-political agenda.

110. Recent years have seen the robust emergence of a new conception of children and adolescents. These proposals have been driven by multiple stakeholders and in various social and political arenas.

VI. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7) and preservation of identity (art. 8)

1. Right to identification

111. In accordance with the Convention on the Rights of the Child, the State of Ecuador has established the right to identity in article 35 of the Childhood and Adolescence Code.

112. To fulfil this right, the State has had the Law on Civil Registration, Identification and Identity Cards since 1900, and institutions responsible to the Ministry of Interior and Police since 1959. However, since 2004, there has been a process of modernization, placed under the Office of the Vice Presidency since February 2007, to undertake the reform and modernization of the Directorate General of Civil Registration, Identification and Identity Cards in order to provide efficient and corruption-free service to Ecuadorians.

113. Previously, on 15 July 2005, Executive Order No. 331 created the National System of Civil Registration, Identification and Identity Cards as a unified system in order to guarantee the right to identity of Ecuadorian citizens and foreign citizens residing in the country for the exercise of their constitutional rights.

114. Based on the most important needs of the Civil Registry, the modernization programme of the National Civil Registry and Identification System provides for a component which aims to bring services to the user. Its first component involves making access to identity universal. This is carried out by several specific actions:

- a) Opening of new points of service;
- b) Implementation of mobile units in vulnerable sectors;

c) Signing of agreements and strategic partnerships with public and private sectors.

115. In this context, the State of Ecuador, under the Modernization Programme of the National Civil Registry and Identification System, signed a cooperation agreement with the National Council for Childhood and Adolescence (CNNA), the National Women's Council (CONAMU), the National Institute on Children and Families (INNFA), the National Directorate of Intercultural Bilingual Education (DINEIB), the Development Council for Nationalities and Peoples of Ecuador (CONDENPE), the United Nations Children's Fund (UNICEF) and the United Nations High Commissioner for Refugees (UNHCR), pooling efforts to set in motion the National Plan for Free Late ID Issuance, Registration and Enrolments, with a campaign called "Stand Together for the Right to Identity." The purpose is issuance of birth registration and identity cards for the first time, aimed at universal access to identity and ensuring this fundamental right for all Ecuadorians.

116. In order to meet this goal, mobile teams were organized for issuance of registration and identification cards in parts of Ecuador where the population had no access to these services, together with the mayors of the municipalities benefiting, which set up information offices for people in each locality to register or obtain identification cards.

117. These mobile teams sought to serve Ecuadorians who are not registered and, having no identity, have no access to basic services like health and education, among others. According to the National Information System on Children and Adolescents, SIISE-SINIÑEZ for 2000, 87.5 per cent of children were registered; of these, 65.2 per cent were registered late. For 2002, 31.9 per cent of children were registered late, i.e. over a year after birth. According to the Programme for Modernization of the Civil Registration System, out of 1.5 million Ecuadorians who are not registered, about 600,000 are children who cannot enjoy basic rights.

118. In the first stage service was provided to over 30,000 people in 15 cantons; in March 2006, the second stage was launched with 129 mobile teams. Between March and December 2006, 151,418 identity cards were issued and 8,194 births were recorded.

119. In 2007, with the signature in the office of the Vice President of a new inter-agency cooperation framework agreement between the Civil Registry, Ministry of Economic and Social Inclusion (MIES), National Institute on Children and Families (INNFA), UNICEF, Plan International and the National Council for Childhood and Adolescence (CNNA), another national campaign to issue identity cards will take place. In preparation for this, coordination workshops were held from 17 to 19 October of this year.

120. One of the main challenges and general basic conditions that is addressed in the campaign is to achieve a single record of children. The cantons of Pueblo Viejo, Ventanas, Catarama, Baba, Vinces, Palenque Montalvo and Babahoyo and the province of Los Rios; San Lorenzo, Borbón and Río Verde in the province of Esmeraldas; and Tarapoa in Sucumbíos province are organizing, in 2007, the actions necessary to fulfil the right to identity and identification, under the framework of the Social Agenda for Children and Adolescents, already incorporating the concept of achieving a single record.

121. This campaign has the support of the Civil Registry and the Vice Presidency, to reach the goal set in the National Programme of Registration and Issuance of Identity Cards: registration and issuance of identity cards free of charge for the first time to 250,000 children and adolescents and adults who have not yet registered and/or do not yet have a citizenship card.

2. Identity

122. In article 33 of the Childhood and Adolescence Code, the State of Ecuador lays down the right to identity for children and adolescents.

123. In this respect, the criminal law in Ecuador has defined penalties for certain types of behaviour associated with conduct prejudicial to the right to identity:

a) Imprisonment of eight days to three months for anyone who, having found a newborn child, does not surrender it within three days to the political or police authority of the locality where it was found;²¹

b) Medium-term imprisonment of three to six years for substitution of a child by another, feigned childbirth, or usurpation of the civil status of a person;²²

c) Medium-term imprisonment of three to six years for a person who has snatched a child or had a child snatched, provided the offence does not constitute kidnapping, even if the child willingly followed the perpetrator;²³

d) Imprisonment of one to five years and a fine for anyone who has maliciously concealed a child or had a child concealed, unless the act is more severely punished under the Criminal Code;²⁴

e) Imprisonment of one to three months and a fine for anyone who takes a child entrusted to him to a home for foundlings or other like establishment;²⁵

f) Imprisonment of eight days to one year and a fine for anyone who, being entrusted with a child, fails to so inform those who have a right to claim the child;²⁶

g) Special long-term imprisonment of 12 to 16 years and a fine of US\$ 15,000 to US\$ 20,000 for anyone who alters the identity of a child; or who substitutes a child for another; or who feigns pregnancy or childbirth; or who provides or submits false information or particulars about a birth; or who usurps the legitimate parenthood of a child; or who falsely reports the death of a newborn.²⁷

3. Cultural identity

124. Ecuador's Constitution provides in article 84 that the State recognizes and guarantees indigenous peoples, in accordance with this Constitution and the law, respect for public order and

²¹ Criminal Code, article 541.

²² Ibid, article 542.

²³ Ibid, article 543.

²⁴ Ibid, article 544.

²⁵ Ibid, article 545.

²⁶ Ibid, article 546.

²⁷ Article added by Law No. 2, published in *Official Gazette* 45 of 23 June 2005. Amendments to Criminal Code.

human rights, the right to maintain, develop and strengthen their identity and spiritual, cultural, linguistic, social, political and economic traditions.

125. For this purpose, the same constitutional provision provides in article 68 that the National Educational System will include educational programmes consonant with the country's diversity as a means to maintain the rich cultural and inter-cultural character of the country, especially among the younger generations.

126. The Childhood and Adolescence Code, in conformity with article 34 of the Constitution, provides for the right to cultural identity of children and adolescents.

127. In Ecuador there are 13 indigenous nationalities present in the three regions of the country. According to their traditional territorial centres, they are distributed as follows: Achuar, A'i Cofan, Huaorani, Quechua, Secoya, Shiwiar, Shuar, Siona and Zaparo in the Amazon; Awa, Chachi, Epera and Tsa'chila on the coast; and the Quechua nationality in the Andean region, which is home to many peoples. Each nationality keeps its language. In Ecuador there are 12 distinct languages and cultures.

128. The Sixth Population Census, conducted in 2001, added two questions related to native language and ethnic self-identification to identify ethnic groups in Ecuador. Although these two questions are a step forward in the recognition of ethnic diversity in statistical records, they are not yet sufficient to account for a complex social and cultural reality, and have not yet been considered for planning purposes.

129. According to data from that census recorded by the System of Social Indicators on Children and Adolescents (SINIÑEZ), 8.2 per cent of children and adolescents in Ecuador are indigenous (8.3 per cent male and 8.1 per cent female). Of children and adolescents in the country, 4.9 per cent are Afro-Ecuadorians (4.8 per cent are female and 5 per cent are male).

130. The National Secretariat of Planning and Development (SENPLADES) in the diagnostic survey conducted for the National Development Plan 2007-2010, establishes that, with regard to use of one's native language, in the 2001 Population Census 4.6 per cent of the population aged 15 years or above claimed to speak a native language. In the Indicator Measurement Survey of Children and Households, this percentage was 4.4 per cent. In the Standards of Living Surveys of 1999, this percentage was 5.8 per cent.

131. The Indicator Measurement Survey of Children and Households included an additional definition of ethnicity related to the language that parents spoke or had spoken. According to this, in 2000, 12.5 per cent of the population aged 15 years or more had indigenous ancestry. When comparing the figures in this census with those obtained in the year 1950 regarding the transmission of the mother tongue, one observes that this fundamental feature of indigenous culture is increasingly being lost.

132. The mission of the National Directorate of Intercultural Bilingual Education is, as a matter of public policy, to undertake the development of policies for intercultural bilingual education, organized with the participation of the social actors contemplated in the intercultural bilingual education model. It strives to give impetus to the building of an intercultural society, promotes projects to improve the conditions and quality of life of communities, and seeks to strengthen the cultural identity and organizational processes of peoples and nationalities. It has coverage with intercultural educational services for nationalities throughout the national territory. Currently, the

Intercultural Bilingual Education System consists of 2,166 establishments, with 104,889 students from different indigenous nationalities in basic education and a total of 5,613 teachers, including permanent and contract staff, at this level.²⁸

133. The National Development Plan 2007-2010 developed by the present Government of President Rafael Correa Delgado declares it a policy to strengthen the intercultural bilingual education system. This policy recognizes that the creation of a bilingual intercultural education subsystem was the result of a historical process of struggle by indigenous peoples in Ecuador and was undoubtedly a key factor in expanding democracy and multiculturalism in the country, so that it should be strengthened and enhanced in order to extend the capabilities of the peoples and nationalities of the country from a perspective of unity in diversity.

134. The above plan indicates that it is essential to promote a serious and sustained process to improve the quality of intercultural bilingual education in the country and to ensure an education that enhances the identities of peoples and nationalities and encourages use of native languages. Key to this is capacity-building and technical and vocational training of indigenous human resources; the incorporation of cultural elements specific to indigenous peoples and Afro-Ecuadorians in the educational curriculum; promotion and dissemination of ancestral knowledge; and generation of links and synergies between educational systems within the Ministry of Education, so that multiculturalism serves as a linchpin of the whole national educational system, not only of education for indigenous peoples and nationalities.

135. To implement this policy, Ecuador has framed two strategies:

a) Promoting linkages between intercultural bilingual education and indigenous organizations so that there is a process of social auditing and mutual support between communities and schools;

b) Generating a participatory process of evaluation and reform of bilingual intercultural education by local indigenous organizations in order to strengthen it within the framework of the autonomy of the subsystem.

B. Freedom of expression (art. 13)

136. In article 59 of the Childhood and Adolescence Code the State of Ecuador establishes the right to freedom of expression for children and adolescents.

137. The right to freedom of expression, which pertains to seeking, receiving and imparting information, is directly related to access to news media and appropriate new information technologies, especially for the new generations.

138. One of the main goals of the State is universal access to the new information and communication technologies (ICTs) and telecommunications in general, including new alternatives like the Internet, which is of great significance for children and adolescents, by the provision of public telecommunications services. In recent years it became necessary to develop plans aimed at ensuring that everyone in the country can make use of these services, particularly in rural and marginal urban areas, pursuing universal access solutions through community access.

²⁸ See annex IV.

139. The State of Ecuador recognizes that access to advanced telecommunications media, or the lack of it, by dint of its effect upon the degree of knowledge that a particular social group is able to attain, is creating a new form of social exclusion. The application of telecommunications media to the "education" of children and adolescents is linked to this reality.

140. Since early 2002, Ecuador has launched a series of structural reforms to ensure universal access to information technologies. It created the Fund for the Development of Telecommunications in Rural and Urban Marginal Areas (FODETEL), with the sole purpose of funding projects to provide basic telecommunications services, including new technologies like the Internet, to rural and marginal urban areas of Ecuador, recognizing the positive impact that such expansion of services may have on development, especially for children and adolescents living in these areas.

141. In 2000, the State of Ecuador adopted the Telecommunications Development Plan, which made it State policy to encourage dissemination and universal access to telecommunications services from the Internet as a national priority, since it is a means for economic, social and cultural development of the country, especially encouraging their use by children and adolescents as a tool for cultural and social development.

142. In 2002 the State of Ecuador established as a State policy the National Connectivity Agenda with five programmes: infrastructure for access, remote learning, e-medicine, online government and electronic commerce.

143. The remote learning programme devised a set of strategies and projects for the use of information and communication technologies to complement and modernize the teaching methods and forms of formal education, continuing education, capacity-building and training, contributing to the overall improvement of the quality of education through the large-scale use of these technologies. As part of this programme, projects were implemented aimed at capacity-building for teachers in Ministry of Education schools, focusing on the management of information and communication tools and on encouraging access by children and adolescents to the use of such tools.²⁹

144. In 2003 the Universal Service Plan was adopted. According to the Connectivity Agenda, this plan provides for better coordination of policies, strategies, programmes and projects aimed at providing telecommunications and information services to Ecuadorian society, including children and adolescents, using information and communication technologies to ensure the right to access to and fair and democratic use of ICTs to foster comprehensive human development.

145. This plan establishes the Telecentres Programme, which aims to provide access to telecommunications services and information and communication technologies to the vast majority of communities in rural and marginal urban areas that do not have these services by installing of Multipurpose Community Telecentres (TCPs), to promote sustainable integrated development of the inhabitants of the localities in the different domains: social, cultural, productive, commercial, tourism, security. The development of this programme is carried out jointly by the Fund for the Development of Telecommunications in Rural and Marginal Urban Areas and the various organizations and NGOs working on these projects.

²⁹ See annex on projects.

146. The Multipurpose Community Telecentre is conceived as a shared information and communication services facility and seen as a means to improve access to ICT services in rural and border areas, as well as in marginal urban areas. The centres are also referred to as community tele-service centres, community information centres, electronic cottages or, as they were initially called, "telekiosks." They afford access to information and communications technology and provide telecommunications facilities, user support and training for most of the population of rural communities, who cannot afford to buy such equipment independently and do not have the training needed to handle these tools.

147. It provides public telephone services, fax and voice mail. A well-equipped Centre will provide access to data networks, Internet, e-mail, file transfer, access to libraries and electronic databases, computer systems of administrations and the community, price and product information, and environmental monitoring, among other things, as well as facilities and equipment for remote learning and e-medicine.

148. The implementation of telecentres involves not only the provision of infrastructure. In parallel, complementary schemes will also need to be developed for consultation and participation, community ownership, capacity-building and training.

149. As part of this plan, according to the National Telecommunications Council, projects are being carried out for the installation of these centres to benefit children and adolescents living in rural and marginal urban areas.³⁰

150. In 2005, Ecuador created the "Internet for All" Plan, which aims to promote, facilitate and enable Internet access by the most vulnerable sectors of society, which, due to their economic, social, cultural or ethnic conditions or their geographical location, have little opportunity to access the Internet.

151. Information and Internet access centres or "Internet Cafes" that desire to join the "Internet for All" Plan can express their willingness to do so at the time of registering with the National Telecommunications Secretariat, or at any time after their registration is completed.

152. As a social measure, in order to be part of the plan, they must allow the use of 40 per cent of their terminals for free navigation and e-mail to members of unions, associations, foundations and institutions that are designated by the National Telecommunications Council as beneficiaries of the Plan.

153. This plan for free navigation and e-mail will be implemented four hours a day, according to the schedule set in the Registry, which must be duly publicized.

154. In particular cases the Secretariat may authorize Information and Network Access Centres to connect to Internet Service Providers through their own connections, provided it is shown that there are no duly authorized companies with means of access or that the quality provided by end-user or carrier services in the locality in question does not ensure quality service.

155. Information and Network Access Centres participating in the "Internet for All" Plan are exempt from payment of the fees established in article 10 of the relevant resolution.

³⁰ See annex V.

156. Notwithstanding that in the future the National Telecommunications Council may include other unions, associations, foundations or institutions, students in primary, secondary and tertiary educational institutions, and teachers in educational institutions, are considered beneficiaries of the "Internet for All" Plan.

157. The State of Ecuador has exerted major efforts to improve access by the population to information technology, especially for children and adolescents, through the policies, programmes and projects described. However, utilization rates and access to information and communication tools remain low, although according to the information compiled by the National Telecommunications Secretariat, there were an estimated 839,174 users in Ecuador in 2007.

158. Just over half (52 per cent) of children aged 5 to 17 attending educational institutions have access to a computer in their schools or preparatory academies. Availability of computers in cities is almost double that in the countryside (62 per cent and 33 per cent respectively). Computers are also more commonly found in preparatory academies and schools in the highland region than in the coastal region (64 per cent and 43 per cent respectively).

159. Eighty-three per cent of children belonging to the richest quintile of the population have access to computers in their schools and preparatory academies, compared with only 30 per cent of children in the poorest fifth of households. Furthermore, Internet availability is eight times higher in educational establishments of children of the richest strata than in those of the poorest.

160. Access to computers and the Internet in schools and preparatory academies is very uneven across the provinces. The provinces with a higher percentage of schools that have access to computers are Pichincha (81 per cent), Pastaza (75 per cent), Tungurahua (67 per cent) and Carchi (66 per cent). Those with the least access are Esmeraldas (29 per cent) and Orellana (22 per cent). Moreover, provinces with a higher proportion of educational establishments having Internet access are Pichincha (31 per cent), Tungurahua (23 per cent), Azuay (22 per cent) and Guayas (20 per cent). Those with less access are in the Amazon region: Sucumbios (5 per cent), Morona Santiago (5 per cent), Napo (4 per cent) and Orellana (2 per cent).

161. Quito and Cuenca are the cities with better access to this technology. In Quito, 87 per cent of children have computers and 37 per cent have the Internet in their schools. In Cuenca, 73 per cent of children have computer access and 39 per cent have access to the Internet in their schools. In contrast, 52 per cent of children in Guayaquil have access to computers and 25 per cent to the Internet.³¹

162. According to data collected by the National Plan for Telecommunications Development 2007-2012 regarding the distribution of computers, it appears that their greatest use is in the corporate sector (business and industry) accounting for 57.4 per cent; this is followed by the household sector with 34.1 per cent; the government sector with 5 per cent; and finally the education sector with 3.5 per cent.

163. The State of Ecuador, in conducting the assessment of the Universal Service Plan and other initiatives, has found it necessary to develop a new National Telecommunications Development Plan for 2007-2012. The average rate of innovation in information technology and communication in Latin America is 4.33 per cent and that of Ecuador is 2.58 per cent. These

³¹ See annex VI.

figures mean that telecommunications companies in the country must rise to the demands of the technological changes that are occurring rapidly in the global context.

164. The central and fundamental objective of the Plan is to rally Ecuadorians and raise awareness throughout Ecuadorian society about the imperative need to be an active player in the new information and knowledge society, with the byword "All Ecuadorians in the Information and Knowledge Society" and by the means "Internet for all with nationwide coverage," which will be achieved with the establishment of suitable mechanisms for reaching the goals and objectives through the implementation of technological platforms with high connectivity and effective means to convey information, providing information superhighways accessible to all Ecuadorians, especially children and adolescents.

165. The policies to be developed for this plan are:

a) Promote use of telecommunications and information technologies, giving priority to developing sectors of education;

b) Health and Safety, with a view to increasing participation in the information and knowledge society;

c) Contribute to ensuring that information and contents generated and disseminated by information and communications technologies serve to strengthen, develop and protect the identity and cultural heritage of Ecuadorians.

166. Currently there are no real data about the impact of measures taken by the State for actual access by children and adolescents to information technologies or about alternative means of disseminating information to children and adolescents.

167. The State of Ecuador has an Integrated System of Social Indicators (SIISE) and a subsystem for children and adolescents, which is one of the most important efforts to provide the country, from a rights perspective, with a set of indicators specific to the population under 18 years of age that makes it possible to gauge the situation of children and adolescents in Ecuador.

168. Ecuador's fundamental objective is to have a system of indicators to provide the Ecuadorian social sector, particularly the new National System for Comprehensive Protection of Children and Adolescents, with an information tool to facilitate definition of policies, regular assessments of the life circumstances of children and evaluation of the impact of policies on those situations.

169. Thus, the State ensures that each and every male and female citizen of the country has free and permanent access to updated and timely information for analysis of problems affecting children and adolescents in the country, allowing the monitoring, at suitable intervals, of social development and evolution of living standards and their manifestations among children; providing quantitative information for analysis of social situations; forming a basis for the definition of target groups of policies for children and adolescents and a system of assessment and monitoring of these policies; and providing a set of internationally comparable indicators making it possible to assess the country's situation in the regional context.

C. Freedom of thought, conscience and religion (art. 14)

170. Article 61 of the Childhood and Adolescence Code prescribes freedom of thought, conscience and religion for children and adolescents.

171. In Ecuador, 6 per cent of children and adolescents belong to a religious group. The State of Ecuador is respectful of freedom of conscience and education in Ecuador, pursuant to the Constitution, is secular.

Table 8. Membership in religious groups

		<i>Belongs to religious group</i>	
		<i>Yes</i>	<i>No</i>
Nationwide		6.00%	94.00%
Sex	Male	5.50%	94.50%
	Female	6.60%	93.40%
Age group	Ages 0 to 5	3.90%	96.10%
	Ages 6 to 11	5.90%	94.10%
	Ages 12 to 17	6.50%	93.50%
Ethnicity	Indigenous	7.30%	92.70%
	Non-indigenous	5.90%	94.10%
Income quintile	Richest 20%	8.50%	91.50%
	Poorest 20%	4.60%	95.40%
Place of residence	Urban	6.70%	93.30%
	Rural	5.00%	95.00%

Participation in an organization, breakdown: nationwide, sex, age group, ethnicity, income quintile, place of residence, provinces

Source: Employment and unemployment survey (ENEMDU) – INEC. Year: March 2004. Measurement: percentage.

Preparation: SIISE

D. Freedom of association and peaceful assembly (art. 15)

172. The State of Ecuador sets forth in articles 62 and 63 of the Childhood and Adolescence Code the rights to freedom of assembly and free association.

173. In the exercise of this right, children and adolescents in Ecuador generally associate with friends in groups called *jorgas*. There are also other groups that are intended to provide social assistance and those that relate to musical activities.

Table 9. Children and adolescents belonging to groups

		<i>Belongs to social help group</i>		<i>Belongs to music group</i>		<i>Belongs to political group</i>		<i>Belongs to jorga</i>	
		<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
Nationwide		1.40%	98.60%	2.30%	97.70%	0.80%	99.20%	13.40%	86.60%
Sex	Male	1.10%	98.90%	2.30%	97.70%	0.70%	99.30%	14.30%	85.70%
	Female	1.70%	98.30%	2.30%	97.70%	1.00%	99.00%	12.50%	87.50%
Age group	Ages 0 to 5			1.20%	98.80%	0.60%	99.40%	7.60%	92.40%
	Ages 6 to 11			2.40%	97.60%	0.70%	99.30%	12.30%	87.70%
	Ages 12 to 17			2.40%	97.60%	1.00%	99.00%	15.60%	84.40%
Ethnicity	Indigenous	1.50%	98.50%	2.20%	97.80%	0.90%	99.10%	19.00%	81.00%
	Non-indigenous	1.40%	98.60%	2.30%	97.70%	0.80%	99.20%	12.50%	87.50%
Income quintile	Richest 20%	3.60%	96.40%	5.60%	94.40%	1.90%	98.10%	17.80%	82.20%
	Poorest 20%	0.70%	99.30%	1.20%	98.80%	0.70%	99.30%	12.30%	87.70%
Place of residence	Urban	1.90%	98.10%	3.00%	97.00%	1.00%	99.00%	12.00%	88.00%
	Rural	0.70%	99.30%	1.10%	98.90%	0.60%	99.40%	15.80%	84.20%

Participation in organizations

Breakdown: nationwide, sex, age groups, ethnicity, income quintile, place of residence, province.

Source: Employment and unemployment surveys (ENEMDU) – INEC. Year: March 2004. Measurement: percentage. Preparation: SIISE

174. Sports, participation in school committees, and groups of friends are the most common forms of association among children and adolescents.

Table 10. Children and adolescents belonging to an association, group or organization

				<i>Belongs to sports club</i>		<i>Belongs to environmental club</i>		<i>Belongs to student government</i>	
		<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
Nationwide		1.20%	98.80%	12.40%	87.60%	0.60%	99.40%	6.80%	93.20%
Sex	Male	1.00%	99.00%	14.90%	85.10%	0.60%	99.40%	6.20%	93.80%
	Female	1.50%	98.50%	9.70%	90.30%	0.50%	99.50%	7.40%	92.60%
Age group	Ages 0 to 5	0.90%	99.10%	4.90%	95.10%				
	Ages 6 to 11	1.20%	98.80%	10.70%	89.30%			5.60%	94.40%
	Ages 12 to 17	1.20%	98.80%	15.30%	84.70%			9.30%	90.70%

				<i>Belongs to sports club</i>		<i>Belongs to environmental club</i>		<i>Belongs to student government</i>	
		<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
Ethnicity	Indigenous	1.30%	98.70%	12.80%	87.20%	0.50%	99.50%	7.70%	92.30%
	Non-indigenous	1.20%	98.80%	12.30%	87.70%	0.60%	99.40%	6.70%	93.30%
Income quintile	Richest 20%	3.30%	96.70%	24.40%	75.60%	1.40%	98.60%	11.20%	88.80%
	Poorest 20%	0.60%	99.40%	7.50%	92.50%	0.20%	99.80%	4.50%	95.50%
Place of residence	Urban	1.60%	98.40%	14.10%	85.90%	0.70%	99.30%	7.20%	92.80%
	Rural	0.60%	99.40%	9.60%	90.40%	0.30%	99.70%	6.00%	94.00%

Participation in organizations

Breakdown: nationwide, sex, age groups, ethnicity, income quintile, place of residence, province.

Source: Employment and unemployment surveys (ENEMDU) – INEC. Year: March 2004. Measurement: percentage. *Preparation:* SIISE

E. Protection of privacy (art. 16)

175. The State of Ecuador ensures the privacy of children and adolescents, especially when they have been victims of some form of violence. Article 69 of the Code of Criminal Procedure establishes the rights of victims, among which is the right to protect themselves and their privacy, and to require that the police, the prosecutor, the judge and the court adopt the means necessary to do so, without detriment to the rights of the accused.

176. The State of Ecuador prohibits the use and/or dissemination of images of children and adolescents who are victims of sexual crimes. Article 52 of the Childhood and Adolescence Code, concerning protection of the dignity and image of children and adolescents, prohibits:

a) The publication or display of news, features, stories, life stories or any other image or journalistic creation with proper names of children or adolescents who have been victims of mistreatment or abuse;

b) The publication or display of images and recordings or written references which allow identification or singling out of a child or adolescent who has been the victim of abuse, sexual abuse or a criminal offence, and any reference to the setting in which they take place;

c) The publication of the name and image of minors charged with or convicted of offences or misdemeanours.

177. Even where permitted by law, the image of an adolescent over age 15 cannot be used publicly without his express permission, nor that of a child or adolescent under that age without the consent of the adolescent's legal representative, who will grant it only if it does not adversely affect the adolescent's interests. Currently there are no specific data about the extent of activity by the State to safeguard this right.

F. Access to appropriate information (art. 17)

178. The Childhood and Adolescence Code establishes in articles 45 to 47 the right to information, i.e. the right both to access and to disseminate information, by children and adolescents, with specific limitations that are geared to ensuring their wholesome comprehensive development physically, psychologically and sexually.

179. The State of Ecuador through the National Radio and Television Council regulates and monitors the artistic, moral and cultural quality of events or programmes of broadcasting stations nationwide. The decisions taken in this regard are reported to the broadcaster for a rectification. The Council generally applies the rules contained in the Codes of Ethics of the Ecuadorian Radio and Television Association (AER) and the Association of Television Channels of Ecuador (ACTVE), as the case may be.

180. According to the Law on Radio and Television Broadcasting, stations must contribute to the promotion and development of the cultural values of the Ecuadorian nation and pursue the formation of a civic consciousness oriented to the attainment of national goals. National music and artistic values will be especially fostered.

181. The State, through government entities or through decentralized entities of public or private law having a social or public interest, will require one or more stations to broadcast at their expense any programme of social or public interest, subject to the relevant regulations. Programmes broadcast until 9 p.m. by radio and television stations shall be suitable for all audiences. After that time, broadcasts shall be subject to the applicable legal or regulatory standards.

182. According to the General Regulations of the Law on Radio and Television Broadcasting, stations that have the character of social media may freely determine their hours of operation and develop and implement their programming, without any limitations other than those established in the Law on Radio and Television Broadcasting, in said Regulations, and in the Codes of Ethics of ACTVE and AER. These documents are an integral part of these Regulations, and apply in all relevant respects.

183. The programming of radio and television stations in Ecuador is subject to the following standards:

- a) Emphasize, from an objective perspective, knowledge and dissemination of national and international reality, scientific and technical information, promotion of national culture and human rights, education and moral edification of children and youth, and the general population;
- b) Defend, promote and extol the positive aspects of traditions, social practices, customs, religious beliefs and other values of the national culture;
- c) Programming, including previews of programmes and advertising, will be suitable for all audiences, from 6 a.m. until 9 p.m. Accordingly, during those hours, scenes and images of violence, cruelty, or explicit sexual acts or promiscuity shall be avoided;
- d) Licensees of stations, in broadcasting their programmes, will bear in mind that programmes should not trivialize crime, undermine morality and decency, or erode the national character, ways of life, or religious aspects, in order not to undermine national values and to discourage values alien to ours or negative experiences of countries other than our own;

e) Licensees, in broadcasting commercials for cigarettes and alcoholic beverages on their stations, should verify that:

- i) Advertising is not directly or indirectly addressed to minors;
- ii) Images and voices of children or of adolescents posing as such shall not be used. Commercial advertising of these products on television stations shall be permitted only from 9 p.m. until 6 a.m. the following day, with the exception of commercials on live broadcasts or broadcasts via satellite of foreign events or programmes whose schedule is different from that of Ecuador.

184. Ecuador has 1,184 short-wave, AM and FM radio stations and relay stations; 331 broadcast TV stations (VHF and UHF); 195 cable television stations; and 26 daily newspapers with nationwide, regional and/or provincial coverage that are members of the Ecuadorian Association of Newspaper Publishers (AEDEP). However, there are a variety of local newspapers in different localities of the country that do not belong to this association and there is no accurate record of their number because no government agency monitors and records the work of Ecuadorian newspapers. According to the National Radio and Television Council (CONARTEL), most existing stations, especially television stations, are commercial.

185. According to Bulletin 16, "Safe City," of the Programme of Urban Studies of the Latin American Faculty of Social Sciences (FLACSO), the television media enjoyed high credibility among Ecuadorians in 2006. Thus, 87.2 per cent of households in Ecuador have television, while 72.8 per cent have a radio.

186. Despite this, the news programmes such as the newscasts that are broadcast before 9 p.m. contain significant quantities of news with footage from the so-called police blotter, running counter to the rules of the Television Code of Ethics of Ecuador, 2006, which has an Executive Council consisting of the television channels.

187. The National Radio and Television Council alone is empowered to issue reminders for breach of the aforementioned rules, while the Superintendence of Telecommunications may impose sanctions only for technical and/or administrative failures.

188. Despite this limitation, recently the National Radio and Television Council has set up a monitoring centre called the "Communications, Planning and Control Unit" with the aim of collecting information and analysing the contents of the programming.

189. The Communication Agency of Children and Adolescents (ACNNA) has just published, in the second half of this year, 2007, the First Comparative Report for 2005 and 2006, applied to 12 media outlets of both national and provincial coverage, entitled "Children and Adolescents in the Print Media of Ecuador".³² This agency is a member of the ANDI Latin America Network, which promotes the building of a culture of rights in the media.

190. For the accomplishment of this goal, Ecuador monitored the print media for two years, around the theme of children and adolescents. This report, under the byword "Together with the media for children and adolescents" presents qualitative and quantitative information regarding

³² *Children and Adolescents in the Print Media of Ecuador, Report on Comparative Monitoring of Print Media 2005-2006*, published by ACNNA, May 2007, Quito, Ecuador.

the handling of news in the print media in reference to this group; these results have been organized to encourage reflection, motivation and redefinition of the subject among journalists in Ecuador.

191. The document referred to includes the following selected paragraphs, which reflect the results of the study:

The report gives an account of the monitoring of press articles published in 10 newspapers: El Comercio, El Universo, Hoy, Expreso, La Hora Quito, La Hora Carchis Imbabura, La Hora Esmeraldas, La Hora Santo Domingo, La Hora Tungurahua and La Hora Los Rios. It also includes monitoring of notes published in the magazines Gestión and Vistazo. It is organized into five sections: Introduction, Overview, Issues, Print Media and Final Thoughts.

Examining the findings, the first question that arises is: "What has been the role of print media? Market demands, the immediacy of the journalist's task, and the lack of sources and information have led to presenting the child or adolescent as a product for the ratings, as a victim or perpetrator, and not as a subject of rights. As regards the social responsibility of the media, in practice they have contributed little to changing the role of the citizenry regarding the promotion, monitoring and enforcement of rights of children and adolescents."³³

192. The information processed in the ACNNA survey indicates a very low interest in generating news related to children and adolescents in the daily press. In the daily El Comercio, in 2005, children and adolescents took up 2.56 per cent of news items and in 2006, 2.6 per cent. In the daily El Universo, coverage of these subjects dropped from 4.26 per cent in 2005 to 3.53 per cent in 2006.³⁴ The report continues:

In both cases, the best interests and the absolute priority of childhood adolescence are misunderstood and ignored in their cognitive, ethical and political dimensions. This situation takes on significance because these are the media of national circulation, with significant impact on local and national public opinion. Other national media showed similar percentages. Among local papers, the one which recorded the highest percentage is La Hora Esmeraldas, which in 2006 reported 7.38 per cent of total news items on children and adolescents."

The scant space allotted to facts and issues about children and adolescents is indicative of a culture unaccustomed to the discourse of human rights and reveals conservative attitudes and ideas inconsistent with the rights approach; but, at the same time, it shows little interest by stakeholders in developing mechanisms of coordination with the media aimed at incorporating this approach.

193. It may be concluded that there is still a shortage of sufficient and appropriate mechanisms for monitoring and following how the media create their image of children and adolescents in the country.

³³ Ibid.

³⁴ Ibid.

VII. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

194. In accordance with the Constitution, the State of Ecuador, in the Childhood and Adolescence Code, provides that the family is the basic unit of society and the natural and necessary setting for the development of children and adolescents, and that, as such, it should be supported and protected by the State, since family relationships are deeply personal, inalienable, non-transferable and non-transmissible.

195. The State recognizes the biological family composed of father, mother, and ascendant or descendant relatives to the fourth degree of consanguinity; adopted children are treated as biological. All children are equal before the law, family and society, and any indication regarding the mode of descent is prohibited.

196. The State protects mothers, fathers and heads of household in the exercise of their duties. It promotes shared paternal and maternal responsibility and monitors the implementation of reciprocal rights and duties between parents and children. The children have equal rights without regard to mode of descent or adoption.

197. Upon the recording of a birth, no statement regarding the nature of parenthood shall be required, and identity documents shall not refer to it.³⁵

198. In Ecuador, fathers and mothers have equal responsibilities towards their common children. Sons and daughters and parents have mutual rights and duties.

199. The Childhood and Adolescence Code establishes in article 102 the specific duties of parents. They have a general duty to respect, protect and develop the rights and freedoms of their children; they are therefore obligated to make appropriate provision to meet their material, psychological, emotional, spiritual and intellectual needs, in the manner set forth in the Code. Therefore, parents must provide their children with what is necessary to meet their material and psychological needs in a family atmosphere of stability, harmony and respect.

200. The State's Human Development Voucher (BDH) programme, under the Social Protection Programme of the Ministry of Economic and Social Inclusion, introduces a system for monitoring school attendance and health check-ups to ensure compliance with the responsibility of beneficiary households. In this regard, it is proposed to establish a system of incentives for compliance with the joint responsibilities of households, coupled with the creation of social oversight mechanisms. An important initiative in this area are the Networks of Social Protection and Services for women in poverty and extreme poverty of the National Women's Council (CONAMU), Ministry of Economic and Social Inclusion (MIES), which are addressed to the beneficiaries of the Voucher.

201. Another element of the BDH reform is the linking of beneficiaries with job training and micro-credit. Along these lines, action is contemplated to encourage cooperatives to consider BDH beneficiaries as subjects of savings and voluntary productive credit from February 2007. For the second phase, from 2008, the system of productive credit will be expanded and systematized through cooperatives, with the security of monetary transfers. A third phase

³⁵ Constitution, article 40.

envisages the implementation of a voluntary savings scheme through automatic discounts on payment of the BDH and opening savings accounts, and the inclusion of cooperatives that are not serving as payment agents as savings and loan agents. From February 2007, the amount of the transfer of the Development Voucher increased from US\$15 to \$30.

202. At the national level the coverage of BDH is 48 per cent. The provinces with coverage larger than the national average are: Loja, Manabí, Chimborazo, Bolívar, Tungurahua, Cotopaxi, Imbabura, Guayas and the Amazon. The provinces with the lowest coverage of the programme are: Guayas, El Oro, Azuay, Esmeraldas, Cañar, Carchi and Los Ríos.³⁶

203. On the other hand, attention and daily care to children and adolescents other than in the community modality is pursued in Ecuador through child development centres that promote public and private services for comprehensive protection in the areas of health, initial education, nutrition and daily care.

204. The National Directorate for Comprehensive Care of Children and Adolescents of the Ministry of Economic and Social Inclusion is the governing authority of the child development centres. It is responsible for authorizing the operation of private institutions and monitoring compliance with quality standards laid down in relevant regulations. The country has 1,200 private centres with a population of approximately 35,000 children.

205. The National Directorate for Comprehensive Care of Children and Adolescents maintains a scholarship programme in private child development centres by which the State grants scholarships to 10 per cent of children among the approved quota of such centres, thus providing support to parents who need this service.

206. The State directly funds and manages 27 centres in various cities around the country aimed at children whose parents have financial difficulties and must engage in productive activities but do not have relatives or other ways to ensure that their children are safely cared for. Further, the State funds 15 centres for child development through economic cooperation agreements with non-governmental organizations and local authorities. The population served is 3,500 children.

207. The State of Ecuador through the Ministry of Economic and Social Inclusion is developing the programme called the "Child Development Fund" ("Fondo de Desarrollo Infantil" - FODI), which funds child development programmes and projects to assist children from zero to five years of age who are in poverty quintiles 1 and 2. These projects can be pursued by non-profit civil society organizations (e.g. foundations, associations, clubs, confederations, corporations, federations, etc.); public entities (e.g. provincial councils, municipalities, trusts, parochial boards, etc.); non-governmental organizations across the country, etc., that are interested in pursuing comprehensive development projects. The funds used are from the general State budget. The mechanism of procurement and delivery of resources is through a process called competitive resource allocation and is focused, competitive and transparent.

208. In September 2006, the FODI reports a total of 191,565 child beneficiaries, in the areas of early education, family training, training in nutrition, among others, by implementing projects in these areas.

³⁶ See annex VI.

209. The State of Ecuador through the Ministry of Economic and Social Inclusion is developing the programme “Operation Child Rescue” (ORI) serving children from zero to five years of age for eight hours daily in a process that includes health, nutrition and early education actions. Outputs provided under this programme are:

- a) Setting up of Child Development Community Centres (CCDIs) for children aged 0 to 5 living in rural and marginal urban areas of the country.
- b) Training of community mothers in four components: health, nutrition, early education and administration of centres.
- c) Advice for the outfitting of the centres.
- d) Provisions of furnishings, utensils, etc. to centres.
- e) Financing and food for community children and mothers.
- f) Coordination of community institutional activities with other State and private entities.

Table 11. National Coverage of Social Programmes

<i>Province</i>	<i>Child development fund</i>	<i>Operation child rescue</i>
National coverage	7%	5%
Bolívar	5%	7%
Cañar	17%	5%
Carchi	17%	8%
Cotopaxi	7%	5%
Chimborazo	6%	9%
El Oro	0%	4%
Esmeraldas	13%	10%
Guayas	5%	3%
Imbabura	12%	6%
Loja	13%	5%
Los Ríos	4%	3%
Manabí	11%	2%
Morona Santiago	21%	7%
Napo	4%	9%
Pastaza	0%	20%
Pichincha	3%	6%
Tungurahua	1%	9%
Zamora Chinchipe	12%	9%
Galápagos	0%	0%
Sucumbíos	1%	6%
Orellana	24%	12%
Un-delineated Areas	3%	0%
National coverage	7%	5%

Source: Social programmes database – SENPLADES, 2006- Preparation: CISMIL

210. The National Institute for Children and the Family (INNFA) is a private non-profit entity which carries out its work with a State budget and follows the modalities: Child Development Centres; Growing with our children; and alternative modalities, according to the following methodology:

- a) Implementation of comprehensive remedial plan: health, nutrition, early education, emotional nurturing;
- b) Food through food scholarships and nutritional supplements;
- c) Improvement and overcoming of neuro-developmental conditions.

211. Coverage, directly and through INNFA third parties, is 140,010 beneficiaries as of October 2007.

212. INNFA is pursuing an important initiative to encourage families to assume the main responsibility for the complete upbringing and development of their children from 0 to 5 years old. It works through delivery to families of informative booklets that allow families them to carry out various activities both at home and in the community. There are 20 booklets that contain themes about self-esteem, pregnancy, family communication, better nutrition for children, early learning, sexuality, gambling, growth through sensory stimuli and other aspects.

B. Parental responsibilities (art. 18, paragraphs 1 and 2) and separation from parents (art. 9)

213. The State of Ecuador establishes three legal principles that aim to preserve and guarantee parent-child relations of children and adolescents, giving particular consideration to the principle of the best interests of children and adolescents. These are: parental rights, custody by the parents of children and adolescents, and visitation rights. The legal sources of these principles are explained below.

1. Parental rights

214. The Childhood and Adolescence Code contains a chapter on the rules that govern parent-child relations. Article 105 of the Code sets out not only parental rights but also the obligations of parents with respect to their unemancipated children, concerning the care, education, comprehensive development, and defence of rights of the children in accordance with the Constitution and the law.³⁷

215. Ecuadorian law prescribes some rules for determining the custody of children and adolescents who are able to express their views.³⁸ The opinions of children under 12 years of age

³⁷ Book Two, "Children and Adolescents in their family relationships" of the Childhood and Adolescence Code sets out the rules pertaining to parental authority.

³⁸ Article 106 of the Childhood and Adolescence Code sets out the rules for conferring parental authority in those cases in which the judge hears children or adolescents able to express their opinions: 1) Deference shall be given to agreements reached by the parents provided they do not adversely affect the rights of the children; 2) Absent agreement by the parents, or if such agreement should be inappropriate to the best interests of the child, parental authority over children under age 12 shall be conferred on the mother, unless it is shown that this would be harmful to the rights of the child; 3) Regarding children over age 12, parental authority shall be conferred on the parent who shows greater emotional stability and

will be assessed by the judge in light of their degree of maturity. The opinion of adolescents shall be binding upon the judge unless it is clearly detrimental to their development.

216. In accordance with article 112 of the Childhood and Adolescence Code, parental rights are suspended by judicial decision for any of the following causes:³⁹

- a) Unexcused absence of a parent for more than six months;
- b) Child abuse of gravity such that, in the court's judgment, it does not justify deprivation of parental rights pursuant to the provisions of article 113, paragraph 1, of the Childhood and Adolescence Code;
- c) Juridical sentence of deprivation of civil rights of the parent;
- d) Imprisonment under executed sentence;
- e) Alcoholism and dependency on narcotic drugs or psychotropic substances endangering the comprehensive development of the child;
- f) When a child is induced, caused or permitted to perform acts that violate his physical or moral integrity;
- g) When the cause that led to suspension has ceased, the affected parent may petition a judge to restore parental rights.
- h) If the parental rights of one parent are suspended they will be exercised by the other, provided the other is not barred. If both are barred, a guardian will be appointed.

217. Article 113 of the Childhood and Adolescence Code provides that parental authority by one or both parents may be lost, by judicial decision, in the following cases:

- a) Severe or repeated physical or psychological abuse of the child;
- b) Sexual abuse of a child;
- c) Sexual exploitation, child labour or economic exploitation of the child;
- d) Loss of civil rights by reason of insanity;
- e) Manifest lack of interest in maintaining with the child such parental relations as are necessary for its complete development, for a period of six months or more;
- f) Serious or repeated breach of duties imposed by parental authority;

psychological maturity and is better able to give the children the dedication they need and a stable family environment for their comprehensive development; 4) If both parents show themselves equally fit, preference shall go to the mother, provided this does not affect the best interests of the child; 5) In no event shall parental authority be conferred on a father or mother who is subject to one of the causes of judicial deprivation of parental authority; 6) In the absence of both parents, or in the event of the inability of both to exercise parental authority, the judge shall appoint a guardian in accordance with the general rules.

³⁹ Childhood and Adolescence Code, article 112.

g) Allowing or inducing the child to beg.

218. When one parent has been deprived of parental rights, these shall be exercised by the other, provided the other is not barred. If both are barred, a guardian will be appointed for the unemancipated child. In the absence of relatives who may be summoned by law to exercise custody, either because none exist or because they cannot assume custody, the court shall, in the decision on deprivation, declare the child or adolescent eligible for adoption. The law further states that when the conduct described constitutes an offence subject to public prosecution, the court shall *ex officio* submit a copy of the record to the appropriate prosecutor to initiate criminal proceedings.⁴⁰

219. The fact of not having sufficient money is not grounds to restrict, suspend or deprive the father or mother's parental rights. Nor will such be the case when the father, mother or both must move for reasons of economic necessity and must temporarily leave the child in the care of a blood relative in the direct line or up to the fourth degree of the collateral line. In this case, parental rights may be suspended only for the purpose of entrusting the care of the child to the relative chosen.

220. The parties who are permitted to seek limitation, suspension or deprivation of parental rights are the following: a parent who is not affected by any of the grounds justifying such measures; relatives up to the fourth degree of consanguinity; the Ombudsman, on his own initiative or on application by a party; the Cantonal Board for Protection of Rights, *ex officio* or *ex parte*; and the legal representatives or managers of care institutions in which a child or adolescent is placed. In the same decision ordering the deprivation, suspension or limitation of parental rights, the judge will include one or more measures of protection for the child or adolescent and its parents.⁴¹

221. A judge may, *ex parte*, restore parental rights in favour of one or both parents, as appropriate, where there is sufficient evidence that the circumstances that prompted the deprivation, limitation or suspension have changed.

222. To order restoration, the judge shall hear the person who requested the measure and in any case the child, depending on its degree of maturity. The court may also, in keeping with the circumstances of the case, replace deprivation or suspension with limitation of parental rights.

2. Parental custody of children and adolescents⁴²

223. When a Judge for Children and Adolescents or a Civil Judge deems it most appropriate for the overall development of the child of a family, he may entrust the care and upbringing of the child to one parent without modifying the joint exercise of parental authority. He may also grant custody together with one or more of the rights or obligations which comprise parental authority.

224. Decisions on custody are not final, i.e. the judge may alter them at any time upon proof that it is appropriate to the proper enjoyment and exercise of the rights of the child of a family. Where there is a change of custody, it shall be done so as not to produce psychological detriment to the child, to which end the judge shall order measures of support for the child and parents.

⁴⁰ Ibid, article 113.

⁴¹ Ibid, article 116.

⁴² Childhood and Adolescence Code, articles 118 to 121.

225. Decisions on custody shall be fulfilled immediately. If necessary, court orders and entry into the home where the child is presumed to be present shall be resorted to. No immunity that prevents or hinders the enforcement of the decision shall be recognized.

226. When a child or adolescent has been taken abroad in violation of the Childhood and Adolescence Code and judicial decisions on the exercise of parental authority and custody, the relevant agencies of State shall promptly carry out all steps necessary for the child's return to the country. To the same effect, the judge will appeal to the competent judges of the State where the child or adolescent is present.

3. Visitation rights

227. In all cases where the judge grants custody or exercise of parental authority to one parent, he shall determine the schedule of visits by the other parent to the child. Where some measure of protection has been ordered for a child because of physical, psychological or sexual abuse, the court may deny visitation to the offending parent or direct that visits shall be supervised, in accordance with the severity of the violence. The judge will consider this limitation when there is intra-family violence. The measures taken will seek to overcome the causes that led to the suspension.

228. If there is no agreement between the parents or between the relatives who are seeking a decision, or if the agreement reached would be inconsistent with the rights of the son or daughter, the judge shall determine visitation taking into account, where a parent is concerned, the manner in which that parent has fulfilled parental obligations, as well as such technical reports as may be deemed necessary.

229. The judge shall extended visitation to ascending blood relatives and other blood relatives up to the fourth degree in the collateral line. He may also do so with respect to other people, relatives or not, who are connected emotionally to the child or adolescent.

230. A father, mother or any other person who improperly retains a child in respect of whom parental authority, custody or guardianship has been granted to someone else, or who hinders visitation, may be judicially directed immediately to hand over the child to the person who should have said child and shall be obliged to pay damages occasioned by the improper retention, including the costs of proceedings and restoration. For failure to comply with such an order, the judge will order the person's arrest, without prejudice to also ordering, should the necessity arise, entry without warrant into the premises where the child is present or is believed to be present in order to effect the child's recovery.

231. In Ecuador, these mechanisms are often used. Thus, in 2005, there were 6,460 judicial cases.⁴³

232. At present, there are as yet no sources of information about the actual impact of these mechanisms upon the lives of children and adolescents and the degree of actual compliance with the decisions.

⁴³ See annex VII.

C. Family reunification (art. 10)

1. Children of Ecuadorian migrants abroad

233. In March 2007, the National Secretariat for Migrants (SENAMI) was established as an entity under the Presidency of the Republic. Its main purpose is the definition and implementation of migration policies, aimed at human development of all actors. It is a public entity that will forge links between activities of care, protection and development of migrants, according to the objectives of the State of Ecuador.

234. The Programme of Aid, Savings and Investment for Ecuadorian Migrants and their Families, under the Ministry of Foreign Affairs, was established in 2002 and is currently operated by SENAMI. For its operations it received an appropriation of US\$ 5 million that has been maintained to date. The programme has the following objectives: debt substitution; creating systems for financial intermediation and remittances; establishing systems of savings for productive investment; promoting productive investment in home communities; promoting micro-, small and medium-sized enterprises in the country; and other programmes.

235. A public policy focus of the State is the issue of economic migration, and it is committed to seeking a solution. Hence the need to create a State agency managed by migrants for the care and protection of the migrant population and all Ecuadorians abroad.

236. Currently 11 per cent of children and adolescents have one or both parents living abroad.⁴⁴

237. Emigration abroad has left many children in the care of relatives. The proportion of children not living with their parents is higher in provinces with migration abroad, in particular the southern provinces of the country. In Cañar, for example, 18 per cent of children living in the province do not live with their parents; in Azuay, Loja and Zamora Chinchipe, the figure is one in 10.

238. According to the 2006 Survey of Living Conditions, 19 per cent of emigrants were heads of households, i.e. left someone in charge of supporting their families. Women heads of households have migrated less than men in the same conditions. Of households receiving remittances in 2005, 51 per cent are headed by women, which indicates a significant restructuring of family roles and support systems around emigration.

239. In this context, family reunification processes have been developed in some countries of destination; however the laws of the United States and the European Union ensure the right to family reunification only for immigrants who are regularized and have residence permits. To invoke this right, it is the migrants who are living abroad (and NOT their relatives in Ecuador) who **should apply for a family reunification visa** for one or more of their family members. Applications must be submitted to the immigration authorities in the country of destination.

240. Many European countries require that while the procedures for reunification are being completed, the people who are to be reunited stay in Ecuador. That is the case of Spain, where their status would not be legalized and they risk expulsion.

241. The requirements to apply for a reunification visa vary according to the laws of the country of destination; for this reason, before making an application, one must review the rules of that

⁴⁴ See annex XI.

country. However, there are some rules that are similar. Thus, in the countries of the European Union and the United States, one can reunite spouses and minor sons and daughters; and other family members can also be reunited under certain conditions, such as adult sons and daughters if they are economically dependent.

242. In the case of the United States, the laws of this country allow reunification of the married children of the resident, as well as in-laws. In Spain and Italy, domestic partnerships (couples who are not legally married) are not recognized and these countries therefore do not allow reunification of such unions.

243. In 2006, as a measure in support of the migrant population, the State of Ecuador, through the Ministry of Foreign Affairs, introduced the National Plan for Foreign Policy (PLANEX 2020), which included certain foreign policy objectives, including the protection of migrants.⁴⁵

244. Today, despite the efforts of Ecuador in this area, there are as yet no qualitative or quantitative data to account for advances in family reunification and family reintegration processes, which at present are occurring in piecemeal fashion.

245. The National Development Plan 2007-2010 seeks as a matter of policy to encourage voluntary return of migrants to Ecuador, through strategies such as:

- a) Incentives for returning migrants, with a plan of voluntary return proposed for 2008;
- b) Giving impetus to re-employment programmes for researchers and professionals.

D. Payment of maintenance for children (art. 27)

246. The Childhood and Adolescence Code regulates the right to maintenance for children and adolescents; that right is defined as a privilege that arises out of the parent-child relationship, falls within the sphere of family public policy, and cannot be transferred, conveyed, waived, lost by prescription, or set off. Nor does the law allow reimbursement of what has been paid, even in the event of a judicial decision which declares void the cause giving rise to the payment.⁴⁶

247. Article 128 of the Childhood and Adolescence Code provides that maintenance may be sought before the Courts for Children and Adolescents or, in their absence, before the Civil Courts by:

- a) Unemancipated children and adolescents;
- b) Adults up to age twenty-one if they are enrolled in tertiary studies that prevent or hinder them from engaging in some productive activity and who lack adequate means of their own;
- c) People of any age who are not physically or mentally able to procure the means to support themselves.

⁴⁵ The six goals of the PLANEX external policy are: Defense of sovereignty, Protection of emigrants, Protection of human rights, International economic relations, Security and International cooperation

⁴⁶ Childhood and Adolescence Code, Boo Two, Title V.

248. The obligation to provide maintenance is incumbent on: the father and mother, even in cases of limitation, suspension or deprivation of parental rights; siblings aged 18 or above who are not included under paragraphs 2 and 3 of the previous article; the grandparents; and uncles or aunts.⁴⁷ The obligation to provide maintenance applies even in cases where the child or adolescent and the obliged party live together under one roof.

249. The Court for Children and Adolescents may order the payment of maintenance for a child or adolescent by a person whose parenthood has not been legally established, according to the following rules:⁴⁸

a) The interim provision of maintenance may be ordered as from that point in the proceedings when there is sufficient specific and concordant evidence to enable the court to form an opinion as to the parenthood of the defendant;

b) Without prejudice to the use of other evidence scientifically suited to proving parenthood, and so long as such other evidence is not used, the court shall, upon request by a party, proceed to comparative examination of bands or sequences of deoxyribonucleic acid (DNA) of the child or adolescent and of the defendant. If the result is positive, the final decision establishing maintenance shall likewise declare the paternity or maternity of the defendant and shall provide for the corresponding entry to be made in the Civil Registry.

c) Where a defendant unreasonably refuses to undergo the test referred to in this article, the court will issue an injunction to have the test done within a maximum of ten days. Thereafter, if the party continues to refuse, parenthood shall be presumed and the court will proceed as in the case of a positive test.

d) If the defendant, before the injunction referred to in the foregoing rule, based his refusal to undergo the test on lack the funds to pay for it, the court shall order that the Technical Office perform a social inquiry and issue its report within a maximum of fifteen days. If the report confirms the claim of the defendant, the court shall order that the Cantonal Protection Board of the jurisdiction include the defendant immediately in a System programme that covers the cost of testing. If the social report is negative as to the claim of the defendant, the foregoing rule shall apply.

e) Save for lack of funds under the foregoing rule, the expenses incident to biological tests and legal costs, including costs of social inquiries, if any, shall be borne by the alleged parent, who shall be entitled to be reimbursed by the party claiming the benefit if the test result rules out paternity or maternity.

f) Performing the test referred to in the second rule of this article on an unborn child is prohibited, but the test may be performed on deceased persons where this is necessary to establish kinship.

⁴⁷ Ibid, article 129.

⁴⁸ Ibid, article 131.

250. The Childhood and Adolescence Code provides that, depending on the circumstances of the case, the court may order maintenance in one or more of the following ways:⁴⁹

- a) An income to be paid in monthly instalments in advance, within the first five days of each month;
- b) The deposit of a sum of money, the establishment of a usufruct, use or occupancy, the receipt of income from a lease or other similar arrangement, to ensure sufficient income or other product for the due payment of maintenance of the beneficiary;
- c) The direct payment or satisfaction by the party obliged of the needs of the recipient as determined by the court;
- d) The court will order that the collector establish a payments record for the party obliged, in which support payments to the beneficiary or his/her legal representative will be recorded;
- e) In the case of usufruct, use, occupancy or receipt of income from leasing of real estate, the court shall verify that the property is not subject to other charges or affected by liens, encumbrances, prohibitions, antichresis or other contractual impediments which affect or could hamper said receipt or enjoyment. The court order containing the same will be entered in the Land Registry of the canton in which the property is located.

251. With regard to the amount and form of maintenance, legal or contractual subsidies accruing to persons with dependents, additional benefits, etc., article 135 of the Childhood and Adolescence Code sets out detailed procedures and criteria.

252. Decisions on maintenance do not imply a final judgment and can be reviewed at any time. Moreover, the amount will be adjusted automatically by the same percentage as the unified minimum wage.⁵⁰

253. Ecuadorian law provides for detention of up to ten days for one who is obliged to provide maintenance; the term may be extended for up to thirty days for repeat offenders, who may be released once maintenance arrears and expenses are paid.⁵¹

254. The judge is also is authorized, without prior notice to the defendant, to enjoin the defendant from leaving the national territory, even for delay in complying with a judicial decision.⁵²

255. A parent who is in arrears in the payment of maintenance may not request that parental authority over the beneficiary child be vested in him/her. The child's credit by virtue of entitlement to maintenance ranks as a preferred credit and enjoys precedence over any other credit.

256. According to SIINIÑEZ, in 2005 there were 24,872 maintenance proceedings of this kind, usually brought against fathers. According to statistics from the Computer Centre of the National

⁴⁹ Ibid, article 134.

⁵⁰ Ibid, article 139.

⁵¹ Ibid, article 141.

⁵² Ibid, article 142.

Judicial Council (CNJ) in the first five months of 2007 there have been 2,753 suits for maintenance, 301 more than were recorded in the same period in 2006, when a total of 6,056 were filed. In Guayaquil in January 2007, 1,269 women came to the five payment office tellers to collect money deposited by 1,379 male defendants. In May, the figure increased: 1,526 fathers came to pay; 1,437 women came to collect. In the first days of each month, because the maintenance payments are usually set at that time, service is provided to 200 to 300 people.

257. Pregnant women are entitled, from the moment of conception, to maintenance to attend to their needs for food, health, clothing, housing, care during childbirth, postpartum, and during lactation for a period of twelve months from the birth of their son or daughter; if the child dies in the womb or dies after birth, protection for the mother continues for a period not exceeding twelve months from the occurrence of the death of the foetus or child.

258. In Ecuador, the organs responsible for the administration of justice have no mechanisms to verify actual compliance with payment of maintenance obligations or the figures contained in maintenance orders.

E. Children deprived of a family environment (art. 20)

259. In the Childhood and Adolescence Code⁵³, the State of Ecuador establishes measures of protection which constitute actions to be taken for children and adolescents by the competent authorities, by Courts for Children and Adolescents, Cantonal Boards for Protection of Rights, service entities in cases contemplated by the Code, through judicial or administrative decisions, when there occurs, or when there is an imminent risk of, violation of the child's rights by action or omission on the part of the State, society, the parents, or persons responsible for the child or adolescent.

260. These protective measures require the State, its officials, or any citizen, including parents, relatives, people responsible for care, teachers, educators and even the child or adolescent, to perform certain actions in order to end the threatening act, restore the right that has been violated and ensure continued respect for the child's rights.

261. In implementing a measure or measures, preference should be given to those which protect and foster family and community ties, and their application does not preclude the imposition of penalties if warranted.

262. The Childhood and Adolescence Code provides that these safeguards are of two kinds: administrative and judicial.⁵⁴

263. Administrative measures of protection can be applied by the Courts for Children and Adolescents, Cantonal Boards for Protection of Rights, and care institutions, to be ordered in the cases expressly provided for in the Childhood and Adolescence Code:

- a) Actions of educational, therapeutic, psychological and material support to the nuclear family, to preserve, strengthen or restore its ties in the best interests of the child or adolescent;
- b) Order to care for the child or adolescent in the home;

⁵³ Ibid, article 215.

⁵⁴ Ibid, article 217.

c) Family reintegration or return of the child or adolescent to the biological family;

d) Order that the child or adolescent, or the person involved in the threat or violation of the right, be enrolled in one of the programmes of protection contemplated in the System and which, in the judgment of the competent authority, is the most suitable, according to the type of violation: for example, an order to conduct the necessary investigation in order to locate the child or adolescent or its relatives and to clarify the social, family and legal situation of the child or adolescent; an order to perform a particular action to restore the right affected, such as requiring the parents to register the child with the Civil Registry or directing a health establishment to provide emergency care or an educational establishment to enrol the child, etc.

e) Temporary removal of the person who has threatened or infringed a right or guarantee from the place where they live with the child or adolescent affected;

f) Emergency custody of the child or young person concerned in a family home or a care institution for up to seventy-two hours, during which time the judge will decide as to the appropriate protective measure.

264. Judicial measures may be ordered only by the Court for the Children and Adolescents. These measures are: placement in a care institutional and adoption.

265. The Boards for the Protection of Rights and the Courts for Children and Adolescents have the responsibility to monitor compliance with the protective measures they have ordered, to review their implementation, and to periodically evaluate their effectiveness in relation to the purposes for which they were intended; the measures may be replaced, modified or revoked by the authority that ordered them.

1. Foster care

266. Foster care is a temporary measure of protection ordered by a judicial authority whose purpose is to provide children or adolescents deprived of a family environment with a family suited to their needs, characteristics and conditions.

267. During implementation of this measure, efforts will be made to preserve, improve or strengthen family ties, prevent abandonment and incorporate the child or adolescent into his/her biological family, involving parents and relatives.

268. Poverty of the parents and relatives within the third degree of consanguinity in the direct or collateral line is not in itself sufficient reason to order a child placed with a foster family.

269. In Ecuador the conditions for foster care are as follows:

a) It must be done in a home that has been approved for that purpose by the competent authority.

b) It must be done in a home which, by virtue of its location, allows the foster child or adolescent to participate normally in the life of the community and use all the services available.

c) It must secure for the children or adolescents an adequate process of socialization and ensure their security and emotional stability.

d) It must ensure that the relationships of the foster child take place in a family context and are personalized in such a way as to permit the development of the child's identity and personality.

270. A child or adolescent who is in foster care is entitled to receive from his/her relatives up to the third degree of consanguinity and, in their absence or inability, from the State and local authorities, a monthly stipend sufficient to meet his/her needs during the duration of the placement. The amount of this stipend is set every six months by the Court for Children and Adolescents.

2. Institutional care

271. Institutional care is a transitional measure of protection ordered by the judicial authority in cases in which foster family care is not possible, for children or adolescents deprived of their family environment. This measure is the last resort and is only carried out in duly authorized care institutions.

272. During implementation of this measure, the responsible entity has an obligation to preserve, improve, strengthen or restore family ties, prevent abandonment, ensure the reintegration of children or adolescents into their biological families or provide for their adoption.

273. The State of Ecuador establishes an order of priority in the protective measures described; however there is a larger number of children and adolescents in institutional care compared to other non-institutional measures such as foster care.⁵⁵

274. According to the National Directorate of Comprehensive Care for Children and Adolescents, the number of children and adolescents in private institutional care in its various forms is 10,943.⁵⁶

275. The State manages and funds directly through the Ministry of Economic and Social Inclusion five care entities located in two provinces with coverage of 210 children and adolescents deprived of their family environment.

276. In Ecuador, according to the aforementioned ministry, the number of children and adolescents in foster care and family support is 578 and 803 respectively.⁵⁷

277. According to the research project: "*Evaluation of programmes and projects for the protection and restoration of rights to children and adolescents deprived of their family environment*,"⁵⁸ conducted by the National Council for Childhood and Adolescence with funding from Belgian Technical Cooperation BTC-BTC, the largest group in foster care is girls, who account for 57.54 per cent. It was not possible to determine the gender of 1.48 per cent of children due to the absence of such information in the records of some entities.

278. From existing information on foster care programmes, the female gender accounts for 56 per cent and the male gender 36 per cent. No information is available for eight per cent. In

⁵⁵ Report of the National Directorate of Comprehensive Care.

⁵⁶ See annex XII.

⁵⁷ See annex XIII.

⁵⁸ February, 2007.

institutional care, 54.08 per cent of children are female, while 45.92 per cent are male; there is no information available regarding 1.19 per cent.

279. As regards the age of girls in institutional care, the largest group is from six to 11 years of age, accounting for 21.47 per cent. In foster care, the largest age group is aged 1 to 5, accounting for 42.86 per cent of children and adolescents for whom information is available.

280. For males in foster care, the largest age group is 1 to five years and six to 11 years, accounting for 23.81 per cent respectively. In institutional care the majority group is from six to 11 years, accounting for 19.61 per cent of children and adolescents for whom information is available.

281. The State of Ecuador, through the National Directorate of Comprehensive Care for Children and Adolescents, developed a programme to partially cover the costs of educating children and adolescents in institutional care with family reintegration opportunities for those who are in a position of vulnerability, to avoid institutionalization. The number of beneficiaries and the budget for scholarships has been increasing since 2003, with national coverage in 22 provinces and a total of 1,000 beneficiaries.⁵⁹

282. The National Institute for Children and the Family (INNFA) up to October 2007 served 354 children and adolescents in foster care, and granted scholarships in the amount of \$71 per month.

283. According to the research referred to⁶⁰, there are 11 private foster care entities in the country which have this programme (10 of them as a second programme and one as the sole program); however, only six of them had children at the time the research visit was made.

284. According to the same survey, a significant percentage of foster families are not part of a duly authorized and registered foster care programme. The Courts for Children and Adolescents, after the entry into force of the new Childhood and Adolescence Code, continue to make use of family placement without satisfying the requirements set by law. Only for 48.66 per cent of children deprived of a family environment are there records in their files of the legalization of their foster care or institutional placement. 51.34 per cent of children and adolescents do not have their placement legalized.

285. The State of Ecuador, through the Ministry of Economic and Social Inclusion and its National Directorate for Comprehensive Care of Children and Adolescents, has developed the "My Right to Live in a Family" programme, which has developed models of family intervention with instruments to achieve the restoration of this right.

286. In Ecuador in 2004 there were 2,546 children and adolescents registered in foster care, while in 2005 they amounted to 2,570 because of situations of risk, neglect or abuse.⁶¹

⁵⁹ See annex XIV.

⁶⁰ "Evaluation of programmes and projects for the protection and restoration of rights to children and adolescents deprived of their family environment" conducted by the National Council for Childhood and Adolescence, with funding from Belgian Technical Cooperation CTB-BTC, February 2007.

⁶¹ See annex VIII.

287. According to the research project: "Evaluation of programmes and projects for the protection and restoration of rights to children and adolescents deprived of their family environment," conducted by the National Council for Childhood and Adolescence with funding from Belgian Technical Cooperation BTC-BTC (2007), of the 3,128 children and adolescents placed in 2006, 33.08 per cent were placed in institutions; 19.01 per cent in 2005; there is no record as regards 15.21 per cent of placements. Regarding the causes of placement in foster care institutions, the information available indicates that the most frequent causes can be categorized as: abandonment with 22.85 per cent; 12.11 per cent for lack of resources economic resources; and 10.6 per cent for physical or emotional abuse. For 7.1 per cent of placements, no information on the cause is available.

288. The conditions observed by staff of the institution at the time of admission were as follows: 56.93 per cent had need of medical attention for health problems; 11.47 per cent showed signs of abuse; 8.1 per cent had some degree of mental disability. Personnel of the care institutions did not observe any particular signs in 82.61 per cent of cases.

289. According to the same research, the reasons why a mother is forced to abandon her child would be a combination of socio-economic, social and cultural factors in 34.09 per cent of cases. An alarming percentage, 15.91 per cent, corresponds to teenage mothers. Another cause is the high rate of intra-family violence prevailing in Ecuadorian homes, reflected in the sum of abuse of mothers and abuse of children (9.09 per cent respectively, totalling 18.18 per cent); 9.09 per cent corresponds to mothers who could not adequately deal with special needs of children, such as disabilities and chronic diseases of children (6.82 per cent and 2.27 per cent respectively) due to lack of knowledge and especially due to high costs: medical care, therapy, treatments, special education and/or care, owing to lack of support from the State or private institutions to families facing these difficulties. These are some of the main reasons why children and adolescents are abandoned in health institutions and institutions for foster care and for protection of women.

290. It should be noted that the State of Ecuador prohibits the abandonment of children; the criminal law provides a sentence of imprisonment of one month to one year for one who abandons a child or causes a child to be abandoned in a non-remote location and for one who subjects a child to exposure, provided it is not in a hospice or home for foundlings. The sentence is six months to three years for one who abandons a child or causes a child to be abandoned in a remote location; in addition, if the child suffers physical injury from the abandonment, the prison sentence will be up to five years.⁶²

F. Adoption (art. 21)

291. Once the National Council for Childhood and Adolescence was established under the new Code for Children, this organ was constituted as central authority in respect of the return of children and adolescents, as provided by the Hague Convention on the Civil Aspects of International Child Abduction. This function has filled a major void, given the existence of numerous cases of fathers and mothers who needed a decision-making body to deal with claims of forced separation from their children.

292. The central authority, exercised by the National Council for Childhood and Adolescence, also conducted a technical evaluation of international adoption agencies operating in Ecuador.

⁶² Criminal Code, article 474.

293. The Directorate of Comprehensive Care for Children and Adolescents (DAINA), Ministry of Economic and Social Inclusion (MIES) – Formerly, Social Welfare – has reported on the establishment of the Plan for Strengthening the National Adoption System, which includes training for judges and for competent judicial and administrative authorities, for their work on prevention of abandonment and promotion of family reintegration.

294. Statistics on adoptions completed in the reporting period indicate that international adoptions outnumber domestic adoptions; in 2006 there were 88 of the former and 27 of the latter.⁶³

G. Illicit transfer and non-return (art. 11)

295. The State of Ecuador has signed and ratified several international instruments relating to issues such as combating commercial sexual exploitation of children and adolescents and combating smuggling and trafficking of children and adolescents, including:

- a) Hague Convention on Civil Aspects of International Child Abduction of 25 October 1980;
- b) Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1991;
- c) Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, 19 October 1996;
- d) Convention on the Recovery Abroad of Maintenance, also known as the New York Convention of June 1956;
- e) Inter-American Convention on Maintenance Obligations, ratified in 2000 by Ecuador;
- f) Inter-American Convention on the International Return of Children, ratified on 25 January 2002;
- g) Inter-American Convention on International Child Trafficking, ratified on 20 May 2002.

296. The Childhood and Adolescence Code provides in article 109 that Ecuadorians and foreign children and adolescents living in Ecuador who are travelling abroad with one parent must have the permission of the other.

297. If travelling alone or with a third party, they require the permission of both parents unless one is deprived of parental authority or, failing that, the authorization of the court.

298. When travelling alone or in the company of a third party, the exit permit shall state the purpose of travel, the time they will remain outside the country and the specific place of residence abroad. If the travel is for a period exceeding six months, the authority which issued the authorization shall immediately notify the Ministry of Foreign Affairs, which must continuously monitor the location, activities and general condition of children and adolescents have left the country under these conditions.

⁶³ See annex XV.

299. No authorization is required when travelling in the company of both parents or of one parent with the permission of the other; this must be set out in a public document and duly authenticated if issued in a foreign country. The parent or parents may grant such permission before a judge or notary public. If the father or mother is absent, unwilling or unable to do so, the other parent may request it from the court, which, upon being apprised of the reasons, will issue the same within a period not to exceed fifteen days.

300. The Childhood and Adolescence Code prohibits the transfer and retention of children and adolescents when they violate the exercise of parental authority, visitation rights, or the rules governing permission to leave the country.⁶⁴

301. Children and adolescents who have been transferred or retained illegally are entitled to be returned to their families and enjoy the visits of parents and other relatives. The State shall take all measures necessary to achieve the return and reintegration into the family of the child or adolescent.

302. Article 121 of the Childhood and Adolescence Code provides that when a child or adolescent has been taken abroad in violation of rules and judgments on the exercise of parental authority and custody, the competent State bodies shall promptly take all necessary steps for the child's return to the country. To the same effect, the judge will address a request to the competent judges of the State where the child or adolescent is present. Article 282 of the Childhood and Adolescence Code provides that the general legal proceedings applicable to the case of international return may not last more than fifty days counted from the filing of the suit in first instance; nor more than twenty-five days after the case has been accepted on appeal or cassation.

303. The CNNA has signed a cooperation agreement with the Social Defence Bar Association of Pichincha in order to provide free legal assistance to parties in the cases of international return of children and adolescents under the Hague Convention of 1980.

304. By Resolution No. 23 of 2005, the CNNA, pursuant to the provisions of article 195 of the Childhood and Adolescence Code, appointed the incumbent Chairman of the National Council of Children and Adolescents as Central Authority for compliance with the relevant international instruments and legal provisions. To fulfil these functions, the central authority has a technical team of specialists in child and adolescent rights, public and private international law and international relations.

305. By Resolution No. 27 of 2005, CNNA creates and regulates the functioning of the International Relations Unit of the Central Authority for compliance with international instruments, which advises the President of CNNA in his capacity as central authority for Ecuador in all matters relating to application of international instruments. Its activities include the following:

- a) All activities conducive to carrying out procedures for the application of existing international conventions;
- b) Follow-up on all procedures taking place pursuant to international conventions;
- c) Participation on behalf of the Central Authority in all activities delegated to it.

⁶⁴ Book Two of the National Council for Childhood and Adolescence, Titles II and III.

H. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

306. The Childhood and Adolescence Code provides in article 72 that it is the duty of all persons to intervene to protect a child or adolescent in cases of flagrant abuse, sexual abuse, sexual trafficking and exploitation and other violations their rights, and to immediately seek the intervention of administrative, community or judicial authorities. Thus, all persons who by virtue of their occupation or profession become aware of a fact of this nature must report it within 24 hours of learning of it to any prosecutor, judicial authority or competent administrative authority, including the Ombudsman as guarantor of fundamental rights.

307. As set out in article 67 of the Childhood and Adolescence Code, abuse is:

Any conduct, act or omission that causes or may cause harm to the physical, psychological or sexual integrity or health of a child or adolescent, by any person, including parents, other relatives, teachers and caregivers, regardless of the means, consequences and time required for recovery of the victim. Included in this definition are: negligent treatment or grave or repeated neglect in fulfilling obligations towards children and adolescents relating to provision of food, medical care, education or daily care, and the use of children in begging.

308. Psychological abuse is that which causes emotional turmoil, psychological disorder or impaired self-esteem in abused children and adolescents. Included in this type of abuse are threats to cause damage to children's person or property or those of their parents, other relatives or persons responsible for their care.

309. Institutional abuse is abuse committed by an employee of a public or private institution as a result of applying regulations or administrative or pedagogical practices expressly or impliedly accepted by the institution; and when the employee's authorities have known of it and have not taken steps to prevent, halt, remedy and punish it immediately.

310. Notwithstanding the provisions of the Criminal Code on sexual crimes, child pornography and the crimes of trafficking in persons and trafficking in persons for sexual exploitation, the Childhood and Adolescence Code, for purposes of full and special protection, provides the following definitions:

a) **Sexual abuse** is any physical contact or suggestion of a sexual nature to which a person subjects a child or adolescent, even with their apparent consent, through seduction, blackmail, intimidation, deception, threats, or any other means;⁶⁵

b) **Child prostitution** is the use of a child or adolescent in sexual activities for remuneration or any other consideration. Child pornography is any representation, by whatever means, of a child or adolescent in explicit sexual activities, real or simulated, or of their genitals, for the purpose of promoting, suggesting or evoking sexual activity;⁶⁶

c) **Trafficking in children and adolescents** is the taking, removal or retention of children, inside or outside the country and by any means, in order to use them in prostitution,

⁶⁵ Childhood and Adolescence Code, article 68.

⁶⁶ Ibid, article 69.

sexual or labour exploitation, pornography, drug trafficking, organ trafficking, servitude, illegal adoptions or other illegal activities. Means of trafficking are, inter alia, the substitution of individuals, fraudulent or coerced consent, and the giving or receiving of undue payments or benefits aimed at obtaining the consent of parents, persons or institutions having the child or adolescent in their care;⁶⁷

311. For purposes of the Childhood and Adolescence Code, children or adolescents are considered missing when they are voluntary or involuntary absent from their home, educational establishment or other place where they are supposed to remain, without the knowledge of their parents or caregivers.⁶⁸

312. With a view to preventing these occurrences the State has adopted legislative, administrative, social, educational and other measures needed to protect children and adolescents:

- a) Assistance to children and adolescents and persons responsible for their care and protection, in order to prevent these forms of violation of rights through the special protection programme;
- b) Prevention and investigation of cases of mistreatment, abuse, sexual exploitation and trafficking, and prevention through the judicial system;
- c) Search, recovery and reintegration into the family in cases of missing children, kidnapping, illegal transportation and trafficking;
- d) Promoting a culture of good treatment in daily relations between adults, children and adolescents through the various actions described under the headings of this report.

313. For the protection of children and adolescents regarding use and abuse of alcohol, tobacco, narcotics and psychotropic substances, the State has instituted measures through a programme of the Ministry of Education on prevention of drug abuse.

314. Also, participation in the production, marketing and advertising of substances and objects and the use of weapons, explosives and substances which might endanger children's lives or personal safety is restricted in accordance with the respective standards described under the various headings of this report.

315. The Childhood and Adolescence Code, subject to the penalties established in the Criminal Code and other legislation provides some measures of protection in cases where children or adolescents are victims of some of the behaviours described:⁶⁹

- a) Entry into the place where the child or adolescent victim of the illegal practice is present with a view to the victim's immediate recovery. The measure may be ordered only by the Court for Children and Adolescents, which shall issue the order forthwith, no formalities being required;
- b) Family custody or institutional care;

⁶⁷ Ibid, article 70.

⁶⁸ Ibid, article 71.

⁶⁹ Ibid, article 79.

- c) Enrolment of the child or adolescent and family in a programme of protection and care;
- d) Granting of orders of protection in favour of the child or adolescent against the offender;
- e) Reprimand of the offender;
- f) Enrolment of the offender in a specialized care program;
- g) Order to the offender to leave the home, if living with the victim entails a risk to physical, psychological or sexual safety to the latter, and, where appropriate, re-entry by the victim;
- h) Enjoining the offender from approaching or having any contact with the victim;
- i) Enjoining the offender from making threats, directly or indirectly, against the victim or the victim's relatives;
- j) Suspension of the offender from tasks or functions performed;
- k) Suspension of operation of the entity or establishment where the institutional abuse occurred, for as long as the conditions justifying the action last;
- l) Participation by the offender or staff of the institution where the institutional abuse occurred in workshops, courses or any form of training events;
- m) Follow-up by social work teams to verify that the abusive behaviour has been remedied.

316. As of the date of this report, it has not been possible to arrive at figures which quantify the measures applied by the corresponding entities or to verify the extent of compliance.

I. Periodic review of conditions of detention (art. 25)

317. Institutional placement is a temporary measure of protection afforded by the judicial authority in cases where it is not possible to place children or adolescents deprived of a family environment in foster care. This measure is a last resort and will be used only in those care institutions that are duly authorized.

318. During implementation of this measure, the responsible entity has an obligation to preserve, improve, strengthen or restore family ties, prevent abandonment, ensure the reintegration of children or adolescents into their biological families or pursue their adoption.⁷⁰

319. In Ecuador, placing children and adolescents in a public or private institution, such as foster care, is not a definitive solution for restoring the rights of children, but can be part of a life plan for a child.

⁷⁰ Ibid, article 232.

320. According to research conducted by the CNNA and Belgian Technical Cooperation BTC-BTC (referred to above) 106 entities engaged in institutional care in 14 provinces have been identified.

321. Institutionalization is the least desirable measure of protection, especially if it becomes prolonged. However, in Ecuador it is found that institutionalization remains today the child protection measure that is most frequently used.

322. The aforementioned research indicates that of a total of 3,128 children deprived of a family environment in 2006, 44.25 per cent (1,384 children) have their placement legalized by a Court for Children and Adolescents or by the Commissioner for Women and the Family (the terminology varies: institutional placement, institutional care, custody, emergent custody or protection being among the most common terms). For 2.30 per cent (72 children) the process of legalization has begun and is pending; and, for some children who recently entered the system at the time of this research, submission of the application for legalization was still pending.

323. The same study shows that, according to the information contained in the files of children and adolescents, it was found that only 10 cases specified a time period for the measure of protection, although such time periods are almost always ambiguous or indefinite.

324. In the case of two placements for protection mandated by the Commissioner for Women and Families, the time period given was until the mother appeared; in an institutional placement mandated by the Court for Children and Adolescents, the time period is four years; on two occasions the placement is stated to be until further notice by the court; in two files, reference is made to placement until the situation is remedied or status determined; one institutional placement is for a term of four years; one decision provides for institutional placement until the child becomes of age.

325. With respect to finding solutions so that children can leave the institution and have a permanent family of their own, the files show that for 2.89 per cent of children (40 children) a process of family reintegration with custody by relatives has begun; 8.89 per cent (123) have been declared eligible for adoption; for 7.95 per cent adoption proceedings have begun (110 children); 1.21 per cent are in the process of adoption (21 children); for 2.24 per cent the process of clarification of their legal situation or judicial and police investigation to identify and locate relatives has begun (31 children).

326. The research project "Evaluation of programmes and projects for the protection and restoration of rights to children and adolescents deprived of their family environment" by the National Council for Childhood and Adolescence (CNNA), with funding from Belgian Technical Cooperation BTC-BTC, is an input that will serve for the improvement and creation of public policies to overcome difficulties in managing the placement and adoption of children and adolescents.

VIII. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6)

327. Article 48 of the Constitution provides that it is the duty of the State, society and the family to give the highest priority to the comprehensive development of children and adolescents and to ensure the full exercise of their rights. The principle of the best interests of children shall apply in all cases, and their rights shall prevail over those of others.

328. The Childhood and Adolescence Code, in article 26, recognizes the right to a decent life for children and adolescents to enable them to enjoy social and economic conditions necessary for their development.

329. In 2004, under the 10-year National Plan of Action, Ecuador established the policy of ensuring access by children under age five to quality child development services, programmes and projects. Strategies for the implementation of the policy include:

a) Restructuring of the child development sector, initially within the institutions of the social front (Ministry of Health, Ministry of Education, Ministry of Economic and Social Inclusion), and subsequently in the whole country (National System to Promote Child Development) with the aim of strengthening the leading role of the State in regulating operational modalities of care and setting standards of quality;

b) Designing and implementing a programme of certification and professional development for teachers of child development.

330. Through the Ministry of Economic and Social Inclusion, the State ensures the development of programmes and projects for children. At the same time, it financially supports the work of the National Institute for Children and the Family (INNFA), which implements actions for prevention, protection and restoration of rights of children and adolescents in child development centres. In 2003 the Ministry of Social Welfare, now the Ministry of Economic and Social Inclusion, established the Child Development Fund⁷¹ in order to finance programmes and projects for children executed by the ministry, through child care models appropriate to local needs and realities and with a view to achieving universality for the rights of children under age five.

331. In 2006, 411,444⁷² children under age five are cared for in child development programmes of the Ministry of Economic and Social Inclusion and INNFA, distributed as follows:

a) Child Development Fund (for children under age 5) as of October 2007 reported a total of 251,000 beneficiary children with respect to early education, family training, training in nutrition, inter alia, by implementing projects in these areas and different forms of care, including a modality aimed at indigenous children. The State of Ecuador earmarked US\$ 37,542,324 in 2007 for its implementation.

b) Operation Child Rescue (ORI) (for children under age 5) provides service to children for eight hours a day in a process that includes actions in health, nutrition and early education with a strong community component. Its investment for 2007 amounted to US\$ 26,506,388.

⁷¹ By Ministerial Agreement No 0466, published in *Official Gazette* 115 of 1 July 2003.

⁷² MATRCA Information System, SIISE 4.5.

c) INNFA (families in extreme poverty) covers 147,000 children up to six years of age.⁷³ It aims to help improve living conditions, especially children's nutritional status, health and growth through various forms of child development, including the following strategies: Food supplement with Nutrinfa, initial education, teaching healthy eating habits, and preventive health care for children and their families with the participation of State and civil society.

332. One of the goals to be pursued by the State through 2010, incorporated into the National Development Plan and implemented in the Social Agenda for Children and Adolescents led by the National Council for Childhood and Adolescence, is to implement the policy of "Improving cognitive development of young children." The policy includes interlinking the early childhood care system with the formal education system, fostering stimulation of cognitive development of Ecuadorian children, enhancing their capabilities for the future. The strategies to be pursued are:

- a) Tailoring public child development programmes and services, including health, nutrition, and early education, to the population with least access to such services;
- b) Defining quality standards for child development services;
- c) Promoting early stimulation of children;
- d) Linking child development to early childhood education.

B. Children with disabilities (art. 23)

333. In Ecuador there are over 1,608,334 persons with disabilities, which is equivalent to 12.14 per cent of the total population of Ecuador. 51.6 per cent (829,739) of people with disabilities in Ecuador are women, and 48.4 per cent (778,594) are men.⁷⁴ Of 1,608,334 persons with disabilities in Ecuador, according to the Integrated Social Indicators System of Ecuador (SIISE), there are 83,000 children and adolescents with some type of disability, representing 1.7 per cent of all children and adolescents in the country. As shown in the table below, adolescents are the group presenting the highest percentage.

Table 12. Children and adolescents with disabilities

<i>Age group</i>	<i>Percentage</i>	<i>Number</i>	<i>Total</i>
Children and adolescents	1.7	83,107	4,795,631
Ages 0 to 5	1.1	16,972	1,599,720
Ages 6 to 11	2	31,964	1,639,528
Ages 12 to 17	2.2	34,189	1,556,383
Ages 18 to 29	2.4	61,216	2,600,952
Over 30	8.9	421,237	4,760,025

Source: Census of population and housing, 2001. INEC

Preparation: SIISE

⁷³ INNFA, November 2007, Comprehensive Protection.

⁷⁴ CONADIS, "Ecuador, figures on disability: Analysis of the results of the National Survey of Disabilities", IDB, INEC, World Bank. Quito, March 2005. Pages 12-13.

334. Of the total of children under age five with disabilities, 54.80 per cent present functional disability, 15.80 per cent structural disability, and five per cent mixed disability; unlike the population between five and 17, where 62 per cent present severe structural limitations and 38 per cent severe functional limitations. According to the SIISE data, of all children and adolescents with disabilities 78.54 per cent are in school. Urban-rural or ethnic group differences are not significant; there is no sharp divide between them, averaging a four or five point difference.

Table 13. Children and adolescents with disabilities in school

<i>National</i>		<i>Children with developmental profiles who are in school</i>	<i>Population aged 5-17 with deficiencies</i>
		78.54%	217,206
Place of residence	Urban	82,72%	139,470
	Rural	71,04%	77,736
Natural region	Highland	81,13%	89,348
	Coast	76,84%	115,423
	Amazon	75,66%	12,435
Sex	Male	78,01%	117,969
	Female	79,17%	99,237
Age group	Ages 5 – 11	86,55%	120,013
	Ages 12 – 14	75,70%	50,069
	Ages 15 – 17	61,17%	47,123
Ethnicity	Indigenous	63,06%	11,034
	Afro-Ecuadorian	87,86%	2,641
	Mestizo, White, Other	79,70%	176,058
Income quintile	20% poorest	71,70%	52354
	2nd quintile	73,20%	55766
	3rd quintile	80,90%	46578
	4th quintile	83,00%	36405
	20% richest	93.50%	24688

Source: Surveys of employment and unemployment (ENEMDU) – INEC. Year: November 2004.

Preparation: SIISE

335. Faced with this reality, the State of Ecuador guarantees in article 50 of the Constitution that it will take measures to ensure children and adolescents with disabilities preferential treatment for their full social integration. Article 53 also guarantees social inclusion and equal opportunities for persons with disabilities, and sets out the obligation to establish measures to secure their access to education and to remove architectural barriers.

336. Under the Childhood and Adolescence Code, which took effect in 2003, the rules provide:

"Article 42. Children and adolescents with disabilities are entitled to inclusion in the educational system, in keeping with their level of disability. All educational units are required to accept them and to create support services and accommodations appropriate to their physical, educational, evaluation and promotion needs.

Article 55. In addition to general rights and guarantees provided by law for children and adolescents, those with disabilities or special needs shall have the rights necessary for the complete development of their personality to their fullest potential and to enjoy a full life, with dignity and the greatest possible autonomy, so that they can participate actively in society, according to their condition"

337. The State shall ensure the exercise of these rights through effective access to the education and training they need, and the provision of early intervention, rehabilitation, training for work activity, leisure and other measures, which shall be free for children and adolescents whose parents or caregivers are unable to pay them.

338. On 17 January 2002, *Official Gazette* No. 496 published the Special Education Regulations, which standardize and facilitate the educational care of children and youth with special educational needs in the Ecuadorian educational system, whether or not such needs arise from a child being disabled and/or gifted. The term "special educational needs" refers to all children and youth whose needs arise from their abilities or learning deficits.

339. On 21 February 2003, with the enactment of the General Regulations of the Law on Disabilities, the State regulates inclusive education for children with special needs by providing that it is the Ministry of Education which has the responsibility to: **develop an inclusive education system so that children and youth with disabilities are integrated into general education programmes; gradually expand programmes and actions for integration in elementary and intermediate general education**; monitor the functioning of institutions of formal education in the field of disability, providing advice, training and resources to optimize their operation, and protect the educational rights of persons with disabilities.⁷⁵

340. Other responsibilities of the Ministry of Education include the design and implementation of National Plans for Educational Integration, to facilitate the education of children and youth with special educational needs in the mainstream; training of teachers of the general and special system in integration; design and training for educational institutions throughout the country on curriculum adaptations, methods, techniques and evaluation systems for application in integrated education (at the different levels of education of children with special needs), among others.

341. In response to these provisions, Organic Functional Regulations of the Ministry of Education establish that the Division of Special Education is responsible for the design and implementation of procedures to facilitate the integration of disabled students into regular schools; the development of curricular adaptations; coordinating training at the provincial level; implementing and evaluating plans, programmes and projects to improve the quality of care for people with special educational needs at the national level; updating and regulating technical and pedagogical tools for research and evaluation to improve the quality of care for children with disabilities; disseminating information about services, programmes and projects being implemented for the *social integration of special educational needs*; evaluating plans, programmes, projects and agreements for the population with special educational needs; and ongoing coordination with ministerial units and with national and international organs that conduct similar programmes.⁷⁶

⁷⁵ General Regulations of the Law on Disabilities, articles 5 and 65.

⁷⁶ Internal Regulations of the Ministry of Education, article 70

342. The Division of Special Education, charged with facilitating the education of children and adolescents with special educational needs in the educational system, is comprised of 21 provincial departments, 15 psycho-pedagogical diagnostic and counselling centres, 12 multidisciplinary teams, a support programme in all provinces, an integration programme in all provinces, 159 special education institutions, 318 psycho-pedagogical support classrooms, and 120 integration classrooms. It works with five categories of focus: Intellectual Disabilities, Visual Impairment, Hearing Impairment, Physical Disability, Deaf-blindness Disability, Learning Disabilities and Gifted Children.

343. Up to 2005, the Division provided coverage as follows: Special education institutions, 13,000 students served; Support programme, 10,797 students served; Diagnostic centres and counselling, 5,875 students served.

Table 14. Children in regular schools

<i>Province</i>	<i>No. of children</i>
Azuay	946
Bolivar	40
Cañar	120
Chimborazo	359
Cotopaxi	135
El oro	455
Esmeraldas	486
Galapagos	72
Guayas	3 299
Jimbabura	171
Loja	453
Los rios	444
Manabi	655
Morona	135
Napo	82
Pastaza	126
Pichincha	1 101
Sucumbios	52
Tungurahua	197
Zamora	67
Total	9 395

Source: Ministry of Education, Division of Special Education

Date: First quarter, 2007

Preparation: National Council for Childhood and Adolescence

344. In 2003, the Ministry of Education prepared the *Model for Special Education* and developed technical tools of special education for educational integration in high school and job training. The education system had seven training guides for teachers, one for each disability, dealing with the areas of: learning disabilities, super-educational evaluation, intellectual giftedness and theoretical framework.

345. Moreover, in 2004, with the purpose of working towards the inclusion of children and adolescents with disabilities in regular education, the State of Ecuador trained 10,000 teachers nationwide and began construction of the *National Plan for Inclusive Education*, which is currently under review. The Plan proposes a policy of "*universal access, retention and promotion in all levels and patterns of the Ecuadorian education system, equalizing opportunities for students with special educational needs with and without disabilities and giftedness*" through:

- a) Implementing and promoting inclusive education policy;
- b) Improving basic education to suit the needs of the most vulnerable students;
- c) Enhancing early education for children with special needs;
- d) Better linkages with entry to the world of work.

346. In 2007, the State adopted the Ministerial Agreement No. 361⁷⁷, which provides for regulation of educational services to students with special educational needs associated with intellectual giftedness and high abilities and talents.

347. Further, by Executive Decree No. 338 of 23 May 2007, the national Government declared a State policy of preventing disability, affording care and providing comprehensive rehabilitation to persons with disabilities, followed by implementation, on a priority and preferential basis, of the "Ecuador without Barriers" programme.

348. Based on this decree, the Vice Presidency is developing the project "Ecuador without Barriers", with the aim of promoting inclusion and integration of persons with disabilities in social, political, sporting, cultural, educational and economic life under conditions equity. The programme will enable 1,500 children under five to participate in early learning centres to be equipped for that purpose, thanks also to agreements to be signed with 100 municipalities in Ecuador. The State allocated US \$ 4 million to the programme, of which half will be invested in purchasing prosthetic devices and hearing equipment.

349. Ecuador's future challenges are reflected in the National Development Plan, in which the Vice Presidency and the Ministry of Citizen Solidarity pursue certain lines of action such as:

- a) Promoting and protecting the rights of persons with disabilities through the creation of an attorney general's office that serves people with disabilities;
- b) Providing technical aids, medical supplies and medicines to offset or neutralize the effect of disability;
- c) Creating a programme to improve access to the physical environment.

C. Health and health services (art. 29)

350. The 1998 Constitution includes a chapter on health, with five articles, from 42 to 46, which stress the right to health, free programmes and public health services for all, and the enactment of the Organic Law of the National Health System and its Regulations.

⁷⁷ 27 September 2007.

351. The Childhood and Adolescence Code of 2003 also recognizes the rights of survival and development of children and adolescents with thirteen articles, 20 to 32, which emphasize the right to a dignified life, the responsibility of the State with regard to the right to health; the duties of health facilities; and the right to social security.

352. As regards the institutional health sector, Article 45 of the Constitution provides for the organization of a National Health System comprised of public, autonomous, private and community entities. The system is to function in a decentralized, participatory manner.

353. The National Health System has the following aims:

- a) To ensure equitable and universal access to comprehensive health care, through the operation of a network of services under decentralized management;
- b) To protect people fully against risks and injury to health, and to protect the environment from deterioration or alteration;
- c) To build healthy environments, lifestyles and living conditions;
- d) To promote coordination, complementarity and development of sector institutions;
- e) To incorporate public participation in planning and oversight of levels and areas of activity of the National Health System.

354. Currently the National Health System comprises the following:

- a) Ministry of Public Health and related bodies;
- b) Ministries involved in the health field;
- c) The Ecuadorian Social Security Institute, Social Security Institute of the Armed Forces (ISSFA) and Social Security Institute of the National Police (ISSPOL);
- d) Health Organizations of the Security Forces: Armed Forces and National Police;
- e) The Faculties and Schools of Medicine and Health of the universities and polytechnics;
- f) Guayaquil Welfare Board;
- g) Society to Combat Cancer (SOLCA);
- h) Ecuadorian Red Cross;
- i) Local authorities: Provincial, Municipal and Local Councils;
- j) For-profit private health entities: service providers, prepaid medical plans, insurance;
- k) Non-profit private health entities: nongovernmental organizations (NGOs), pastoral and public/religious services;
- l) Community health services and practitioners of traditional and alternative medicine;

- m) Organizations working in environmental health;
- n) Centres for development of health science and technology;
- o) Community organizations active in promoting and protecting health;
- p) Unions of health professionals and health workers;
- q) Other public bodies, under the dependent or autonomous regime, and private bodies acting in the health field.

355. The National Health System has a national health authority, which is the Ministry of Public Health, whose function is to provide policy guidance regarding health and to oversee application of and compliance with the Organic Law on Health. The Ministry of Health has established the institutional organization of processes as the guiding principle of its work, ensuring efficient and effective use of resources. It defines four types of processes that support quality improvement: enabling support processes; governance processes, involving the Minister of Health; enabling advisory processes, where we see the control of the management system; and value-adding processes, which bring together demand and supply of health services. Among the latter are the following:

- a) Classification of Supply and Demand in Health;
- b) Standardization of the National Health System;
- c) Control and Improvement in Public Health;
- d) Control and Improvement in Health Services Management;
- e) Control and Improvement in Health Monitoring.

356. The tenth transitional provision of the Childhood and Adolescence Code provides for adaptation of the various agencies and institutions in accordance with the Organic Law on Health, which created the Decentralized National System of Comprehensive Protection of Children and Adolescents, whose purpose is to ensure comprehensive protection of children and adolescents.

357. During the period 2003-2007 the State of Ecuador has adopted public policies and laws to secure the rights of children and adolescents as identified in the Convention on the Rights of the Child. In this regard, it has developed national plans to address various problems:

1. The Organic Law on Health⁷⁸

358. The Organic Law on Health took effect with its publication on 22 December 2006 in *Official Gazette* Supplement 423. This law clearly defines health as a fundamental human right and therefore lays down the State's responsibility to promote and protect it. It contemplates health problems associated with social, cultural, ethnic, generational, gender, economic and environmental realities. It covers emerging diseases, chronic degenerative diseases, communicable and noncommunicable diseases; social problems associated with accidents and violence; traditional and alternative medicine. It regulates the incorporation of technical and

⁷⁸ See annex XVI.

scientific advances, adapting them to current needs, and aims to ensure the quality of health products, activities, goods and services. It seeks to strengthen inter-sectoral coordination and to give a solid normative foundation to the leadership role of the State in health, facilitating the participation of society, on the understanding that health is a commitment of all. It regulates and sets standards for health services and the exercise of the health professions.

359. The Law guarantees access by adolescents to sexual and reproductive health programmes, provides that adolescent pregnancy is a public health problem, and makes mandatory the implementation of measures for preventive and comprehensive sexual and reproductive health care, for women and men, with emphasis on adolescents, without charge.

2. Amendments to the Law on Free Maternity and Child Care

360. The Law on Free Maternity and Child Care (LMGYAI) came into force on 9 September 1994. The purpose of this Law is to strengthen and integrate health actions for the most vulnerable population groups, mothers and children under age 5. In general, the Ministry of Public Health is responsible for the implementation of the Law, within the framework of the Law on Decentralization of the State and Social Participation and according to the National Health System. In addition, the Ministry of Health established the Management Unit of the Free Maternity Law, as the operational arm of the Free Maternity Program, responsible for implementing the Law from the central level as the lead agency, reproducing technical materials, and providing liaison between the political and technical levels.

361. It must be noted that until 1998 this law only had a hospital-oriented vision and there were no activities promoting reproductive health or other activities related to the exercise of sexual and reproductive rights. Thus, on 23 July 1998, the State of Ecuador approved the amendments to the Law, which introduced concepts of reproductive health, advancing fundamental changes in the conceptual horizon of health service providers by incorporating a comprehensive vision of reproductive health that is responsive to the need of adult and adolescent women to have services provided with quality, timeliness and care.

362. On 16 July 2007, the Constitutional Court declared unconstitutional the words "except AIDS" in article 2 (a) of the Law, expanding the coverage of the basic models of treatment of all sexually transmitted diseases.

3. Multisectoral Strategic Plan of National Response to HIV/AIDS 2007 - 2015⁷⁹

363. In putting forward a multi-sectoral plan, the State of Ecuador attempts to observe a distinction between infection and epidemic, treating the former as a health problem and the latter as a development issue. We wish particularly to emphasize an approach in which prevention is viewed as a strategy at least as effective as treatment and care in dealing with HIV. In this new approach, working with children and adolescents plays a key role and is treated as a priority strategic sector of our Plan.

⁷⁹ See annex XVII.

364. The priority sectors identified and validated in the process of construction of the Plan are:

1st Priority sector: Health care, empowerment and rights advocacy for people living with HIV/AIDS, including comprehensive care for children and adolescents living with HIV/AIDS who were previously disregarded.

2nd Priority sector: Preventing HIV/AIDS in children, adolescents and youth by securing the progressive exercise of their rights.

3rd Priority sector: Prevention of vertical transmission (mother to child) and protection of perinatally exposed children.

4th Priority sector: Reduction of the greatest exposure and risk for HIV/AIDS; rights advocacy for gay men, bisexual men and transgender persons.

5th Priority sector: Rights advocacy, prevention of STDs / HIV/AIDS, and developing skills for safe sex among sex workers and their clients.

6th Priority sector: Promoting gender-equitable relationships between men and women, protecting rights and reducing violence against women.

7th Priority sector: Supply of safe blood to recipients.

8th Priority sector: Promotion of rights, care and safe sexual behaviour among persons deprived of liberty, police and military.

9th Priority sector: Inclusion of refugees and asylum seekers in the national response with respect to prevention, care, and reducing vulnerability and risk behaviours.

10th Priority sector: promoting safe sexual behaviour and reducing stigma and discrimination among the general population and in mobile groups.

4. National Plan to Prevent Adolescent Pregnancy

365. On 25 September 2007, in response to the national increase in the number of births to teenage mothers, 8.7 per cent⁸⁰, the State of Ecuador prepared the National Plan for Adolescent Pregnancy Prevention, which aims to reduce adolescent pregnancy through institutional strengthening of health, education and social protection services, in a framework of inter-agency coordination, with active participation by adolescents and youth and the commitment of civil society, including the media. The goal of the Plan for 2010 is to reduce adolescent pregnancy by 25 per cent, a goal which is incorporated in the National Development Plan.

366. The specific purposes of the National Plan are:

a) To implement a national information system on the situation of adolescent pregnancy that allows the construction of comprehensive and cross-sectoral public policies in keeping with national and local realities under the National Information System for Children and Adolescents;

b) To implement an integrated system for monitoring and evaluation;

⁸⁰ CEPAR – ENDEMAIN 2004.

- c) To strengthen the State's role of comprehensive protection of adolescents;
- d) Implement comprehensive care with emphasis on sexual and reproductive health and adolescent pregnancy prevention;
- e) Ensure participation of adolescents in the construction and implementation of comprehensive intersectoral public policies for adolescent pregnancy prevention nationally and locally.

5. National Plan to Reduce Neonatal Mortality

367. On 22 August 2007, the State of Ecuador presented the National Plan to Reduce Neonatal Mortality with the aim of contributing to reduction of infant mortality, especially neonatal mortality. Intervention strategies under the plan are:

- a) Approach to the work of pre-term childbirth;
- b) Prevention of neural tube birth defects;
- c) Neonatal Cardio-pulmonary Resuscitation;
- d) Implementation and/or strengthening of the neonatal component of the AIEPI strategy throughout the network of the National Health System.

6. National Health Policy and Sexual and Reproductive Rights⁸¹

368. In the April, 2005, the State of Ecuador through the Ministry of Public Health formulated the National Policy on Health and Sexual and Reproductive Rights in order to ensure the sexual and reproductive rights of its citizens. It also prepared a 2006-2008 action plan for its implementation.

369. This policy aims to narrow the gaps between statements of rights, particularly on sexual and reproductive health and the exercise and enjoyment of those rights. To that end it sets out six policy guidelines:

- a) Exercise of Sexual and Reproductive Rights;
- b) Intersectoral approach;
- c) Promotion of equality between men and women;
- d) Building citizen awareness in public health, sexual and reproductive rights, and social participation;
- e) Reduction of maternal mortality;
- f) Health sector reform for universal access to sexual and reproductive health and humanization of health services.

370. Moreover, the State of Ecuador is interested in strengthening the capacity to address problems of HIV/AIDS. Accordingly, in 2002 it approved the Regulations of the Law for

⁸¹ See annex XVIII.

Prevention and Comprehensive Care of HIV/AIDS and is pursuing the Draft Comprehensive Response to HIV/AIDS, and is pursuing a draft Law on Comprehensive Response to HIV/AIDS, which replaces the Law for Prevention and Comprehensive Care of HIV/AIDS. The new instruments, unlike the previous law, take a concerted and multisectoral approach.

7. Sectoral development

371. In the framework of the policies and laws described above, the State carries out actions that support the realization of the right of children to enjoy the highest attainable standard of health and services for the treatment of diseases. Accordingly, the health sector includes several sub-sectors, with the public sub-sector functioning through the Ministry of Public Health, which is the largest supplier. It is the institution with the greatest number of establishments and is estimated to cover almost two quarters of the population. The Ecuadorian Social Security Institute (IESS) covers 25 per cent of the population, including Rural Social Security. The Social Security of the Armed Forces and Police, NGOs, the Guayaquil Welfare Board and the Society against Cancer cover 15 per cent of the population. The for-profit private sector covers an estimated 10 per cent of the population (four per cent prepaid and six per cent direct payment).⁸²

372. It is important to note the effort made by the National Health Council to begin participatory and decentralized construction of a national health system from the entry into force of the Organic Law on the National Health System since September 2002.

373. In this context, the State of Ecuador, through the Ministry of Health, is strengthening institutional capacities for regulation and stewardship of the national health authority through the proposals on health reform and policy put forward at the Third Congress for Health and Life held in April 2007, which are being systematized to be placed before the Constituent Assembly. Moreover, the Ministry of Health has begun to re-engineer processes to transform the management model, aiming towards management by processes and outcomes, to monitor the impact and performance of plans and programmes in terms of outcomes. Within this re-engineering, three groups of health actions have been identified: a) promotion, acting mainly at the level of society and population groups, their health impact being produced by changes in lifestyle and living conditions of society; b) preventive measures, which, depending on the problem at hand, act upon society, groups and individuals; and c) curative and rehabilitative measures, focused mainly on the individual.

374. The National Development Plan built by the National Secretariat of Planning (SENPLADES) has set up two goals to achieve in this area by the year 2010:

- a) To promote sectoral development, organization and functioning of the National Health System pursuing two strategic lines of action:
 - i) Restore public and social leadership, sovereignty and self-determination in the participatory formulation of inclusive public policies and programmes that rally support for health and life from the local level; and promote integrated sectoral development that facilitates planning, regulation and management.

⁸² National Council on Health INEC 2006.

- ii) Ensure access by all people to health services and health infrastructure, eradicate inequities, exclusion and discrimination, thereby restoring health as a right and welfare as a collective reality;

b) Strengthen the management and development of human talent, its timely response to the requirements of health with quality and care. This policy seeks to ensure the availability of personnel with the proficiency to meet the health needs of the population. The first component of the policy is the generation of programmes that train personnel with knowledge and skills to solve the major health problems of population; implementation of the new inter-cultural, community and family-oriented model, assigning priority to primary health care. The second component stresses the requirement to expand the availability of personnel for the health function, particularly in rural and marginal-urban areas, but primarily by providing working conditions that encourage them, strengthening their commitment to and solidarity with the health requirements of the population.

8. Comprehensive health protection

375. In 2007, the State of Ecuador implemented as a policy line improving the quality and response capacity of the Public Health Network of the Ministry of Health through the programme equitably extending social health protection for all. To that end, on 11 March 2007 by Executive Decree No. 175⁸³, it declared a health state of emergency in the health services of the Ministry of Public Health, granting to date US\$ 53,111,000 which has been earmarked for expanding the schedule of outpatient consultations to eight hours, 12 hours for priority units, 24 hours for emergency care in hospitals, resolution of medical problems for which there is a backlog (waiting lists for surgery, specialized care), and for free generic medicines.

376. Another proposed reform is the implementation of the Family and Community Health Model, through basic care teams with responsibility for 1,000 families in urban areas and 600 in rural areas. The theoretical basis has been formulated and the first 150 teams have been formed in the province of Guayas. The signature of management commitments is pending between central and provincial health directorates with a view to setting goals and outcomes for oversight and monitoring.

377. In 2006, the State of Ecuador, with a view to achieving universal health insurance within 10 years, implemented the programme of Universal Health Insurance, which includes the structuring and execution of insurance to provide subsidized coverage to the population of the first and second Selben quintiles. The Universal Health Insurance, declared a priority policy, began with the signing of agreements with local governments in Guayaquil, Quito, Cuenca and Manta. The total population estimate for the insurance coverage is 670,768, belonging to quintiles one and two, Guayaquil 135,000, Cuenca 109,871, Quito 308,000, and Manta 117,897.

378. At the present time, the State of Ecuador is changing its vision and transforming social protection in health into a priority policy of the Ministry of Public Health with a view to universal access to public health services nationwide, with a new model of family and community care, and includes the former Health Insurance Programme (*Programa de Aseguramiento en Salud*), which remains valid in the cantons of Quito, Guayaquil and Cuenca. The aim is to ensure an efficient national health system which would make this subsidized insurance scheme unnecessary.

⁸³ See annex XIX.

379. Since 2001, when spraying began along the border between Colombia and Ecuador, there has been increased incidence of skin diseases and definite effects in the field of agricultural productivity that have undermined the right to food and the right to benefit from the fruits of one's labour. The State of Ecuador reported to the United Nations High Commissioner for Human Rights the impact on health suffered by the population along the border, the more so since spraying aircraft not only disregarded the 10 km strip but overflowed Ecuadorian territory. In 2007 the Special Rapporteur of the United Nations High Commissioner for Human Rights, Paul Hunt, visited Ecuador to examine the health situation of people living on the northern border. He made substantive comments on these activities and urgently recommended that the neighbouring country suspend the spraying with glyphosate in view of the severe injury to the health of the border population.

9. Control of public health diseases with high epidemiological impact

380. In 2005-2006, faced with the problems of HIV/AIDS, Ecuador initiated a multisectoral response, with social rights approach. The Ministry of Health worked jointly with the Ministry of Labour and Employment, the Ministry of Education, the National Council for Childhood and Adolescence, CONAMU, with the support of the Spanish International Cooperation, UNDP, Plan International, CARE, GTZ and UNAIDS.

381. Since 2002, the State of Ecuador, through the Ministry of Public Health, specifically the National AIDS Programme, has begun providing ART antiretroviral treatment for people living with HIV/AIDS, also attempting to cover 100 per cent of identified HIV positive pregnant women.

382. In view of the diversity of health sub-sectors, both public and private, in this area of care, the Ministry of Public Health adds its services to those offered by Social Security, the Armed Forces, Police and some private hospitals, such as Vozandes Hospital in Quito and the hospitals of the Guayaquil Welfare Board.

383. In 2003, the State signed an agreement with the Global Fund to implement a project to fight AIDS, tuberculosis and malaria for US\$ 14 million over a period of four years. The Global Fund project for HIV/AIDS seeks addresses nine objectives:

- a) Populations with risk practices (men who have sex with men, trans-sexuals and others);
- b) Adolescents schooled through the National Education Plan on Sexuality and Love (PLANESA), Ministry of Education;
- c) Expanding access to 38 service centres for counselling and voluntary testing, while strengthening the network of laboratories and blood services;
- d) Expanding the coverage of syndromic management of STDs;
- e) Improving the availability of condoms;
- f) Strengthening maternal and child care and decreasing mother – child transmission;
- g) Comprehensive care to people living with HIV/AIDS (PLWHA), including the delivery of ARV while strengthening reference laboratories;

- h) Strengthening mechanisms of enforcement and civic participation for PLWHA;
- i) Inclusion of STD / HIV/AIDS problems on the public agenda.

384. Thus far, Ecuador has exerted major efforts to strengthen maternal and child care, has expanded coverage of syndromic management of STDs with massive training of health personnel of the Ministry of Public Health, Armed Forces, Police, IESS, Rural Social Security, etc. Maternal and child care has been strengthened, and mother-child transmission has been decreased, with a goal, near to fulfilment, which is: "Seek to enable 200,000 women to have access to the screening test for detection of HIV/AIDS (and that) 80 per cent of HIV positive women receive prophylactic treatment." Backed with a strong communication component, the National Information Campaign for the prevention of vertical transmission is characterized by its nationwide coverage and inter-sectoral design.⁸⁴

385. Further, on 1 November 2007, the Vice Presidency began a programme to improve the quality of life of children living with HIV/AIDS by strengthening the capacity of clinics operating in paediatric hospitals "Baca Ortiz" in Quito and "Icaza Bustamante" in Guayaquil, allocating US\$ 992,000 for that purpose. The programme will allow both hospitals to expand the capabilities of their treatment facilities, follow-up and monitoring in order to ensure adequate and comprehensive care to infants with HIV/AIDS. It will also provide for laboratory equipment, supplies of vaccines not covered by the Expanded Immunization Plan and acquisition of nutritional supplies.

386. It should be noted that, while the progress of the response to HIV/AIDS in all areas has been crucial, it has not yet been able to prevent the epidemic from continuing to grow, affecting mainly the poor and vulnerable. In Ecuador, the epidemic is in its concentrated phase with an upward trend, with values of over five per cent seroprevalence in certain vulnerable groups (MSM) and below one per cent in pregnant women.⁸⁵

387. There is evidence in the country that the epidemic is progressing in the general population, affecting heterosexual youth, men and women, as well as children.⁸⁶ With regard to children and adolescents, there were 77 cases in 2003 (ages 0-9); 102 in 2004 (ages 0-14); 65 in 2005 (ages 0-13); and 94 in 2006 (ages 0-14). The National AIDS Programme reported a cumulative total of 343 cases born to HIV positive mothers from 2002 to 2005.

388. The State of Ecuador, through the Expanded Immunization Programme, has achieved control of diseases as follows: nine years without Measles, 16 years without polio, six years without yellow fever, and one year without Rubella; fewer cases of whooping cough, no cases of diphtheria, and a downward trend in pneumonia and Hib meningitis.

389. In 2006, in order to help reduce infant mortality and morbidity from vaccine-preventable diseases, Ecuador added two new vaccines for children and adolescents to the Expanded Immunization Programme: the influenza vaccine intended for children six to 23 months old;

⁸⁴ The following participated in the study: UNICEF, OPS, Free Maternity Care, Global Project Fund, KIMIRNA, CRS, AIDS Network Azuay, Plan International, CNNA, Red Cross, HIVDA Foundation, and the Directorate of Social Communications of the Ministry of Public Health Awareness-raising efforts were also directed towards commentators and journalists of the media, who supported the campaign.

⁸⁵ Information taken from HIV-AIDS Strategic Plan 2007-2015.

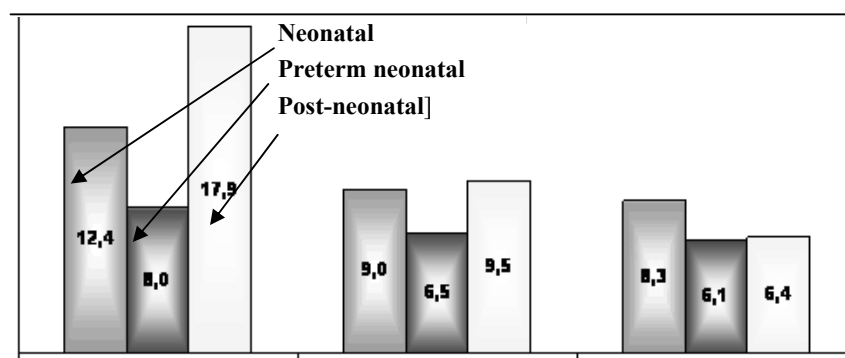
⁸⁶ (see note)

Hepatitis B for school-age adolescents 12 to 14 years old in grades 7, 8 and 9 of basic education, with three doses; and, in 2007, the Rotavirus vaccine for children aged two to six months, supported by the seasonal influenza vaccination campaign. The state allocated US\$ 25,416,267.88 to the programme for 2007.

10. Neonatal Mortality

390. According to the diagnostic survey for the National Development Plan prepared by SENPLADES, the risk of death varies according to age and is currently very high in the neonatal period. It is important to note that newborn infants die mainly due to disorders related to prematurity, foetal growth retardation, bacterial sepsis, hypoxia, congenital heart malformations, pneumonia, other respiratory diseases, foetal malnutrition and diarrhoea. Interventions for children are a matter of priority and utmost urgency.⁸⁷ It is important to highlight and draw attention to the fact that, in 2005, just over half the deaths occurring under age one occurred before completing the first month of life, and that percentage even shows an increase compared with 1990.

Figure 7. Rates of neonatal, preterm neonatal and post-neonatal mortality, Ecuador 1990 – 2005.



Rate per thousand live births. Values estimated taking as the denominator the number of live births each year and those recorded one year after their birth.

Source: MSP – INEC. Yearbooks of vital statistics, births and deaths.

Preparation: CISMIL.

391. Under the Plan for the Reduction of Neonatal Mortality, in order to address this situation, the State of Ecuador has allocated to date the sum of US \$ 207,000.00 to health projects and programmes for children. Implementation, technological adaptation and equipment of reference hospitals with neonatal units are under way. So far, 14 of the 22 provinces have received training in intervention strategies under the Plan and the necessary equipment for intervention in health services has been provided.

392. All hospitals of the second and third level of care under the Ministry of Health throughout the country have received training in the neonatal component of the AIEPI strategy. Of the health team networks at the first and second level of care nationwide, 50 per cent are applying the standards of care of the various components of the AIEPI strategy of care for children.

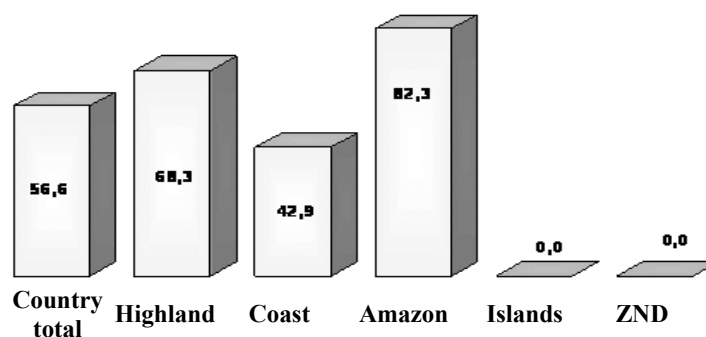
⁸⁷ MSP. – Micro Area of Children’s Health. Project to Strengthen Comprehensive Care of Children.

11. Maternal mortality

393. It is clear that maternal mortality, as well as the morbidity associated with its determinants, is a grave public health problem that reveals some of the most profound inequities in the conditions and quality of life of the population. It is a reflection of the state of health of women of reproductive age, their access to health services and the quality of care they receive.

394. Damage to maternal health has many implications, resulting in some cases from the constraints prevailing at the time care is provided during pregnancy and childbirth, but mainly during postpartum. According to reports from the Ministry of Health and the National Institute of Statistics and the Censuses (INEC), Ecuador's maternal mortality rate in 1990 was 117.2 per hundred thousand live births and in 2005 it was 56.6. Provinces such as Imbabura, Pichincha, Cotopaxi, Bolivar, Chimborazo, Canar, Loja, Sucumbios and Napo have values significantly above the national total. By region, the highland (Sierra) and the Amazon regions have values significantly higher than the national average.

**Figure 8. Rate of maternal mortality.
Country total and regions.
Ecuador, 2005**



Rate per thousand live births. Values estimated taking as the denominator the number of live births recorded in the year of birth and one year later.

Source: MSP – INEC. Yearbooks of vital statistics, births and deaths.

Preparation: CISMIL.

395. In analyzing maternal mortality is important to examine its causes. The National Plan for the Reduction of Maternal Mortality mentions that "currently, at the country level, it is recognized that most maternal deaths occur in health services and within the first hours of postpartum, haemorrhage being the main cause. In 2005, obstetric haemorrhage was the leading cause of maternal death, accounting for 43.3 per cent of total maternal deaths and, of these, postpartum haemorrhage accounts for 31.8 per cent; a second cause is eclampsia, accounting for 32.7 per cent and sepsis, accounting for 1.7 per cent."⁸⁸

396. It should be noted that care of maternal health, and especially childbirth care in rural areas, is subject to important cultural determinants; it is recognized that most of the country's health

⁸⁸ Ministry of Public Health – System of Epidemiological Monitoring and Research on Maternal Mortality. Proposed "Technical standard for active management of the third stage of labour" March 2006.

services are not adequately prepared to understand them, so that "culture shock" tends to promote home birthing, with midwives who are not always well trained. It should be noted that among indigenous women the rate of non-professional childbirth care is seven times greater than among white or mestizo women.

Table 15. Percentage of childbirth care by ethnic group.

Ecuador 2006

<i>Ethnic group</i>	<i>% of type of childbirth care</i>	
	<i>Non-professional</i>	<i>Professional</i>
Indigenous	62.3	37.9
Mestizo	9.9	90.1
White and other	9.9	90.1
Afro-Ecuadorian	14.7	85.3

Source: INEC, Standards of Living Survey, 2006

397. It is also necessary to draw attention to adolescent pregnancy, which constitutes one of the major challenges in reproductive health. "There is a high percentage of adolescent mothers and young mothers; in rural areas the situation is more severe. The average number of children in the younger generation is still high. There are problems for young people in finding access to friendly health services."⁸⁹

398. According to the Survey of Living Conditions for 2005, 12.9 per cent of adolescents in the country between 15 and 19 years of age have had a pregnancy; there are settings such as the Isidro Ayora Obstetric-Gynecological Hospital where 18 per cent of all births attended to are adolescents. This is viewed as a reflection of poor education, information and sexual and reproductive orientation given to adolescents from childhood, a situation that significantly aggravates their deteriorating health conditions and often cancels or at least restricts their plans and quality of life.

399. The following is a brief description of some of the factors associated with maternal mortality:⁹⁰

a) Prenatal care: a significant increase of prenatal care has been achieved in the country, but it remains wholly insufficient. In 2004, coverage with at least 1 prenatal care visit was only 84.2 per cent, and it is significantly lower in the rural sector (76.4 per cent). But while the coverage and the timing of the start of prenatal care are unsatisfactory, the number of check-ups is even more worrisome. In 2004, only 57.5 per cent of pregnant women came close to the minimum optimal standard defined by the Ministry of Public Health, which is five or more visits. Only 26.2 per cent had from 1 to 4 prenatal visits;⁹¹

b) Institutional and professional delivery care: Nationwide, 75.9 per cent of births during the period 1999 to 2004 occurred in health institutions. That is, a significant 24.1 per cent decided to give birth at home. Of this group, 15 per cent did so with an unqualified midwife, with a

⁸⁹ Working group: Young people.

⁹⁰ Taken from the diagnostic survey for the National Development Plan.

⁹¹ CEPAR. Mother and Child Demographic and Health Survey. 1994 – 1999 – 2004.

relative, or alone. According to the Demographic Survey of Maternal and Child Health, provinces like Bolívar, Cotopaxi, Imbabura, Chimborazo, Canar, Azuay, Loja, Esmeraldas and the Amazon region have rates of institutional delivery significantly lower the national percentage. The absence of large-scale programmes of intercultural delivery care, respectful of cultural values and principles and ensuring that mothers receive caring, quality attention, in part explains the preference for giving birth at home.

c) Postpartum management: one of the key determinants of maternal mortality is adequate postpartum management and especially the active management of third stage of labour. The maternal and child health demographic survey for the country states: "In the maternal health services surveyed, postpartum management is the least used health service in Ecuador. Only 36.2 per cent of women received at least one check-up. This figure goes from 44.4 per cent in urban areas to 26.4 per cent in rural areas." Furthermore, only 24.9 per cent of women who delivered a live birth between July 1999 and June 2004 received their first postpartum examination before reaching 41 days after delivery, and 11.2 per cent after. There are several provinces and regions where an extremely high percentage of mothers do not receive at least one postpartum examination: in Imbabura, Cotopaxi, Bolívar, Azuay and Los Ríos the figure is above 75 per cent, even reaching 80.4 per cent;

**Table 16. Place of provision of childbirth service by quintile and ethnic group.
Ecuador 1999 – 2004**

<i>Characteristic</i>	<i>% of place of provision of service</i>		
	<i>Public sector</i>	<i>Private sector</i>	<i>Home</i>
Economic quintile:			
One	39.5	17.3	42.8
Two	46.9	29.6	23.2
Three	50.2	38.5	11.1
Four	50.0	42.6	7.2
Five	40.6	54.9	4.5
Ethnic group:			
Indigenous	25.2	5.6	68.7
Mestizo	47.0	34.5	18.2
White	49.5	38.0	12.5

Source: Demographic and mother-child health survey. *Preparation:* CISMIL

400. Use of contraception: It is considered that use of contraceptive methods is part of the fundamental factors determining fertility behaviour and control of reproductive risks. In Ecuador, the Demographic Survey of Maternal and Child Health indicates that, in 2004, 72.7 per cent of women in marriages and couples aged 15 to 49 used some contraceptive method. It is important to note that female sterilization is the most used method (24.1 per cent), followed by the pill (13.3 per cent) and the intra-uterine device, or IUD (10.1 per cent). Use levels are significantly lower in rural areas.

401. Faced with this situation, the State of Ecuador spends about \$ 20 million annually for the care of pregnant women, newborns or children under five years of age, through the Law on Free Maternity and Child Care. The implementation of the Law has brought progressively improved coverage of maternal and infant care. However, it is recognized that the Law on Free Maternity and Child Care has not been sufficiently disseminated and its coverage is very low, mainly in rural areas.

402. Not yet included under this Law are indigenous and non-indigenous midwives, whose knowledge and practices in caring for pregnancy, childbirth, postpartum and newborn care have not been taken into account for policy proposals in this area. There is no mass access and quality of services is still poor. It has not yet been possible to make services fully free; for rural women, access is poor and very restricted not only by the distances they must travel from their communities, but because health services are not adapted to the culture of this population.

**Table 17. Number of services delivered by programmatic groups.
Law on Free Maternity and Child Care. 2006**

<i>Services by programmatic groups</i>	<i>Number</i>
Services delivered to women	3,314,630
Services delivered to children	3,922,392
Bottles of infant formula, HIV/AIDS exposed children, delivered	3,500
Total units of blood and concentrated red corpuscles administered	13,629
Units of haemocomponents administered	17,553
Vasectomies	314

Source. Executing Unit of the Law on Free Maternity and Child Care. Memorandum. UELMGAI-CG-10-0101-2007

12. Adolescent health

403. At present, according to the baseline of the National Development Plan, 8.7 per cent of births in Ecuador were to adolescent mothers; 41 per cent of women between ages 15 and 24 did not return to school because of pregnancy. According to the ENDEMAIN survey, 30 per cent of adolescents had their first sexual intercourse before age 18, 68 per cent of adolescent women have knowledge of HIV/AIDS, 94 per cent of adolescent girls know at least one contraceptive method, and only 24 per cent of adolescent women use contraception, largely still because the subject of sexuality and sexual education has not been addressed in educational and family settings. Faced with this problem, the State of Ecuador in the 10-year National Plan of Action lays down as a policy for adolescents "to achieve the best standards of health and the responsible exercise of sexual and reproductive rights."

404. Implementing public policies and comprehensive protection under the policy of sexual and reproductive rights, the Ministry of Health, through the Provincial Directorates of Health, has signed seven interagency cooperation agreements with the Ecuador Adolescents Project to implement the differentiated service model for adolescents. Up to 2007, according to data from the Ecuador Adolescents Project, there are 27 care centres for adolescents in seven provinces (Manabi, El Oro, Pichincha, Guayas, Imbabura, Napo, and Azuay) with trained personnel providing differentiated service.

405. Further, the Ministry of Education through Ministerial Agreement No 403 of 10 August 2006 is institutionalizing sex education in all establishments of the educational system, emphasizing the requirement that the teaching of the subject reach children and adolescents the country. Similarly, Ministerial Decision No. 89 provides that for pregnant teenagers the authorities of educational institutions shall implement an action plan rather than resort to expulsion, suspension, denial of registration or any type of discrimination. In this context, the State of Ecuador in 2007 has a curriculum proposal for Comprehensive Sex Education, developed

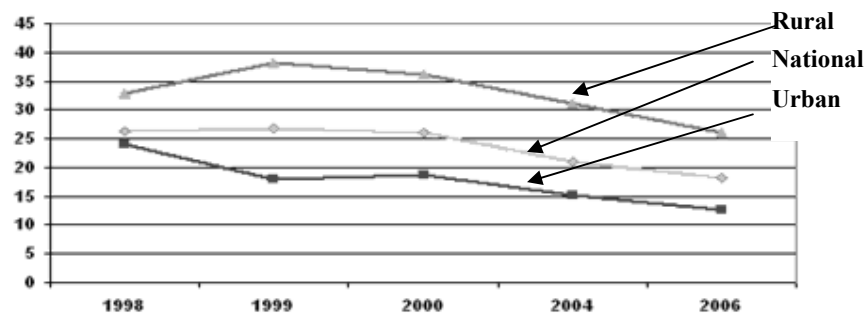
with input from the Interagency Committee to Support the Inclusion of Sex Education, consisting of NGOs and public and private institutions.

13. Food and nutritional security

406. With regard to child malnutrition in Ecuador, one in five Ecuadorian children suffer from chronic malnutrition, which means a total of about 299,000 children. Despite efforts by the State on this issue and the decline of this indicator over time, rates of general malnutrition (low weight for age) and chronic malnutrition (low height for age) remain high especially in rural areas, where the figures are significantly higher than in urban areas.

407. For 2006, 18.1 per cent of children suffer chronic malnutrition (low height for age), 12.7 per cent for urban children and 26.1 per cent for rural children. This problem persists, particularly in the countryside, although it has diminished in the last two decades. At the same time, the differences between populations in the country remain: the indigenous population accounts for 40.1 per cent of chronic malnutrition, the province with the highest percentage, 39.2 per cent, being Chimborazo.

Figure 9. Chronic malnutrition



Source and preparation: SIISE 4.5.

408. Various actors have made efforts in this field. Those of the Ministry of Public Health focus on Food and Nutrition Programme, PANN 2000; the Comprehensive Micronutrient Programme, PIN; the Food and Nutrition Education Program, PEAN; the Food and Nutrition Monitoring System, SISVAN. In the Ministry of Education, there is the School Food Programme; and, in the Ministry of Social Welfare, the Programme “*Alimentate, Ecuador*”. Also, the Law on Food Security and Nutrition has been adopted, to be implemented through the Comprehensive Food and Nutrition System (SIAN).

409. *Comprehensive Micronutrient Programme.* The programme's overall objective is to contribute to reducing the nutritional problems of the Ecuadorian population facing high social and biological risk. The universe of coverage is all pregnant women, children under age 1, and children six to 36 months of age who appear for consultations at health units of the Ministry of Public Health.

410. *Food and Nutrition Programme (PANN.)* This programme aims to address the nutritional needs of children up to 36 months old, pregnant women and lactating mothers. Its main strategies include processing and distribution of fortified food supplements. The beneficiaries of the programme, according to SIAN goals, number 468,000, and also correspond in terms of priority

to quintiles 1 and 2. However, according to the database of the Ministry of Public Health, the programme serves 719,000 children aged six to 36 months, 360,000 pregnant mothers and 324,000 lactating mothers.

411. “*Alimentate Ecuador*” (children two to five years old), this programme has a ratio of total poor beneficiaries to total beneficiaries of 85 per cent, and serves disabled persons of all ages and adults over 65 years old, with a nutritional component for children aged from three years to five years 11 months, who are in a vulnerable situation and are registered in the lists prepared technically by SELBEN. In 2007 the State allocated US\$ 17 million.

412. The School Food Programme aims to overcome conditions of educational inequality by helping to build human capital. In 2007, with US\$ 30 million, 800,000 children received food at their schools (Coastal region plan) and 500,000 children received food at their school (highland region plan). For 2008 it is estimated that the programme will provide breakfast and lunch for 1.5 million children. The unit cost of this service is US\$ 0.30 for breakfast and lunch and it is intended to cover 200 days per year.

413. The State of Ecuador, to address the issues outlined above, has proposed the following policies through 2010 under the National Development Plan devised by the National Secretariat:

- a) To ensure universal health coverage, with quality, caring service, eliminating any barriers that create inequality or exclusion and restoring health as a civil right;
- b) To ensure universal access to essential medicines, strengthening State authority and sovereignty in the management of medicines and herbal remedies;
- c) To strengthen prediction and prevention of disease, building capacities to detect, curb and control diseases, environmental hazards, accidents, violence and disabilities;
- d) To strengthen health promotion, promoting the building of civic awareness and a culture of health and life;
- e) To promote the development of environments supportive of health and life.

D. Social security (art. 26)

414. Article 55 of the Constitution of 1998 recognizes that social security is the duty of the State and the inalienable right of all its inhabitants. It is to be provided with the participation of the public and private sectors, as provided by law.

415. Moreover, the Childhood and Adolescence Code, 2003, provides that children and adolescents have the right to social security. This right comprises access to the general benefits and services of the system.

416. National efforts towards the realization of this right of children have made little headway. This is evident in the statistics because only 7.50 per cent of children and adolescents are insured. Through the Armed Forces Social Security Institute, children and dependents of military personnel up to age 25 receive all social security benefits of the Armed Forces; their allowances are paid up to age 21; children are entitled to use the services available at military hospitals.⁹²

⁹² Ministry of National Defense, Official Communication No MS-8-DH-2007-428.

Table 18.
Children and adolescents without health insurance

		<i>Access to insurance</i>		<i>Population 0 – 17 without PCD</i>
		<i>With access</i>	<i>Without access</i>	
National		7.50%	92.50%	4,928,677
Sex	Men	7.40%	92.60%	2,525,698
	Women	7.70%	92.30%	2,402,979
Ethnic group	Indigenous	6.90%	93.10%	229,370
	Afro-Ecuadorian	10.50%	89.50%	55,728
	Mestizo, white, other	7.30%	92.70%	3,867,952
Poverty	Not poor	8.40%	91.60%	2,036,814
	Poor	6.80%	93.20%	2,864,790
Income quintiles	20% poorest	8.60%	91.40%	1,279,896
	2nd quintile	6.00%	94.00%	1,145,375
	3rd quintile	3.90%	96.10%	998,999
	4th quintile	4.70%	95.30%	842,460
	20% richest	17.50%	82.50%	634,874
Place of residence	Urban	5.10%	94.90%	3,083,704
	Rural	11.60%	88.40%	1,844,973
Natural region	Highland	8.70%	91.30%	2,152,931
	Coast	6.00%	94.00%	2,490,494
	Amazon	11.90%	88.10%	285,251
Province	Azuay	5.40%	94.60%	243,206
	Bolivar	3.20%	96.80%	73,333
	Cañar	5.90%	94.10%	91,054
	Carchi	6.90%	93.10%	56,691
	Cotopaxi	8.70%	91.30%	153,021
	Chimborazo	9.20%	90.80%	171,908
	El Oro	4.30%	95.70%	209,183
	Esmeraldas	12.60%	87.40%	182,819
	Guayas	4.50%	95.50%	1,297,923
	Imbabura	9.00%	91.00%	150,643
	Loja	13.10%	86.90%	163,510
	Los Rios	2.70%	97.30%	276,713
	Manabi	9.90%	90.10%	484,443
	Pichincha	10.70%	89.30%	876,729
Tungurahua	2.60%	97.40%	172,836	

Note: PCD – Persons with Disabilities.

Source: Employment and unemployment surveys (ENEMDU) – INEC. **Year:** November 2004.

Preparation: SIISE

IX. EDUCATION, LEISURE AND CULTURAL ACTIVITIES.

A. Education, including vocational training and guidance (art. 28)

417. The 1998 Constitution included a chapter on the right to education with 14 articles, from 66 to 79, which stresses education as the inalienable right of individuals and the duty of the State, society and family. It is a priority area of public investment, a requirement for national development and a guarantee of social equity. It is provided that public education will be secular at all levels, compulsory through the primary level, and free through high school or its equivalent. Public establishments will provide, without cost, social services to those in need. Students living in extreme poverty will receive specific subsidies. Moreover, the budget allocation must be at least 30 per cent of the total current revenue of central Government.

418. In line with constitutional principles, the Childhood and Adolescence Code recognizes, in articles 37 to 42, the right to education, the objectives of educational programmes, and respect for the rights of children and adolescents by educational personnel.

419. Ecuador has a National System of Education in which the Ministry of Education is the governing authority of for public, public/religious, private and municipal schools, be they Spanish-speaking or bilingual-intercultural. The system provides for two types of education: a) formal education, which includes early childhood education for children under five, b) basic education, comprising ten years of compulsory education and c) secondary education, which consist of three years of study.

420. On 9 November 1988, Executive Decree No. 203 established the Directorate of Bilingual Intercultural Education, with a mission to undertake the development of policies for intercultural bilingual education as public policies with the organized participation of stakeholders involved in the intercultural bilingual education model that is incorporated into the structure of the national education system.

421. On 16 June 2006, the State of Ecuador through the National Council on Education approved the policies of the *Ten-Year Education Plan*⁹³, based on multiculturalism, inclusiveness and equity. A referendum of 26 November 2006 approved the Ten Year Education Plan as State policy, whose measures, as well as the investment needed to fund those measures, are mandatory. These are:

- a) Universal early education from 0 to 5 years;
- b) Universal provision of basic general education from first through tenth grade;
- c) Increasing enrolment in high school to at least 75 per cent of the population of the corresponding age group;
- d) Eradicating illiteracy and strengthen continuing education for adults;
- e) Improvement of physical infrastructure and equipment of educational institutions;

⁹³ See annex XX.

f) Improving the quality and equity of education and implementation of a national system of evaluation and social accountability;

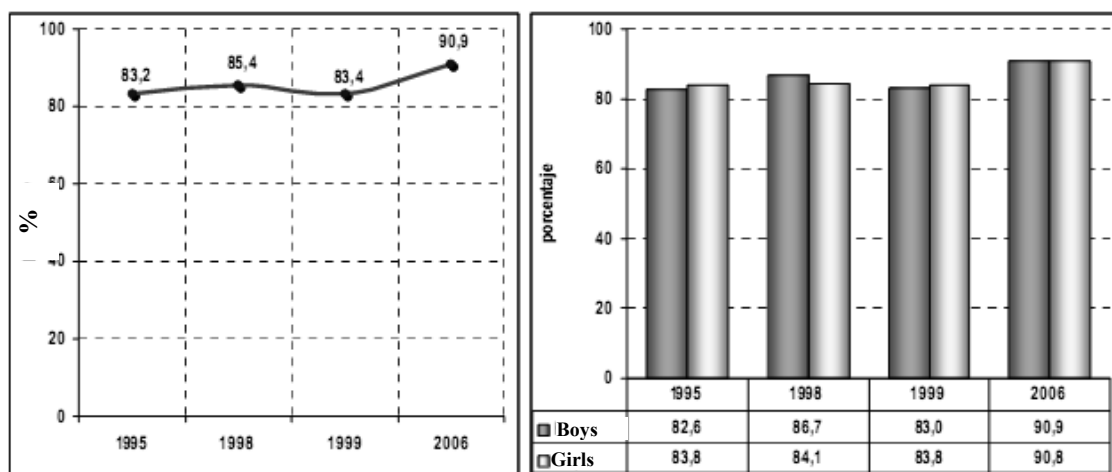
g) Enhancing the status of the teaching profession and improving training and professional development on an ongoing basis; improving working conditions and quality of life of teachers;

h) Increase of 0.5 per cent per year in the educational sector's share of GDP to the year 2012, to reach at least six per cent for investment in this sector.

422. According to the assessment in the National Development Plan, access to education has improved in recent years; however, marked differences persist between urban and rural areas and among people of various ethnicities. Also, some provinces still have significantly lower levels than the national average. It should be noted that the gender gap has been closed, except in regard to illiteracy. There are no comprehensive data on access to early education (3 to 5 years), but according to the 2003 Employment Survey, the net enrolment rate for preschool (5 years) is only 28 per cent and, in the poorest households, is just 18 per cent.

423. Over the last decade the net enrolment rate in basic education (91 per cent) increased by seven percentage points. In 2006, there are no disparities between girls and boys.⁹⁴

Figure 10. Trend of net enrolment rate in basic education



Source: ECV 1995, 1998, 1999, 200 Preparation: CISMIL

424. There is a noteworthy reduction of the urban-rural gap in this indicator from 1995 (13 points) to 2006 (7 points). In terms of natural regions, enrolment in the Amazon region for 2006, 90.0 per cent, is 1 point away from that of the coastal and highland regions (90.8 per cent and 90.9 per cent respectively). It is the indigenous populations that have the lowest levels of access to basic education (87 per cent), followed by Afro-Ecuadorians (87 per cent). Mestizos and whites have rates of 91.8 per cent and 90.7 per cent.

425. In territorial terms, one can disaggregate between two groups of provinces: some, such as Pichincha, Guayas, El Oro and Cotopaxi are in a better position, with net enrolment levels above

⁹⁴ See figure 2.2.

education. In 2006 it eliminated the voluntary contribution by families, meaning suspension of the \$ 25 that each family contributed to maintaining public schools. The process of elimination of the voluntary contribution is now being continued and expanded. The Government this year allocated 24.5 million; distribution and management of the resources was conducted through the signing of Ministerial Agreement No. 145 of 26 April 2007. These resources are intended for grades one through seven of basic education in free public and public/religious schools.

**Table 19. Provincial distribution of 25 dollars
Coast and highland regime, 2007**

<i>Provinces</i>	<i>Coast and highland</i>		
	<i>Total</i>	<i>Group 53</i>	<i>Group 84</i>
Azuay	1,375,742.00	1,128,126.00	247,618.00
Bolivar	511,239.00	431,514.00	79,725.00
Cañar	610,065.00	504,149.00	105,916.00
Chimborazo	977,426.00	811,554.00	165,872.00
Cotopaxi	1,000,491.00	826,283.00	174,209.00
El oro	1,203,468.00	983,782.00	219,686.00
Esmeraldas	1,377,412.00	1,122,587.00	254,825.00
Galapagos	20,783.00	17,070.00	3,713.00
Guayas	4,591,909.00	3,717,820.00	874,089.00
Imbabura	759,624.00	621,548.00	138,076.00
Loja	1,072,245.00	909,639.00	162,605.00
Los rios	1,622,763.00	1,327,081.00	295,682.00
Manabi	2,604,698.00	2,142,366.00	462,332.00
Morona santiago	316,638.00	267,572.00	49,066.00
Napo	222,532.00	190,363.00	32,169.00
Pastaza	199,813.00	172,922.00	26,891.00
Pichincha	3,804,311.00	3,068,640.00	735,671.00
Sucumbios	403,590.00	344,110.00	59,480.00
Tungurahua	847,723.00	691,300.00	156,423.00
Zamora	245,165.00	210,726.00	34,439.00
Total	24,451,155.00	20,062,289.00	4,388,868.00

Source: Ministry of Education

430. For 2008, it is estimated that 990,000 households will benefit from the elimination of the “voluntary” contribution.

431. In 2006, the State of Ecuador, with the aim of contributing to improvement in educational quality and reducing barriers to access, implemented the provision of free school textbooks. The issuance of textbooks covers grades one through ten of basic education. In the course of 2007, 3,532,881 textbooks were given to 1,019,956 children of the Spanish-speaking system of the Coastal region.⁹⁷ For the highland and Amazon regions, 3,896,424 textbooks were given to

⁹⁷ Includes the islands region. Information updated to 13 September 2007, available from SIGOB.

1,234,554 children of the Spanish-speaking system. For the bilingual system, 365,351 textbooks of the “*Kukayu Pedagógico*” series are in the process of distribution, to benefit 86,741 students.

432. Another action has been the voluntary retirement of teachers and splitting of posts, by payment of \$ 12,000, which involved replacing an average of 2.27 new teachers the first five years. Based on the distribution of teachers according to age groups, it would be expected that 2,500 teachers per year would make use of this option, but the number of posts achieved through voluntary retirements in 2006 was 1,284. In 2007, 1,926 teachers took voluntary retirement.

433. In order to expand educational coverage and improve the quality of education, the State of Ecuador under Executive Decree No. 709 of 31 October 2007⁹⁸ mandated the creation, from 1 April 2008, of 12,000 new posts for teachers of the fifth category, which the Ministry of Education will distribute in the urban and rural sectors.

434. In order to build a culture of peace, participation and effective exercise of the rights of members of the educational community, and in keeping with the Childhood and Adolescence Code, the Ministry of Education, from the year 2003, by Ministerial Agreement No. 1962 of 18 July, resolved to begin a process of analysis and reflection on regulations, school climate, pedagogical and disciplinary practices, internal conflicts and their impact on levels of student abuse and school-leaving, in addition to the development of Codes of Conduct in all educational establishments in the country, replacing the internal regulations of the centres. In 2007, through Ministerial Agreement No. 180 of May 2007, the State of Ecuador institutionalized the Code of Conduct in all schools in the country, at the different levels and modalities of the system, the Code thus becoming the new common model of conduct for the educational community.

435. To fulfil the third policy, "Increasing enrolment in high school to at least 75 per cent of the population of the corresponding age group," the State of Ecuador, through the Ministry of Education, has to date pursued some actions to develop the new profile and definition of the new baccalaureate curriculum. Discussion has taken place at the national level on reforms to the baccalaureate in sciences (Chemistry-Biology, Mathematics-Physics, and Social), the full range of technical and arts high school diploma programmes.

436. The baccalaureate in Science is in the process of definition as regards its pedagogical model, for which purpose working groups have been held in Quito, Guayaquil and Cuenca to review the pedagogical models that are being applied in Ecuador. Similarly, there has been discussion of the baseline of the baccalaureate and review of the experiences of six Latin American countries in reforming the baccalaureate.

437. With regard to the baccalaureate in Arts, development of the baseline survey and evaluation is under way. For the first time in the country, it is being applied in the Coastal Region and its application is expected to begin in the Highland Region, including administrative, pedagogical and curriculum assessment.

438. The Technical baccalaureate has been strengthened in its three components: institutional strengthening, training and productive undertakings. This is being implemented through the project for Strengthening Reform of Technical Education (RETEC).

⁹⁸ Published in *Official Gazette* No. 211, see annex XXII.

439. For the fourth policy, "Improving the quality of baccalaureate education," Ecuador is institutionalizing the Youth Science and Technology Fairs. To that end, the Ministry of Education and the National Secretariat of Science and Technology (SENACYT)⁹⁹ have agreed to hold annual Science and Technology Innovation Youth Fairs, three regionally and one nationally. The first Science and Technology Innovation Youth Fair was held in Guayaquil on 7 and 9 September.

440. The Ministry of Education, regaining its leadership role, is working on the Comprehensive Education Reform for the Galapagos (REIG). The experience so far achieved has been systematized. It has enlisted the assistance of UNESCO to define the management model, for which a national team and a local team were formed and conducted on-site operational work in September.

441. To address the fifth policy, "Improving the physical infrastructure and equipment of educational institutions," the Ministry of Education has implemented the formation of **Millennium Educational Units**. These units represent a new vision of the educational process encompassing levels from early education (3-4 years) to baccalaureate and contributing to the comprehensive education of children. The Ministry of Education envisages the construction of 122 Millennium Schools, which will give priority to serving the population in rural and marginal urban areas, particularly border areas, and correcting historical inequities. It therefore seeks to provide caring, quality education within an inclusive framework, developing citizen engagement and respect for environmental conservation; to that end, it will incorporate new technologies as tools to support the teaching-learning process.

Table 20. Location of Millennium Educational Units

<i>No.</i>	<i>Location</i>	<i>Name</i>
1	Province of Guayas, Guayaquil	Dr. Alfredo Vera Vera
2	Province of Cotopaxi, Zumbahua	Cacique Tumbalá
3	Province of Esmeraldas, San Lorenzo	San Lorenzo
4	Province of Azuay, Cuenca	Ciudad de Cuenca
5	Province of Imbabura, Otavalo	Jaime Roldós
6	Province of Napo, Misahuali	n.a.
7	Province of El Oro, Huaquillas	Olga Campoverde
8	Province of Loja, Macará	n.a.
9	Province of Orellana, La Joya de los Sachas	CEM
10	Province of Tungurahua	Cotaló

Source: DINSE – Preparation: Ministry of Education

B. Educational goals, including quality of education (art. 29)

442. Article 66 of the Constitution states that education based on ethical, pluralistic, democratic, humanistic and scientific principles will promote respect for human rights, develop critical thinking, encourage good citizenship, provide skills for efficient work and production, stimulate creativity and the full development of the personality and special abilities of each person and foster multiculturalism, solidarity and peace.

⁹⁹ Ministerial Agreement No. 165 of 11 May 2007.

443. The Childhood and Adolescence Code, in Article 38, provides that the primary and secondary education will ensure the knowledge, values and skills essential for personal development, promote and practice peace, exercise, defend promote and disseminate the rights of children and adolescents and foster respect for the environment.

444. To comply with the 6th Policy, "Improving the quality and equity of education and implementing the National Evaluation System," the main lines of action are geared to developing and implementing the National Evaluation System (measurement of academic achievement, assessment of institutional management and evaluation of teacher performance based standards for all levels and modalities of the system); developing and implementing pedagogical models that evolve and adapt to the socio-cultural needs of national development; and implementing an accountability system for all stakeholders in education.

445. The Ministry of Education initiated the implementation of the *Aprendo 2007* ("I Learn" 2007) tests across the country in 1,358 schools, 626 preparatory academies and for 72,000 students in the third, seventh and tenth grades of basic education in public, public/religious, municipal and private schools. These tests cover two basic areas: Mathematics and Language; questionnaires will also apply factors associated with learning directed at teachers, students, principals of schools and parents to ascertain the environment in which students are developing, the sociocultural factors that may be affecting performance and family relations, as well as the kind of infrastructure that schools have, the materials they use, the teaching and evaluation methods applied by the teachers, and the quality of the curriculum. So far it is known that in the highland region's system, tests were administered between 18 and 22 June, in 297 schools and 277 preparatory academies, evaluating 32,260 students. The test results are under evaluation. The tests were applied in the Coastal region's school system from November 2007.

446. The Ministry of Education, through Ministerial Agreement No 534 of 26 October 2006, declared official the National Plan for Environmental Education for elementary and secondary school education within the formal education system, thus treating environmental education as an urgent need throughout the curriculum to improve the education of students. In this context, the State has designed the Environmental Education Curriculum as a cross-cutting feature of basic education and has developed guidelines for incorporating environmental education in secondary education.

447. Decree No. 711 of 5 November 2007¹⁰⁰ issued the Regulations of the Law on Education for Democracy, creating the National Education for Democracy Programme, whose aim is to ensure that all plans and curricula of the educational system of the country both at the basic education and high school level, as well as crafts and vocational training, will have as a cross-cutting focus instilling the values of democracy, integration, human rights and civic duties in a pluralistic and non-dogmatic manner.

448. The country's schools are now implementing the National Policy to Combat Drugs, which aims to protect the mental and physical wellbeing of the community, especially children and youth, against substance abuse and to provide access to different modalities of diagnosis, treatment and rehabilitation and social reintegration for the population affected by drug abuse.

449. There are 230 communities building a culture of preventive education. To date there have been 234 institutional preventive projects; 7,639 student team members trained to develop

¹⁰⁰ See annex XXIII.

preventive projects; 37,559 students in the 8th, 9th and 10th grades of basic education active in strengthening protective factors; 3,141 high school students involved in project implementation; 2,456 authorities and teachers educated about drug problems; 22,007 parents and 33,581 members of the community in awareness-raising programmes; 109,383 people participating in institutional prevention projects; 8,000 student participation modules published and distributed; and workbooks for students in basic education published and distributed.

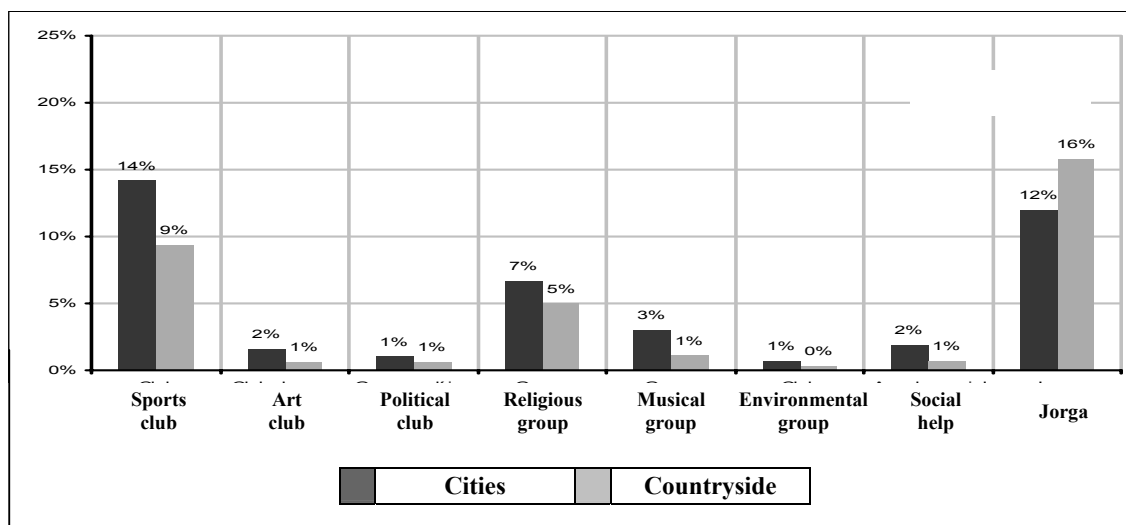
C. Leisure, recreation and cultural and artistic activities (art. 31)

450. The Constitution guarantees the exercise and participation of people, under equal conditions and with equal opportunities, in cultural goods, services and events; further, it provides that measures shall be taken so that society, the educational system, private enterprise and the media contribute to fostering creativity and cultural activities in their various forms.

451. Article 48 of the Code for Children establishes the right of children and adolescents to recreation, rest, play, sports and other activities proper to each stage of growth. Article 43 also establishes the right to participate freely in all expressions of cultural life.

452. In Ecuador, friends and sports are generally the main focus of the extracurricular activities of children. The group activities that most appeal to children in the country are community groups and sports clubs or organizations: both of these involve about one in 10 boys and girls ages five to 17 (13 per cent and 12 per cent, respectively). Sports clubs are more common in cities, groups in the countryside. Sports clubs are more popular among boys (15 per cent) than girls (10 per cent); groups attract both sexes equally. Participation in both activities increases slightly among adolescents.

Figure 12. Percentage of children aged 5 to 17 who belong to organizations or groups in school or community, 2004



Source: INEC, SIEH, 2004. Preparation: OSE

453. Few children participate in artistic, political, ecological or social help groups. Nationwide, fewer than two in every 100 children participate in extracurricular activities of this type. Art, music and social support clubs are more common in cities than in rural areas. Political and environmental groups are rare throughout the country.

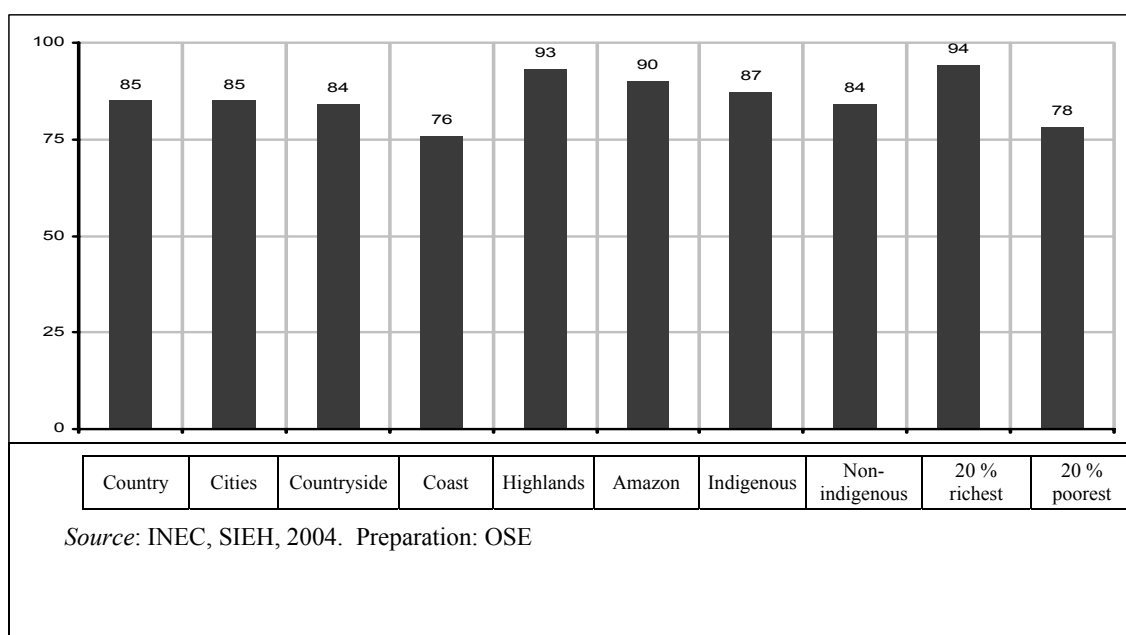
454. Television, sports and music fill the leisure time of adolescents. 62 per cent of the country's adolescents consider watching television as one of their three main spare time activities; 56 per cent do sports or exercise; and 46 per cent listen to music. Differences among adolescents in the country according to place of residence are not marked. Television is more urban; sports and music are equally prevalent in the countryside and cities. Sports activity tends to be more common in the Amazon; television is more common in the Coastal region; music is a pastime practiced equally throughout the country.

455. Most children have sports areas at their school; nine out of 10 of the children aged five to 17 attending educational institutions have access to a sports field at their school. Recreational infrastructure of schools varies among provinces and cities. Availability of sports fields is similar in educational establishments of the cities and the countryside, but is less common in the provinces of the Coast.

456. 76 per cent of students in the Coastal region have sports fields in their schools or colleges, compared with 93 per cent of those living in the highland region. The cities of Cuenca and Quito have the largest number of establishments with sports fields: 96 per cent of students in Cuenca and 94 per cent in Quito have sports fields in their schools. In contrast, only 73 per cent of children in Guayaquil have this recreational resource.

457. The State of Ecuador, through the Ministry of Sports, builds sports infrastructure, conducts a programme of mass availability and socialization of sports, physical education and recreation known as “Sembrando una Sonrisa por el Deporte,” (“Planting a Smile through Sports”), with educational activities in different strata of society, and has established Centres for Training, Recreation and Sports Practice (CENDEPORTES) and the project “Centros de Alto Rendimiento Todeportes” (“Topdeportes High Performance Centres”), which pursues indigenous sports activities consonant with our multicultural and multiethnic reality.

Figure 13. Percentage of children aged 5 to 17 who attend educational establishments with one or more sports fields, 2004



X. SPECIAL PROTECTION MEASURES

A. Children in emergencies

1. Refugee children (art. 22)

The situation on the northern border of Ecuador. Economic, social and security repercussions¹⁰¹

458. Ecuador's shared border with Colombia is a territory affected by problems and conflicts due to the presence of guerrillas and armed groups, and due to its proximity to areas where illicit crops are grown and where there are coca-processing centres. This situation leads to the emergence of problems such as the presence of a large displaced population from Colombia, a high incidence of crime, violence, exploitation of children and adolescents, and arms trafficking, compounded by the effects of aerial spraying, which began in 2001 to eradicate illegal crops along the border with Ecuador. These sprays have had harmful effects on population's health (skin diseases), crops and the environment, exacerbating the already difficult economic and social situation of the area.

459. This is reflected in the presence of a large number of Colombians seeking refuge, which has contributed to a worsening of the economic and social situation in our country. The total number of asylum applications lodged during the period 2000-2007 was 45,381, of which 14,300 have been accepted. In the provinces of Esmeraldas, Carchi, Imbabura, Sucumbios and Orellana, urban unemployment has remained at levels bordering on 10 per cent while underemployment averages about 68.5 per cent, reflecting the vulnerable situation of the population.

460. Regarding access to public services, the indicators are below those found at the national level and this contributes to the deepening of poverty, which reaches a rate of 60.6 per cent in the area. Upon arrival, refugee applicants seek employment, mainly in the informal commerce or in agriculture. However, their social and economic integration is no easy matter.

Table 21. Status of refugee applications 2000 – 2007

<i>Year</i>	<i>FILED</i>	<i>ACPT</i>	<i>DEN</i>	<i>LAPS</i>	<i>CANC</i>	<i>REA.</i>	<i>REPA.</i>	<i>PEN COM.</i>	<i>PEN.</i>
2000	475	390	60				36		
2001	3017	1406	394	999			87		
2002	6766	1578	1199	1586		4	7		
2003	11463	3270	4392	3606		157	4		
2004	7935	2420	4200	1930		379	4		
2005	7091	2435	2673	1312	11		0	168	
2006	7638	2026	2691	2	3	332	3	23	
2007	996	775	819	0	2			-16	
2000-2007	45381	14300	16428	9435	16	872	141	175	4014
Percentage	100,00	31,51	36,20	20,79	0,04	1,92	0,31	0,39	8,85

Legend: TMP, Temporary Protection; LAPS, lapsed; REU Family reunification; REA Resettlement (third country receives refugees); REPA, Repatriation (Voluntary return to country of origin); CANC, Cancelled (proven false, or continuous travel to the country where persecution occurred); CES, terminated (stipulated in Geneva Convention of 1951).

Source: Ministry of External Relations, Office of Refugees, 2007.

¹⁰¹ See annex XXV. Situation on the northern border of Ecuador. Economic, social and security repercussions. Quito, 12 September 2007. Directorate of border relations with Colombia, Ministry of External Relations, Trade and Integration.

461. To address this situation, the State of Ecuador considers it vital that the international community and multilateral agencies intervene with more support, which could now be channelled to the implementation and execution of programmes and projects contemplated in Plan Ecuador. **Children and adolescents in the context of migration and refugees**¹⁰²

462. According to the Office of United Nations High Commissioner for Refugees (UNHCR), there are reportedly 34,046 refugee children and young people aged six to 17, and 13,314 aged 0 to 5 in the country. The former group of 34,046 are of school age.

Table 22. Estimated refugee population by sex and age

<i>Age</i>	<i>Female</i>	<i>%</i>	<i>Male</i>	<i>%</i>	<i>Total</i>	<i>%</i>
0 to 5	8,160	3.71	5,454	2.48	13,614	6.19
6 to 17	15,374	6.99	18,673	8.49	34,047	15.48
18 to 59	60,702	27.60	84,016	38.20	144,718	65.80
60 or over	19,904	9.05	7,654	3.48	27,558	12.53
TOTAL	104,140	47.35	115,796	52.65	219,936	100.00

Source: UNHCR 2007.

463. In a survey conducted by the Ecuadorian Episcopal Conference in five cities – Quito, Ibarra, Santo Domingo, Tulcan and Esmeraldas¹⁰³ – where the total of school – age Colombian children and adolescents was 26,180, only 1,077, i.e. only 4.11 per cent, had access to the educational system. There are no official data on this matter.

464. The State of Ecuador has taken significant steps to meet its commitments under the Convention on the Rights of the Child and the 1951 Convention relating to the Status of Refugees. Among the legal and public policy developments are the following:

a) Issuance of the Childhood and Adolescence Code, in 2003, which provides special protection as a policy for refugee children and adolescents, as full subjects of rights (arts. 57 and 58);

b) The 10-year National Plan of Action, approved by the National Council for Childhood and Adolescence by Resolution No. 24, October 2004, published in *Official Gazette* 475 of 3 December 2004, provides, in Policy No. 9, for protection and priority action by the State and civil society for refugee children;

c) Ministerial Agreement 1187 of the Ministry of Public Health, 2004, guaranteeing access for refugees to public health under the same conditions as those of the Ecuadorian population;¹⁰⁴

¹⁰² Taken from the document “UNHCR inputs for the report of Ecuador on the Convention on the Rights of the Child”.

¹⁰³ Rodas, Susna. Baseline on conditions of access, placement and attendance for refugee children and youth in the cities of Ibarra, Tulcán, Quito, Santo Domingo de los Colorados, Esmeraldas and San Lorenzo. Episcopal Conference of Ecuador, Committee on Refugees. Conducted with support from the Norwegian Council for Refugees. January, 2007.

¹⁰⁴ See annex XXVI.

d) The revision of the Law on Free Maternity and Child Care, expanding its coverage of Ecuadorians to include people in Ecuadorian territory, which includes refugees and asylum seekers as subjects of benefits;

e) Ministerial Agreement 455 of the Ministry of Education, 2006, providing mechanisms for child and adolescent refugees or asylum seekers to have access elementary and high school education without certificates of previous studies;¹⁰⁵

f) The inclusion of the refugee population as a target group in the National Strategic Plan for HIV/AIDS, launched by the Government in May 2007;

g) Plan Ecuador, launched in 2007, set out three areas of intervention: i) Consolidate security and a culture of peace centred on human beings, satisfying their needs and enhancing their capabilities and freedoms; ii) Maintain a policy of equity and solidarity in international relations; and iii) Maintain a defence policy based on protection of the population, natural resources, national heritage and effective control of territory;¹⁰⁶

h) The Social Agenda for Children and Adolescents and the National Programme of Special Protection, as specific policies containing strategies and lines of action for programmes and services to child and adolescent refugees or asylum seekers. The 2010 target proposed by the special protection programme is to raise the rate of child refugees or asylum seekers who stay in school to 46.6 per cent.

465. The management and administration of Plan Ecuador has the following levels:

a) A national management level, chaired by the Minister Coordinator of Internal and External Security and consisting of the Coordinating Minister for Social Development, the Ministers of External Relations, Defence and the Interior, a representative of the municipalities, a delegate of the Provincial Councils, a representative of the Secretariat of Peoples and Social Movements, a delegate from human rights organizations and a representative of social organizations;

b) An advisory level. Composed of members of the national management level and representatives of ECORAE, the Development Unit of the Northern Border Area (UDENOR), AMAZNOR, the Secretary of Planning and Development, the Secretary General of the National Security Council, the Technical Secretary of the Ministry for Coordination of Social Development, a delegate of the Joint Command of the Armed Forces, a representative of the local advisory councils (juntas parroquiales) and a representative of social organizations for each of the provinces involved;

c) An executive level, led by the Coordinating Minister, and consisting of a Technical Secretary and a minimal national operating team, as well as coordinating teams in the three regions: Esmeraldas, Carchi and Imbabura, Sucumbios, Orellana and Napo.

466. The main function of the national and regional technical coordination units is to ensure the implementation of Plan Ecuador, coordination of the various national governmental institutions

¹⁰⁵ See annex XXVII.

¹⁰⁶ See annexes XXVIII and XXIX.

involved, coordination with regional governments, social organizations, private development and conservation organizations and international cooperation.

467. The lack of official statistics on child and adolescent refugees and asylum seekers has led UNHCR to support the Ministry of External Relations in improving the registration system. The National Council of Children and Adolescents is also interested in this, and a joint effort between the three institutions will be initiated to achieve a system of registration of refugees and asylum seekers that is consistent with the National Information System on Children and Adolescents being developed by the Children's Council.

468. Another measure taken by the State was the invitation for the UNHCR to join the Special Protection Commission of the National Council for Childhood and Adolescence to provide technical assistance and knowledge sharing for the development of protection mechanisms and inter-agency coordination in extending care to child and adolescent refugees.

469. In 2007, UNHCR has taken steps to strengthen the rights approach in caring for children and adolescent refugees through greater participation in and coordination with protection networks for children and adolescents being developed in Ecuador under the coordination of National Council Children and Adolescents. This has allowed officials of UNHCR and its partners to proceed with training in the doctrine of comprehensive protection, the Childhood and Adolescence Code and the Decentralized National System of Comprehensive Protection, so that their actions are related to protection entities established under the Code. In this context, UNHCR and the National Council for Childhood and Adolescence plan in 2008 to develop a strategic partnership to achieve a political impact on the national and local agendas.

470. As part of the 2007 - 2010 Social Agenda for Children and Adolescents approved by the National Council for Childhood and Adolescence, the Ministry of Economic and Social Inclusion, the National Institute for Children and the Family, Catholic Relief Services (CRS), and Migrant Pastoral Services of the cantons of Esmeraldas, Tulcan, Ibarra and Nueva Loja signed a cooperation agreement to implement the project known as "Improving access to education for child and adolescent refugees in the northern border area."

471. This project seeks to enlist the commitment of 500 people – education authorities, teachers, parents, children – to pursue the right to education of child refugees or asylum seekers; it will provide direct support to 1,800 refugee children to enter and remain in area schools. The budget set for its implementation is US\$ 190,000.

472. In the same vein, since 2007 UNHCR has been implementing an intervention strategy, through its partner organizations in the areas of social work and psychology¹⁰⁷, focusing more on the monitoring of children and adolescents at risk and working with specialized networks on different aspects of protection.

473. Implementation of Plan Ecuador will rely on various funding sources: First, appropriations from the State budget, through the ministries and agencies involved in the area. Second, State budget appropriations to regional governments: provincial, municipal and parish. Third, the financial and technical assistance that may be forthcoming from international cooperation. Fourth, community resources that can be invested under the co-management arrangements.

¹⁰⁷ Ecuadorian Red Cross and Hebrew Immigrant Aid Society (HIAS).

474. The Government budget for 2006 allocated to the border provinces the following appropriations: Environment, US\$ 2,604,848; UDENOR, US\$ 15,434,499; education US\$ 2,088,746; health, US\$ 6,560,652; public works and communications, US\$ 31,280,550; housing, US\$ 3,448,231; social welfare, US\$ 45,000,000.

475. By 2007, according to SIGOB data, is expected that approximately 176 projects will be implemented, for a total approaching 145 million, of which 40.7 per cent will be used to improve the basic structure, 50.1 per cent for economic recovery and social welfare, 8.5 per cent for environment-related activities and 0.6 per cent for actions aimed at institution-building and public participation.

476. Apart from defence activities proper, which amount to US\$ 21 million on the northern border, the Armed Forces are planning to implement projects for about US\$ 35 million, which include in particular plans for Energy Sovereignty, Comprehensive Security of the Hydrocarbons System, and River Traffic Development, among others.

477. With regard to international cooperation, according to INECI, since 2002 international cooperation has invested US\$ 129,603,928 in the border area, on 67 local development, natural resources and social welfare projects. Efforts will be made to improve current levels of coordination with national public institutions and to organize a working group of donors to encourage their contributions in promoting the implementation of specific projects in areas that yield the greatest impact and social and environmental benefit, consistent with national Government policies.

Table 23. International cooperation by thematic areas¹⁰⁸

<i>Main thematic areas</i>	<i>International cooperation</i>
Strengthening institutions for development and peace	59,429,621
Reactivating the economy and employment	5,454,023
Improving basic social infrastructure	5,596,217
Human rights, humanitarian assistance, refugees	8,012,304
Sustainable natural resource management	48,668,910
Administration of justice, drug control	-----
Protecting national sovereignty and integrity of the State	-----
Cross-cutting areas	
Integration: inter-state, inter-society, inter-locality	
Gender	1,325,945
Inter-cultural citizen participation	1,116,908

Source: Ministry of External Relations – INECI – *Preparation:* INECI

478. In this context, UNHCR took the decision in January 2007 to allocate additional funding to strengthen the response to sexual and gender-based violence (women, children and adolescents) in UNHCR operations worldwide. Ecuador was one of the UNHCR operations that attracted part of this funding, in order to support the implementation of new, strengthened monitoring strategies, and partnerships with national networks for women and children as at risk. For example, interventions have taken place and cooperation agreements have been signed to date

¹⁰⁸ Source: INEC data.

with the networks of the Municipal District of Quito to respond to sexual and gender-based violence, including mechanisms to protect children and adolescents.

2. Children affected by armed conflict (art. 38)

479. According to the reports submitted by the Refugee Office of the Ministry of External Relations, there are no statistical data segregated by age which might pertain to children or adolescents who have entered the country to escape forced recruitment or who have belonged to armed groups. Nevertheless, based on the statistics by age and sex for asylum seekers and refugees in Ecuador from 2000 to 2007, indicated in the paragraph on refugee children, UNHCR estimates that between 10 per cent and 15 per cent have been involved in armed conflict.

480. UNHCR also estimates that about 70 per cent of these children and adolescents are fleeing from forced recruitment or attempted forced recruitment by irregular groups involved in Colombia's internal conflict and that about 30 per cent have taken an active part in the armed conflict (after having been recruited by force, in most cases), while others are victims of the disintegration of their families and/or the death of parents and other relatives and other events related to the conflict.

481. Many child refugees in Ecuador, especially those who are unaccompanied or separated from family, require appropriate support and special protection mechanisms in the country of asylum due to the trauma they bear from their experiences of conflict and their situation of despair and family bereavement.

482. In this context the non-governmental organization Hebrew Immigrant Aid Society (HIAS)¹⁰⁹ Ecuador, a UNHCR partner agency, reports that during 2006 alone, 1,100 children were cared for in psychological consultations, often repeatedly. The age groups that require the most psychological counselling are girls and teenagers aged 12 to 17, followed by a broad spectrum of children and adolescents aged six to 17.

483. HIAS has provided statistics on the number of children and adolescents who received humanitarian assistance in the reporting period:

Table 24. Number of children receiving humanitarian assistance

<i>Age group</i>	<i>First time applicants</i>		<i>Other applicants</i>		<i>Recognized refugees</i>		<i>Total</i>	
	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>
0 to 5	454	412	829	677	785	830	2,068	1,919
6 to 11	402	433	873	775	1,139	934	2,414	2,142
12 to 17	378	333	792	604	1,009	967	2,179	1,904

Source: HIAS Preparation: HIAS

484. Regarding medical and psychological care provided, there are no national statistics on the care given to child and adolescent refugees and asylum seekers in the medical units of the

¹⁰⁹ HIAS.

Ministry of Public Health. Only partial statistics are available on the psychological care they receive from HIAS:

Table 25. Number of children receiving psychological care

<i>Place</i>	<i>0 to 5</i>		<i>6 to 11</i>		<i>12 to 17</i>		<i>Total male</i>	<i>Total female</i>
	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>		
Guano	13	3	25	11	37	26	75	40
Ibarra	3	2	3	5	18	17	24	24
Tulcan			4	2	7	4	11	6
Esmeraldas					1	4	1	4
Quito	12	5	35	25	23	41	70	71
Santo domingo	6		10	9	12	3	28	12
San lorenzo	1		1	2	2	3	4	5
Cuenca	22	19	38	19	24	28	84	66
Total	57	29	116	73	124	126	297	228

Source: HIAS Preparation: HIAS

485. Ecuador's Constitution, in articles 47 and 50, mandates the State to ensure primary protection to children and adolescents, especially in high-risk cases such as armed conflicts.

486. The Constitution further provides, in article 188, that military service is obligatory in Ecuador. However, it provides that "Citizens will be assigned to community service if they make a conscientious objection on the basis of moral, religious or philosophical grounds as prescribed by law." On 27 June 2007, in *Official Gazette* Supplement 114, a Resolution of the Constitutional Court, annexed to this report, declared unconstitutional articles 88 and 108 of the Compulsory Military Service Act.¹¹⁰

487. The National Armed Forces Compulsory Military Service Act¹¹¹, Law 68, published in *Official Gazette* 527 of September 15, 1994, in article 5, while not prohibiting the inclusion or recruitment of persons under age 18, establishes as a requirement for military service that one must meet the so-called "military age", i.e. be over 18 years old.

488. The Childhood and Adolescence Code, as an organic law, lays down in article 57 an express ban on using children and adolescents in situations of armed conflict and hostilities, domestic or international, in addition to recognizing the protection of the rights to survival, protection, complete development and participation:

Article 57. Right to special protection in cases of disaster and armed conflict. Children and adolescents are entitled to special protection from natural disasters and armed conflicts, domestic or international. This protection takes the form, inter alia, of priority in the provision of means of evacuation from affected areas, housing, food, medical care and medicines. The State guarantees full respect for the rules of international humanitarian

¹¹⁰ See annexes.

¹¹¹ See annex XXX.

law for the children and adolescents referred to this article, and ensures the resources, means and mechanisms for their reintegration into society with full rights and duties.

Recruiting or allowing the participation of children and adolescents in domestic and international armed hostilities is prohibited.

489. Under the existing regulatory framework, it should be noted that the specific legislation concerning compulsory military service does not explicitly prohibit the recruitment of persons under 18 to participate directly in hostilities, whether internal or international, but simply makes being of military age a requirement for compulsory recruitment. The special legislation on the protection of the rights of children and adolescents does prohibit it, specifically and clearly, however.¹¹² Since the legislation in question is an organic law, it prevails over the special law on compulsory military service. Consequently, the recruitment of children and adolescents in armed conflicts is prohibited in Ecuador.

490. In compliance with the Convention on the Rights of the Child and the declaration of a World Fit for Children, Ecuador, in October 2004, approved the 10-year National Plan of Action, which serves as the national public policy framework for comprehensive protection of the rights of children and adolescents. This instrument lays down 29 policy dimensions organized by age groups, primarily focused upon the rights to survival and protection, which constitute the foundation for overcoming violations of rights.

491. At the time of preparation of the 10-year National Plan of Action it was concluded that “There are no child combatants in Ecuador ... However, there may be exceptional cases of this sort in connection with the civil war in the country’s neighbour to the north (Colombia). Evidence of the existence of such cases would have to be obtained before stating that Ecuadorian children are being recruited by regular or irregular Colombian forces.”¹¹³ The official figures tell only of children and adolescents who have sought refuge as victims of armed conflict in Colombia.

492. The Social Agenda for Children and Adolescents and the National Programme of Special Protection, as indicated in the section on refugees, establish lines of action to address this situation within the framework of the projects focused on child and adolescent refugees and asylum seekers which are to be implemented by the Ministry of Economic and Social Inclusion in conjunction with the National Institute for Children and Adolescents.

B. Children in trouble with the law

1. Administration of juvenile justice (art. 40)

493. According to figures from the Directorate of Comprehensive Care of Children and Adolescents (DAINA) the number of persons under age 18 detained by police because of an alleged conflict with the law is as follows:

Table 26. Statistical table of adolescents apprehended for offences at the national level

	<i>2006</i>	<i>2007</i>	<i>General total for the two years</i>
General total	5865	2317	8182

¹¹² Childhood and Adolescence Code, article 57.

¹¹³ Andean Centre for Strategic Studies (CENAE).

Source: DAINA – MIES – SIPI 2007-Preparation: National Council for Childhood and Adolescence

494. No information is available on legal assistance to adolescent offenders, which is practically nil, given that involvement of public defenders in Ecuador is at an incipient stage, with the recent creation of the new Ministry of Justice, although it is hoped that this deficiency will be resolved in 2008.

495. The records kept by the National Judicial Council do not distinguish between adult and adolescent offenders who have received a sentence by a judge having jurisdiction. The Courts for Children and Adolescents keep a record of the conclusion of all proceedings without distinguishing between decisions on adolescent offenders, adoptions, maintenance cases, etc., which does not make it possible to conduct a real follow-up of the implementation of socio-educational measures established by the Childhood and Adolescence Code.

496. To cite one example, the socio-educational measure of assisted confinement (*libertad asistida*), as defined in Article 369 (6), is a sentence served only at the "Virgilio Guerrero" detention centre in the city of Quito. According to data available to DAINA, the application of this measure to adolescents in 2007 was as follows:

Table 27. Statistics on adolescents treated under assisted confinement at the Virgilio Guerrero Centre

<i>Month</i>	<i>Number of adolescents</i>
January	13
February	5
March	11
April	10
May	7
June	11
July	5
August	11
September	11

Source: DAINA – MIES -Preparation: DAINA - MIES

497. The "Virgilio Guerrero" Centre serves young male offenders; DAINA has no information on female adolescents.

498. The records that kept by the Courts for Children and Adolescents do not allow determination of the percentage of recidivism cases for commission of offences or violations by adolescents.

499. Article 330 of the Childhood and Adolescence Code provides that for adolescents who have not attained fourteen years of age, detention may be applied only in cases of murder, manslaughter, rape, trafficking in persons, and robbery resulting in death; those who have reached the age of fourteen may be prosecuted for offences punishable under the ordinary criminal law by a sentence of imprisonment.

500. Book IV, Title X of the Childhood and Adolescence Code sets up a new specialized justice system for children and adolescents, overcoming the problems that existed during the lifetime of

the now repealed Juvenile Code. Among the measures that the new Code establishes to improve the administration of justice for children and adolescents are the following:

- a) It changes the concept of juvenile courts under the jurisdiction of the former Ministry of Social Welfare to Courts for Children and Adolescents as part of the Judiciary, as provided by the Constitution. This conceptual shift involved separating and clarifying the administration of justice for children and adolescents (civil jurisdiction) in respect of administrative measures of protection.
- b) The authority of the Judicial Service in Ecuador is not limited to cases of children and adolescents in trouble with the law; it also includes claims for maintenance, paternity cases, and neglect cases, as well as protective measures such as family placement and adoption.
- c) It provides that persons under 12 years of age are absolutely immune from sentence and will not be prosecuted.
- d) It lays down socio-educational measures of care and alternatives to imprisonment. Deprivation of liberty is exceptional, only for extremely serious offenses.
- e) It guarantees due process.

501. The 10-year National Plan of Action and the National Agreement for Children and Adolescents signed in June 2005, provide in policy 28 for "Strengthening the justice system and implementation of socio-educational measures for young offenders," in conformity with the mandate of the Childhood and Adolescence Code, Book IV.

502. The Ministry of Social Welfare (now MIES) issued Special Regulations for the operation of detention centres for juvenile offenders by Ministerial Agreement 4050 of 25 August 2004, in compliance with the provisions of the Childhood and Adolescence Code, articles 376 and 385.

503. In the judicial system for juvenile offenders there are 45 Judges of Children and Adolescents, who apply injunctive measures and imprisonment. The system also has 30 prosecutors to deal with adolescent offenders nationwide.

504. The justice system for children and adolescents came into operation in 2003 with 33 courts throughout the country. As of 2007, 12 additional courts have been added, which remains insufficient for the volume of cases they handle.

505. When the courts were established within the judiciary, replacing the former Juvenile Courts under the Executive branch, the same judges came to occupy the new courts, which has created a burden because new procedures have not been devised in keeping with the principles of comprehensive protection and the best interests of the child.

506. The former members of the courts have largely continued the old practices and operate in a disruptive manner in regard to the Code. This has prompted the National Council for Childhood and Adolescence and the National Judicial Council to establish an agreement for the training of these judges, whose implementation began this year. The political will exists for the Judicial Council to ensure that all judges of children's courts participate in the training proposed by the Children's Council.

507. The justice system must also establish specialized areas of administration and not allow the judges to take up cases interchangeably. It would be appropriate to have at least three types of courts for children and adolescents dealing with:

- a) Protection of rights of children and adolescents;
- b) Family issues;
- c) Adolescent offenders.

2. Children deprived of liberty, including any form of arrest, imprisonment or placement in custody (art. 37, paragraphs b, c and d)

508. According to data provided by the Child Welfare Police (DINAPEN), a total of 7,087 adolescents, no sex specified, have been arrested for crimes and misdemeanours.

509. Ecuador has 20 centres for young offenders, located in 12 provinces. According to mode of administration, 11 centres are managed directly by the Ministry of Economic and Social Inclusion and nine are subsidized centres.

Table 28. Detention centres for adolescent offenders¹¹⁴

<i>N° of detention centres</i>	<i>N° de provinces</i>	<i>Direct administration</i>	<i>Subsidized</i>
20	12	11	9

Source: DAINA – MIES -Preparation: DAINA - MIES

510. DAINA reports that the number of people under 18 who are in those institutions is as follows:

Table 29. Population of detention centres

<i>Years</i>	<i>Adolescents</i>
2003	4110
2004	4217
2005	6040
2006	5818
To June of 2007	2379

Source: DAINA – MIES -Preparation: DAINA - MIES

511. The information system does not distinguish between records of young offenders and records for adolescents in foster care; thus, the data in the foregoing table differ from those in the next, which does show adolescents in confinement.

¹¹⁴ Source: DAINA – MIES.

Table 30. Number of adolescent offenders subject to confinement and application of socio-educational measures - August 2007¹¹⁵

<i>Gender</i>	<i>Total of adolescents</i>	<i>With socio-educational measures</i>	<i>Without socio-educational measures</i>
Female	73	48	25
Male	420	193	227
Total	493	241	252

Source: DAINA – MIES-Preparation: National Council for Childhood and Adolescence

512. Currently there are no reliable statistical data on persons under 18 detained in social rehabilitation centres for adults; both the Public Prosecutor's Office and the police and National Judicial Council lack this information.

513. The National Judicial Council, which is the entity that maintains a record of the decisions of judges, has a record of judgments that pertain to adolescents.

514. No data are available on abuse against adolescents during arrest, detention or imprisonment by members of the National Police. The media occasionally publish reports of abuse by the police against adolescents in the street after dark, after leaving concerts, who show suspected signs of having consumed alcohol or, in some cases, drugs.

515. The most common forms of abuse against adolescents are beating, insults or mocking; however, they occur in isolation and by individual members of the security forces through excessive force.¹¹⁶ It is important to note that such cases are investigated by the criminal justice system when police disciplinary authorities refrain from looking into them, which decreases the impunity of perpetrators, accomplices and accessories.

516. An example of this is the case of a young man, Mr. Guanuña¹¹⁷, whom public and private organizations defending the rights of children and adolescents have taken up as "symbolic" with a view to eradicating the use of force by members of the National Police against children and adolescents.

Emergency social rehabilitation plan

517. The Ecuadorian Government declared a state of emergency due to severe turmoil in the prison system throughout the country, by Executive Decree No. 441 published in *Official Gazette* No. 121 of 6 July 2007, in order to proceed to take the emergency measures necessary to remedy the deficiencies affecting the system. Also included in the emergency are halfway-houses, youth

¹¹⁵ Source: DAINA, MIES, System of Information on Children (SIPI), 2007.

¹¹⁶ The latest court case in Ecuador concerning excessive force by members of the Police was the death of the 17-year-old adolescent Paúl Guanuña, who was found dead in a ravine in the city of Quito, bearing signs of having been beaten. According to friends of Paúl Guanuña who testified at the trial of the police officers, the youths had been beaten by policemen who had caught them painting on a wall. Only Guanuña had been unable to escape from the police.

¹¹⁷ *Idem*.

rehabilitation centres, and vocational institutions for males managed by the Ministry of Economic and Social Inclusion.¹¹⁸

518. In response to the emergency situation the DAINA has planned the following large-scale activities:

- a) Facilities and equipment: fitting out of eight regional centres;
- b) Methodology: training of interdisciplinary technical teams and staff; administrative training for efficient and comprehensive operation of protection programmes;
- c) Developing programmes with participation of other stakeholders in the safety net;
- d) Organizing an international event to discuss and coordinate international experiences;
- e) Communication: production and dissemination of communication outputs.

519. The 20 detention centres for juvenile offenders operate in two modes: a) direct administration and b) subsidized. The direct administration centres are those whose technical and administrative operation is under the responsibility of employees of the MIES¹¹⁹, with food allocations, administration, a budget for equipment projects, workshops, supplies and materials, health, children's day and Christmas. The subsidized centres are private organizations to which the State, through the Ministry, allocates resources for food and administrative costs only, excepting the Virgilio Guerrero detention centre in Pichincha, which has signed an inter-agency cooperation agreement with the Ministry. Also contemplated are three Therapeutic Communities for the care of children and adolescents involved in the use and abuse of narcotic and psychotropic substances, using the modalities of prevention, outpatient care and residential care.

520. For the effective fulfilment of the emergency plan, by Executive Decree No. 602 of 31 August 2007, the President of the Republic has provided for the transfer to the Ministry of Economic and Social Inclusion of resources up to the amount of US\$ 1.5 million, which are available exclusively to fund the project on "Prevention, Protection, Restitution and Reintegration for Juvenile Offenders in 20 Centres Nationwide."

521. The time-span for implementation of this plan is five years, with a total investment of US\$ 36 million from the Savings and Contingency Fund and the budget of the Ministry.

3. Sentencing of children, particularly the prohibition of capital punishment and life imprisonment (art. 37 paragraph a)

522. Ecuador prohibits capital punishment for children and adolescents and life imprisonment.

523. The Constitution establishes several safeguards for the exercise of fundamental rights, set out in article 23, paragraphs 1 and 2: the inviolable right to life; no death penalty; right of integrity of the person; prohibition cruel punishments and torture; prohibition of all inhuman or degrading treatment or treatment which implies physical, psychological, sexual or moral duress; and prohibition of undue use of human genetic material.

¹¹⁸ See annex XXXI.

¹¹⁹ Ministry of Economic and Social Inclusion (MIES).

524. It also provides that the State shall take the necessary measures to prevent, suppress and punish, in particular, violence against children, adolescents, women and the elderly. This mandate is complemented by article 49 which provides protection of the right to life of children and adolescents from conception.

525. The Childhood and Adolescence Code, in article 20, reflects the provisions of the Constitution, adding that it is the duty of the State, society and family to ensure, by every means within their power, their survival and growth.

526. With regard to life imprisonment, the Childhood and Adolescence Code, in article 370, establishes the maximum time for the application of socio-educational measures prescribed for offenses committed by adolescents, with institutional confinement of up to four years being the longest of these measures.

527. The Code also provides that if detention exceeds 24 months the adolescent is eligible for a reduction of time for good behaviour, equivalent to two days of reduction for each day of good behaviour.

4. Physical and psychological recovery and social reintegration (art. 39)

528. In Ecuador there are very few care centres for adolescent victims of sexual crimes. Services are usually organized to deal with cases of physical and psychological abuse, which are more frequent and are related to beatings, insults, humiliation, etc., situations that apparently do not require large investments on training teams of professionals or on physical equipment and supplies for recovery.

529. To address more serious situations such as crimes of sexual exploitation, pornography, rape and trafficking, services are scarce, and there is still no national registry of these crimes to establish how many exist. Recently the State took the decision to collect this information on the occasion of creation of the *National Special Protection Programme*.

530. At present there is a specialized centre to serve children and adolescent victims of commercial sexual exploitation. This centre is the Chimera Foundation in Machala. There are other centres, such as the “Nuestros Jóvenes” (“Our Youth”) Foundation in Quito, which has specialized staff and a specialized focus on these victims; however the centre serves other vulnerable groups, such as pregnant teenagers.

531. In Azuay there are two institutions linked to the Catholic Church. One serves female adolescent offenders and adolescent victims of commercial sexual exploitation, in coordination with the Social Development Department of the Municipality of Cuenca. The other institution is a shelter that receives girls and young women who are on the street and victims of commercial sexual exploitation.

532. In 2007 the National Institute for Children and the Family (INNFA) signed an agreement with the foundations Chimera, Nuestros Jóvenes and Catholic Relief Services for the reopening and strengthening of programmes for the eradication and prevention of commercial sexual exploitation, and for the establishment of care and rehabilitation centres for child and adolescent victims of commercial sexual exploitation in Machala, Quito and Nueva Loja. The project aims to strengthen exchanges of experiences, feedback and cooperation between the three foundations as well as to develop a common approach with quality standards under the doctrine of comprehensive protection adapted to the realities on the ground.

533. These actions fall under the purposes stated in the National Special Protection Programme, i.e. the systematization and evaluation of existing services, taking into account the parameters defined in the Childhood and Adolescence Code on addressing breaches of rights in a specific and differentiated way. To this end, the programme aims to develop standards tailored to the rights approach and rules of the Code, taking account of the requirement that these services have to record their methodologies and receive authorization to operate by the Cantonal Councils for Children and Adolescents, as provided in articles 212 and 213 of the Code for Children.

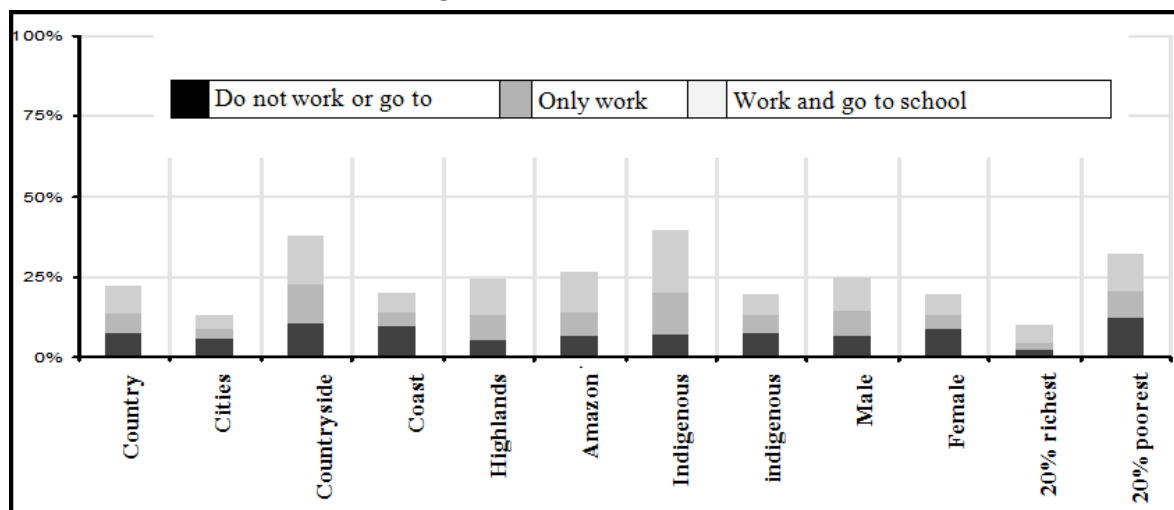
534. The existence of the Special Protection Programme involves the creation of the National Fund for Special Protection, which will fund these kinds of services, studies and research. It is expected that this fund will be established by MIES and INNFA, and linked to the National Fund for Protection of Children and Adolescents, which has the mission of securing financial resources for protective services.¹²⁰

C. Children subjected to exploitation, including physical and psychological recovery and social reintegration (art. 39)

1. Economic exploitation, including child labour (art. 32)

535. In high-poverty countries like Ecuador, work by children and youth is largely explained by the economic needs of households. However, the labour participation of children and adolescents is not only associated with poverty; it is also related to cultural norms that promote it. The problem (as stressed in international declarations on child labour of which Ecuador is a signatory), lies in work that jeopardizes the physical, emotional and moral development of children as well as work that affects children's education and their acquisition of skills necessary for life as adults, regardless of the values and beliefs of parents. Interference with education limits employment opportunities and social mobility.

Figure 14. Child work in Ecuador



Note: Work refers to labour or productive activities; it does not include domestic tasks. The data are not comparable to those resulting from other surveys of households (such as living standards surveys), as the questionnaires record the phenomena in a different way.

Source: INEC, SIEH, 2004. Preparation: Social Monitoring Agency for Ecuador.

¹²⁰ Childhood and Adolescence Code, articles 300 and 301.

536. In Ecuador more than one in 10 children between ages five and 17 work. In 2004 there were approximately 560,000 boys and girls performing work or productive activities. This represents an increase compared with figures of four years ago; the proportion of working children rose from 13 per cent in 2000 to 15 per cent in 2004. The increase occurred in the countryside, where it rose from 20 per cent to 27 per cent in this period, while in cities there was a slight decrease (from nine per cent to seven per cent).

537. Most working children live in rural areas. In 2004, nearly three of every 10 children living in rural areas had to work (27 per cent), four times more than in cities (seven per cent). Of all working children in the country between five and 17 years old, 69 per cent lived in rural areas and 31 per cent in cities. Work by children is more common in the rural highland area. Thirty four per cent of rural children in the highland provinces work, compared with 19 per cent in rural coastal areas. Among large cities, Cuenca and Machala have the highest proportion of children in the labour market (9 per cent and seven per cent respectively); in Quito and Guayaquil, the number was somewhat lower (5 per cent).

538. Work by children and adolescents is more common in poor indigenous households. Eight per cent of children belonging to the richest fifth of households worked, compared with 20 per cent of those in the poorest fifth of households. In indigenous households, the proportion of working children was even higher: 32 per cent of school-age members of such households worked.

539. Most children who work also go to school. In 2004, 57 per cent of the children who worked also attended school. The remaining 43 per cent only worked and had abandoned school.

540. One in seven school-age children is not going to school. Six per cent of children five to 17 years old only work and another eight per cent neither works nor goes to school. These are mainly children who help with domestic work, farm family plots, or help with a home business. The proportion of children who neither work nor go to school is twice as large in the country as in the cities. The largest percentage of children who neither work nor attend school is to be found in the rural coastal region (16 per cent).

541. Boys and adolescents work more often. 19 per cent of school-age boys worked, compared with 11 per cent of girls. The proportion of children who must work increases with age: among children six to 11 years old, six per cent work, while 26 per cent of adolescent boys and girls do. Nine out of 10 school-age children were in school, compared to 65 per cent of adolescents.

542. Chimborazo, Bolivar and Cotopaxi are the provinces with the highest percentage of working children. In those provinces with large indigenous populations, a third of children and adolescents have to work (more than double the national average). It is also these provinces that have the highest relative number of children and adolescents who are not studying. Four additional provinces, also with a significant presence of indigenous groups, are noted for their high incidence of working children and adolescents (over 20 per cent): Canar, Tungurahua, Zamora Chinchipe and Pastaza.

Labour Code amendments

543. On 23 June 2005, the National Congress of Ecuador approved changes to the Labour Code¹²¹ which include aspects related to the regulation of employment of adolescents, protective

¹²¹ The reforms took effect on 16 December 2005.

measures for children and adolescents, types of work prohibited, preserving the minimum age, defining wages, salaries, compensation and remuneration, limiting the workday for adolescents, school attendance, records to be kept by employers, medical fitness examinations, accidents or illnesses attributable to employers, sanctions, inspections by the authorities, powers of the inspector, compensation, risk prevention and other substantive aspects of protecting and guaranteeing employment rights.

544. These reforms, carried out through broad consultations with public and private actors involved with child labour, have permitted the harmonization of this body of law with the Childhood and Adolescence Code, which provides special protective measures for children and adolescents who work. Above all, it unified the minimum age for work, authorizing it from 15 years of age. Previously, the Labour Code set this age at 14 years, while the Code for Children adopted in 2003 established it at 15 years.

545. Reforms to the Labour Code do not imply that the State of Ecuador supports or protects child labour; rather they are framed according to the principle of protecting the rights of adolescents who, for any economic, social or cultural reason, find themselves needing to work. Ecuador reaffirms the commitment it assumed when it adopted the Code for Children to make every effort within its power to eradicate child labour.

546. For the protection of this right, Ecuador has taken the following steps:

a) By the Ministerial Agreement of 26 December 2005, the Ministry of Labour and Employment issued the "National Plan for Prevention and Progressive Eradication of Child Labour in Ecuador - PETI."¹²²

b) On 6 October 2005, by resolution, the National Committee for the Eradication of Child Labour (CONEPTI) approved the list of permitted and prohibited activities for young workers between 15 and 18 years of age in the floriculture sector.

c) Formation of the Floriculture Social Forum in 2004 as a specialized committee of the National Committee for the Eradication of Child Labour.

d) Creation of the Tripartite Floriculture Social Forum in 2004 as a specialized committee of the National Committee for the Eradication of Child Labour

e) Formation of the Inter-union Committee against Child Labour.

f) The National Council for Childhood and Adolescence conducted a national consultation in 2006 to formulate a new list of hazardous jobs, currently in the process of official approval, in accordance with article 87 of the Code for Children.

g) The National Special Protection Programme, constituting the major response by the State of Ecuador for the prevention and eradication of child labour, has set as its goals: to eradicate child labour in refuse dumps by 2008; to reduce by 20 per cent the number of children and adolescents who perform dangerous or harmful work by 2010; to reduce child labour for the 5-to-14 age group by 2010; to register 80 per cent of adolescents who work in municipalities by 2010.

¹²² This plan has lacked an allocation of resources and has therefore not been effectively carried out so far. See annex XXXII.

547. With the issuance of the Childhood and Adolescence Code, the National Council of Children and Adolescents was formed as the lead entity in the definition and evaluation of public policy for the protection of children and adolescents. However, since 1997, Ecuador has had CONEPTI, as the body under the Ministry of Labour with the ability to define public policies for the prevention and eradication of child labour; this forum, created by Executive Decree No. 792 of 7 November 1997, is composed of public institutions, trade union and employer (tripartite) entities. This legal situation in practice translates into autonomy for the National Committee for the Progressive Eradication of Child Labour together with actions parallel to the public policies of the National Council of Children and Adolescents.

548. This lack of coordination has allowed both the National Committee for the Progressive Eradication of Child Labour and its Action Plan (PETI), to be governed by the logic of tripartism, a principle of organization of industrial relations based on consultation between employers, workers and governments –scarcely related to the principles of the rights approach, the best interests of the child, the integrity of rights, and absolute priority.

549. This has allowed different actions to be determined for each approach; thus, child labour is treated as a labour issue, not a violation of rights. The actors involved are limited to employers, workers and government. Agreement among these three actors is given precedence over the best interests of the child.

550. Under this logic, preference goes to actions to "eradicate child labour" with little regard to the situation of children and adolescents and their rights as a whole. In past years much emphasis has been given to the Inspectorate and awareness-raising among employers, and little attention or protection to children and adolescents separated from family. Thousands of children and adolescents have been cut off from their jobs by the inspectorate or by employers, without any protection, placing them in precarious ¹²³ conditions of employment.¹²⁴ Although the PETI plan mentions the Decentralized National System of Comprehensive Protection of Children and Adolescents, it does not provide for specific strategies, joint actions and coordinated work.

551. Ecuador is of the view that in order to improve these conditions some actions need to be undertaken that allow for effective protection of child and adolescent workers, such as the following:

- a) It is necessary that the Child Labour Inspectorate's work be coordinated with that of the Protection Boards to avoid duplication of activities and to ensure protection of children withdrawn from work;
- b) Since the tripartite approach of the National Committee for the Progressive Eradication of Child Labour focuses on labour relations, it should function in a manner subordinate to the public policy guidelines of the National Council for Childhood and Adolescence;
- c) Ensure that employers comply with the legislation in force;
- d) Involve workers in concrete and effective action in this sphere;

¹²³ *Elementos para repensar las políticas del trabajo infantil* (Considerations for rethinking child labour policies), Andrés Dueñas, Coordinator of the programme "Combating Child Labour in Ecuador", PLAN-CCF-PMT Consortium, July 2007.

¹²⁴ See annex XXXIII.

- e) Coordination between the efforts to eliminate child labour and employment policies;
- f) Ensure that outsourcing does not lead to adolescents being contracted outside the law;
- g) Secure adequate and timely information on employed workers;
- h) Increase the efficiency of the inspection system;
- i) Ensure health and safety conditions at work for adolescents;
- j) Promote unionization to protect working adolescents;
- k) Expand the service for medical examinations prior to employment;
- l) Commit employers to ensuring that their suppliers and distributors do not employ illegal child labour, etc.

552. Endeavours and interventions to prevent and eradicate child labour in the country are pursued mainly by NGOs such as Project SOY¹²⁵, the Combating Child Labour in Ecuador Programme (PCTI)¹²⁶, Pro Niño of Empresa Telefonica, DYA (Foundation for Development and Self-Management), Floriculture Social Forum (a forum created by the flower industry and the ILO) and the Banana Social Forum (a forum created by banana entrepreneurs and the ILO). The active public institutions are the Ministry of Economic and Social Inclusion, the Working Child Programme of the Central Bank of Ecuador, and INNFA.

553. The actions undertaken by these various institutions focus on strategies for preventing child labour of children under 14 years of age, eradication hazardous child labour¹²⁷, and protection and support to working adolescents in order to ensure their employment rights.

554. Coverage for working children and adolescents provided by the institutions involved is as follows:

Table 31. Coverage of working children and adolescents

<i>Organization</i>	<i>Provinces</i>	<i>Number of children & adolescents</i>
Floriculture Social Forum	Cotopaxi & Pichincha	1278
Project SOY	Los Ríos, Guayas, El Oro, Pichincha & Cotopaxi	10538
PMT	Tungurahua, Chimborazo, Azuay, Guayas, Esmeraldas, Manabí, Santo Domingo, Sucumbios, El Oro.	3200
MIES - DAINA	Pichincha, Imbabura, Los Ríos, El Oro, Guayas, Manabí, Esmeraldas, Sucumbios, Cotopaxi & Tungurahua	2374
PCTIE	Pichincha, Cotopaxi, Tungurahua	4200
DYA	Pichincha, Manabí, Esmeraldas, Santo Domingo, El Oro, Guayas, Los Ríos, Chimborazo, Cotopaxi	10028
Total		31618

Source: Ministry of Labour and Employment -*Preparation:* National Council for Childhood and Adolescence

¹²⁵ Consortium formed by Catholic Relief Services, CARE International, Wong Foundation Save the Children UK and the Ecuadorian Episcopal Conference.

¹²⁶ Consortium formed by PLAN, Christian Children Fund, and the Working Child Programme.

¹²⁷ Definition laid down in the Coe for Children and Adolescents and in the amended Labour Code.

555. The International Labour Office (ILO) through its International Programme on the Elimination of Child Labour, under the MOU signed with Ecuador in 1997, renewed successively in 2002 and in 2007, has been implementing the programme "Support for the Programme of Definite Duration for the Eradication of the Worst Forms of Child Labour in Ecuador" (PDD-Ecuador) since 2003. This programme aims to help strengthen the coordinated action of the main institutions of government, employers' organizations, workers and civil society against the worst forms of child labour (WFCL) and the development of actions directed against WFCL in prioritized sectors and localities.

2. Drug abuse (art. 33)

556. The Ecuadorian Monitoring Centre of the National Council to Control Narcotic and Psychotropic Substances (CONSEP) conducted a study between April and December of 2005, the Second National Survey on Drugs in the School Population, specifically concerning intermediate school students between 13 and 19 years of age. The sample was composed of 13,912 students in ninth grade of basic education, and first and third years of high school in public and private schools of 31 cities in Ecuador. The nature and size of the sample and the questionnaire used are similar to those used in previous studies, so that the results are comparable within the country.

557. This study obtained statements from a representative number of the school population on the consumption of tobacco, alcohol, illegal drugs, inhalants and some drugs obtained without a prescription.

558. The drugs researched in three studies in Ecuador are:

Table 32. Drugs surveyed in studies conducted in Ecuador

<i>1998</i>	<i>2002</i>	<i>2005</i>
1. Marijuana & hashish	1. Solvents & inhalables	1. Inhalables
2. Base	2. Marijuana	2. Marijuana
3. Cocaine	3. Hashish	3. Base paste
4. Inhalants	4. Hallucinogens	4. Cocaine
5. Hallucinogens (LSD,	5. Heroin	5. Heroin
6. Floripondio, Ayahuasca,	6. Opium	6. Ecstasy
7. San Pedro, etc.)	7. Morphine	7. Hallucinogens
8. Heroin	8. Cocaine	8. Crack
9. Ecstasy	9. Coca paste	9. Opium
	10. Crack	10. Morphine
	11. Ecstasy	11. Hashish
	12. Methamphetamines	12. Plant drugs (mushrooms, ayahuasca, San Pedro, others)
	13. Other drugs	13. Other drugs ¹²⁸

Source: National Council on Narcotic and Psychotropic Substances - *Preparation:* Ecuadorian Drug Monitoring Agency – CONSEP

¹²⁸ The substances in bold are those which were not surveyed in the 1995 national study.

559. The results show that consumption of the two drugs most consumed among adolescents begins at an earlier age than that recorded in 1998. Cigarette consumption, which for 1998 started at age 14.4 years, began at 13.1 years in 2005. With regard to alcohol, consumption among adolescents began at age 14.8 years, but by 2005 the starting age was 13.4 years. In both cases, the mean age of first use is 13 years, a year younger than seven years ago.

Table 33. Consumption of cigarettes and alcohol

<i>Consumption of cigarettes</i>		<i>Consumption of alcohol</i>	
<i>Lifetime prevalence (%)</i>	<i>Average age of first consumption</i>	<i>Lifetime prevalence</i>	<i>Average age of first consumption</i>
1998 2005	1998 2005	1998 2005	1998 2005
44.3 54.4	14.4 13.1	53.9 61.6	14.8 13.7

Source: CONSEP - Preparation: Ecuadorian Drug Monitoring Agency – CONSEP

560. In 2005, the cumulative lifetime prevalence for cigarettes and alcohol have values higher than those found in 1998, demonstrating, according to these studies, that efforts to reduce consumption during the seven years elapsed have been unsuccessful.

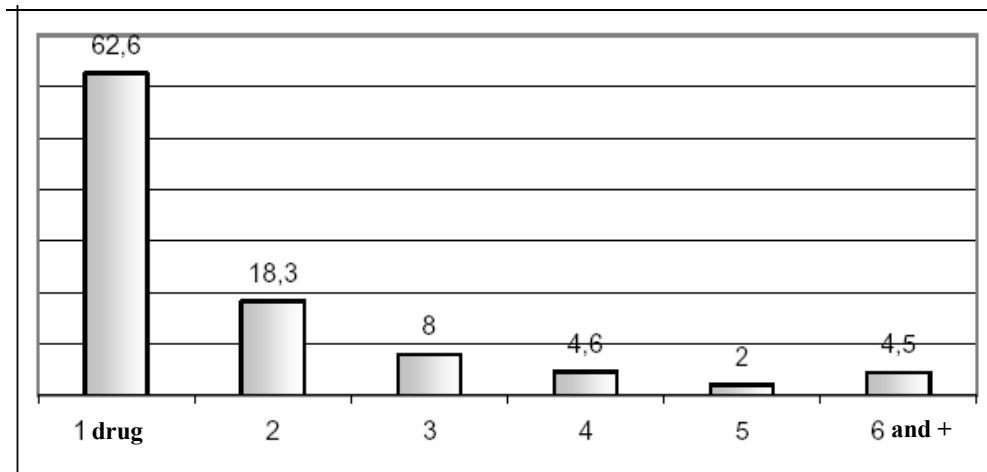
Table 34. Lifetime prevalence of consumption of psychoactive substances at the national level – all drugs – average age of first consumption

<i>psychoactive substance</i>	<i>National lifetime prevalence (%)</i>	<i>National age of first consumption</i>	<i>Psychoactive substance</i>
Alcohol	61.6	12 years, 6 months	Inhalables
Cigarettes	54.4	13 years, 1 month	Cigarettes
Marijuana	7.0	13 years, 2 months	Tranquilizers
Tranquilizers without muscle relaxant	6.1	13 years, 4 months	Stimulants
Inhalables	5.2	13 years, 4 months	Morphine
Stimulants without muscle relaxant	2.7	13 years, 7 months	Alcohol
Cocaine	2.4	13 years, 9 months	Plant drugs
Ecstasy	2.1	14 years, 0 months	Opium
Plant drugs	2.1	14 years, 3 months	Other drugs
Others	2.0	14 years, 4 months	Heroin
Base paste	1.6	14 years, 6 months	Cocaine
Heroin	0.9	14 years, 6 months	Ecstasy
Hallucinogens	0.6	14 years, 7 months	Base paste
Crack	0.6	14 years, 7 months	Crack
Opium	0.5	14 years, 8 months	Hallucinogens
Morphine	0.5	14 years, 8 months	Hashish
Hashish	0.3	14 years, 10 months	Marijuana
Any drug with others	13.0	14 years, 2 months	Any drug with others
Any drug without others	12.8	14 years, 2 months	Any drug without others

Source: CONSEP-Preparation: Ecuadorian Drug Monitoring Agency – CONSEP

561. In the course of their lives, most adolescent consumers (62.6 per cent) have used one drug and 37.4 per cent have used two or more illegal substances.

Figure 15. Number of drugs consumed in the country



Source: CONSEP – Preparation: Ecuadorian Drug Monitoring Agency - CONSEP

562. To respond to this problem, the State, through the Committee on Legislation and Codification of the National Congress of Ecuador, developed, approved and published in the *Official Gazette* a new codification of the Law on Narcotic and Psychotropic Substances in 2004.¹²⁹

563. This codification includes aspects relating to the protection and care of children and adolescents involved in the consumption or trafficking of drugs, such as differentiated treatment and immediate referral to a Judge for Children and Adolescents in cases where a child adolescent is detained or in either of the two circumstances set forth in the Law. However, it does not establish the links needed to improve preventive measures laid down in articles 17 and 18 of the Law in light of the Decentralized National System of Comprehensive Protection of Children and Adolescents defined by the Constitution.

564. The 10-year National Plan of Action approved by the National Council for Childhood and Adolescence in 2004, in Policy No. 20, refers to the "Prevention of dangers that threaten life and integrity of adolescents." The targets set under this policy up to the year 2014 are: reducing by one third the consumption of cigarettes, alcohol and illegal drugs, and reducing the supply of alcohol, tobacco and illegal drugs by 50 per cent.

565. The National Plan for Prevention and Control of Drugs 2004-2008¹³⁰, adopted in March 2004, provides for launching two programs aimed at reducing drug demand, directly related to the protection of children and adolescents:

a) Programme to prevent drug consumption, which aims "to prevent drug use among children, youth, and generally among groups at risk, through timely and appropriate intervention in the educational system, the family, the community, and in other settings.

¹²⁹ See annex XXXIV.

¹³⁰ See annex XXXV.

b) Programme for diagnosis, treatment, rehabilitation and reintegration, which aims to "provide services to enable timely diagnosis, treatment, rehabilitation and appropriate social reintegration of persons who abuse drugs."

566. In this regard, the Directorate for Control of Drug Demand (CONSEP), in the field of treatment and rehabilitation, has implemented rules and regulations in the process of authorizing the operation of public and private centres that provide treatment to drug addicts.

567. An instructional notice has been issued to indicate minimum requirements for authorization to operate different modalities of treatment, as well as Regulations on Operation Control for different institutions in the country, which was published in *Official Gazette* No. 331 on 3 June 1998.

568. Based on the records of this Council, the country has the following number of facilities:

Table 35. Number of centres for treatment of drug addiction

Institutional directory of prevention, treatment and rehabilitation of drug addiction	125 centres
Directory of the national network of treatment centres	200 centres

Source: CONSEP-*Preparation:* National Council for Childhood and Adolescence

569. According to the Practical Guide to Organizing Comprehensive Treatment of Drug Dependency, National Treatment System, Expert Group on Demand Reduction, in order for a care service offered to meet the standard of quality, "patients should be served in the least restrictive setting, that which allows as much freedom as possible, but which will also ensure the greatest degree of safety and effectiveness with sufficient flexibility to permit movement between different levels of care, in keeping with their needs and with respect for their human rights."¹³¹

570. Unfortunately there is evidence that a number of "centres" of treatment in the country, operated by "ex-addicts" self-appointed as "experiential therapists" have developed a practice based on the abduction, confinement, and physical and psychological abuse of the user. This practice contrary to human rights has prompted fear among drug users, distancing them from treatment services, and hampering earlier intervention in addiction, which should occur at the early stages of the user's relationship with the substance.

571. CONSEP recognized in the Second National Survey on Drugs in the School Population that there is very little information on the criteria for evaluating different prevention programmes in the country, and that there is no political ability to identify the best programs.

572. It has not yet been possible to link CONSEP to the Decentralized National System of Comprehensive Protection of Children and Adolescents and the rules established in the Childhood and Adolescence Code, which authorize the Cantonal Children's Councils to register all care entities, giving them the legal authority to authorize the operation of a care institution or refuse to authorize them if they do not prove that their charter and working methods comply with the rights approach to children and adolescents.

¹³¹ CICAD / OAS, 2004.

573. The registration of entities guarantees protection and respect for the rights of adolescent users who turn to or are referred to specialized care centres.

3. Sale, trafficking and abduction (art. 35); Sexual exploitation and sexual abuse (art. 36); Other forms of exploitation (art. 36)

574. The State of Ecuador has initiated studies to obtain the information needed to take more effective action in combating crimes against children and adolescents, and so overcome the lack of statistical data on the situation regarding these crimes. For this report, data are available from the prosecutorial authorities of Ecuador:

Table 36. Cases investigated by the authorities

<i>Cases Reported By The Office Of The Public Prosecutor</i>							
<i>Offense</i>	<i>Stage</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>TOTAL</i>
Sexual abuse	Preliminary inquiry	1			1	2	4
Sexual abuse	Probable cause proceeding		1		2	2	5
Sexual abuse & exploitation	Cassation				2		2
Sexual harassment	Preliminary inquiry					5	5
Sexual harassment	Probable cause proceeding					3	3
Indecent exposure	Preliminary inquiry	3	1			6	10
Indecent exposure	Probable cause proceeding		3	3		4	10
Statutory rape	Preliminary inquiry	3			2	4	9
Statutory rape	Probable cause proceeding			1	1	2	4
Sexual exploitation	Preliminary inquiry				38	28	66
Sexual exploitation	Probable cause proceeding			1	24	15	40
Sexual exploitation	Conviction					6	6
Attempted rape	Probable cause proceeding					2	2
Child pornography	Preliminary inquiry			2	12	8	22
Child pornography	Probable cause proceeding			1	4		5
Procuring	Preliminary inquiry	1		6		3	10
Procuring	Probable cause proceeding			2	3	4	9
Attempted rape	Preliminary inquiry	1	2	1	3	3	10
Attempted rape	Probable cause proceeding					1	1
Trafficking in persons	Preliminary inquiry			1	29	7	37
Trafficking in persons	Probable cause proceeding				1	1	2
Rape	Preliminary inquiry	20	23	36	31	43	153
Rape	Probable cause proceeding	12	8	14	34	46	114
Rape	Conviction				2		2
TOTAL		41	38	68	189	195	531

Source: Ministerio Público - *Preparation:* National Council for Childhood and Adolescence

575. According to data provided by ILO on two action programmes in Ecuador that it supported through two foundations, the number of girls and young women rescued from sexual exploitation

and receiving care in these programmes was 100; and 963 in high-risk situations received warnings.

576. The country has no statistics on children and adolescents trafficked for purposes other than commercial sexual exploitation. The data available refer only to labour exploitation, pursuant to complaints that are under investigation by prosecutors.

Table 37. Cases of labour exploitation of children and adolescents investigated by the Office of the Public Prosecutor¹³²

<i>Offense</i>	<i>Stage</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>Total</i>
Labour exploitation	Preliminary inquiry	4	7	2	13
Labour exploitation	Probable cause proceeding	2	7	1	10
Total cases		6	14	3	23

Source: Ministerio Público - *Preparation:* National Council for Childhood and Adolescence

577. With respect to sale, abduction and other crimes, the situation is similar; data are available reported by the Public Prosecutor concerning investigations conducted.

Table 38. Cases on child snatching, abduction, kidnapping and trafficking in children and adolescents investigated by the Office of the Public Prosecutor

<i>Offense</i>	<i>Stage</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>Total</i>
Attempted child snatching	Preliminary inquiry							0
Attempted child snatching	Probable cause proceeding						2	2
Abduction	Preliminary inquiry			1	1	2	3	7
Abduction	Probable cause proceeding							0
Child snatching	Preliminary inquiry			2		10	8	20
Child snatching	Probable cause proceeding					3	16	19
Kidnapping	Preliminary inquiry					2	2	4
Kidnapping	Probable cause proceeding	1						1
Trafficking in persons	Preliminary inquiry							0
Trafficking in persons	Probable cause proceeding					2	1	3
Total cases		1		3	1	19	32	56

Source: Ministerio Público - *Preparation:* National Council for Childhood and Adolescence

578. The Child Welfare Police (DINAPEN) have conducted several nationwide efforts to train their members on aspects of these crimes. Some 350 members of the Child Welfare Police nationwide received specific training during 2004, 2005 and 2006.

¹³² According to these data, there are no decisions by judges with jurisdiction.

579. The Public Prosecutor's Office is carrying out similar training activities; however, these efforts by the police and prosecutors are still inadequate, given the nature of organized gangs that operate to commit these offenses. The country needs to improve training according to international standards and to make use of advanced technology.

580. An action initiated to improve the work of the police and prosecutors is the development of a Judicial Protocol to establish national guidelines to combat sex crimes. This action is being pursued by the Interagency Commission of the Plan against Trafficking and has the financial support of INNFA.

581. Ecuador is taking a comprehensive approach to these crimes, i.e. recognizing the factors that make children and adolescents vulnerable or place them at risk, with the possibility of falling victim to some situations of extreme violation of their rights, which usually stem from family violence and sexual violence, ranging to crimes such as trafficking in persons for the purpose of sexual exploitation, commercial sexual exploitation, pornography, illegal trafficking, slavery, bondage or other forms of exploitation. This approach takes into account the criminal implications of trafficking in persons and its links with other offenses defined under Ecuadorian law.

582. The report of Ecuador on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography¹³³ contains detailed information about the actions of Ecuadorian institutions to improve criminal legislation, to design national and local public policies to deal with the offenses referred to, and to pursue actions to improve the State's performance in prosecuting and punishing these crimes.

583. Some of these actions are detailed below:

a) Executive Decree 1981 of 18 August 2004 created the Commission to prepare the National Plan to combat trafficking in persons, illegal trafficking in migrants, sexual and labour exploitation and other forms of exploitation and prostitution of women, children and adolescents, child pornography, and corruption of minors and declared the fight against these offenses a priority policy of the State.¹³⁴

b) During the years 2005 and 2006 the Technical Secretariat of the Commission worked on developing the Plan, which was formally approved by Executive Decree No. 1823 of 30 August 2006, under the name National Plan to combat trafficking in persons, illegal trafficking in migrants, sexual and labour exploitation and other forms of exploitation and prostitution of women, children and adolescents, child pornography, and corruption of minors;¹³⁵

c) This plan was formally placed under the Technical Secretariat of the Plan against trafficking, as the public body responsible for monitoring its implementation.¹³⁶

¹³³ First national report, December 2007.

¹³⁴ See annex XXXVI.

¹³⁵ Published in *Official Gazette* No. 375 of 2 October 2006.

¹³⁶ See Report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (annex XXXVIII).

d) On 23 June 2005, by Law No. 2005-2, published in *Official Gazette* No. 45 of 2005, the Congress approved changes that define, inter alia, commercial sexual exploitation and trafficking in persons under the Ecuadorian Criminal Code;¹³⁷

e) National Plan for the prevention and eradication of sexual offenses in the education system, 2006.¹³⁸ The State of Ecuador designed this Plan as a way to ensure comprehensive special protection policies, and guarantee stable, continuing and timely resources for the rescue, protection and return of children and adolescents who are victims of sexual crimes in the education system;

f) Action Plan for Prevention and Eradication of Commercial Sexual Exploitation of Children and Adolescents associated with Travel and Tourism in Ecuador, designed in 2006 to prevent and eradicate practices of commercial sexual exploitation of children and adolescents associated with travel and tourism in the flow of domestic and foreign tourism;¹³⁹

g) The Ministry of Tourism, jointly with the private sector and other sectors of tourism, developed the National Tourism Plan (PLANDETUR 2020), which linked, within their areas of action, specific campaigns for sustainable tourism and prevention of commercial sexual exploitation of children and adolescents;

h) By Ministerial Agreement 3393, published in *Official Gazette* 431 of 29 September 2004, the State of Ecuador puts into effect the "Regulations for the Treatment of Sexual Offenses in the Educational System", which aim to implement a policy of preventing sexual offenses in the educational domain. The regulations provide for the creation of monitoring committees and provincial and local committees for prevention, care and protection of victims of sexual crimes in the education system, which will work in coordination with local councils and boards for the protection of rights;¹⁴⁰

i) Ministerial Agreement 403 published in *Official Gazette* 386, on 27 October 2006, institutionalized sex education in educational institutions in order to comply with the Sex Education and Love Act, the National Education Plan for Sexuality and Love and the National Plan for the Eradication of Sexual Offenses in the Educational Setting. The ministerial measure makes it mandatory for educational institutions to incorporate in their annual education plans the teaching of sex education, one of whose aims is prevention of sexual abuse;¹⁴¹

j) Executive Decree 528 of 8 August 2007 enacted the Regulation to replace the Programme for Protection and Assistance to victims and witnesses in criminal proceedings, improving the conditions of protection for victims, especially victims of sexual crimes.¹⁴²

k) Executive Decree 620, of 10 September 2007¹⁴³, declares it State policy to eradicate gender violence.

¹³⁷ Idem.

¹³⁸ See annex XXXVIII.

¹³⁹ See annex XXXIX.

¹⁴⁰ See annex XL.

¹⁴¹ See annex XLI.

¹⁴² See annex XLII.

584. Until 2006 the State of Ecuador had no policy and had not allocated resources to fight these crimes. As a result, it also did not take action or allocate funds for the care of child and adolescents victims of these crimes. There were only the Police and Public Prosecutors to prosecute and punish these forms of extreme violence.

585. To overcome the lack of statistical data on these forms of violence, a national research project has been designed, with funding by the IDB, CONAMU, INNFA and IOM, through the implementation of a project defined by the Technical Secretariat of the National Plan against Trafficking and executed through the National Council for Childhood and Adolescence. This research will allow collection of statistical information on trafficking in persons in its various aspects, services provided for the care of victims, and a risk-factor profile of the victims.¹⁴⁴

586. This research has funding of US\$ 38,500 and will be executed by a non-governmental organization contracted by the Project. The consulting firm to be entrusted with the project is currently being selected.

587. The fight against these crimes has demanded some changes in State institutions for appropriate action within the scope of their powers. Thus, the Ministry of Labour and Employment, as a member of the Inter-agency Commission of the Plan against trafficking, has the responsibility to take action against labour exploitation, although its actions in previous governments have not focused on this form of violation of rights. The Plan thus requires the Ministry to undergo a process of re-education and budgetary reorganization in order to address this form of violence against children and adolescents.

588. The Public Prosecutor's Office is in the process of forming special units to investigate these crimes. It currently works in conjunction with the National Child Welfare Police (DINAPEN) Anti-trafficking Unit, which operates in some cantons of the country in the investigation and dismantling of criminal gangs linked to trafficking.

589. It is expected that, based on this successful experience, the Public Prosecutor's Office and the Police will create three additional anti-trafficking units, according to the guidelines established by the Technical Secretariat of the National Plan Against Trafficking.

590. In 1999, the World Tourism Organization issued the Global Code of Ethics for Tourism (CEMT), which states in article 2, paragraph 3: "The exploitation of human beings in any form, particularly sexual, especially when applied to children, conflicts with the fundamental aims of tourism and is the negation of tourism; as such, in accordance with international law, it should be energetically combated with the cooperation of all the States concerned and penalized without concession by the national legislation of both the countries visited and the countries of the perpetrators of these acts, even when they are carried out abroad."

591. In 2005, to comply with the provisions of the CEMT, the Ministry of Tourism, with the collaboration of the World Tourism Organization, conducted a general assessment of the situation of commercial sexual exploitation associated with travel and tourism in Ecuador. The study identified the need to propose and pursue actions to prevent these practices.

¹⁴³ See annex XLIII.

¹⁴⁴ See annex XLIV.

592. In this context, the Ministry of Tourism has initiated a process leading to the Inter-agency Platform for the Prevention and Eradication of Commercial Sexual Exploitation of Children and Adolescents associated with travel and tourism, comprising: Ministry of Tourism, National Council for Childhood and Adolescence, UNICEF, CONAMU, ILO, STEP-OMT, INNFA, Association of Women Tourism Executives, National Federation of Provincial Chambers of Tourism, and Monitoring Agency for the Rights of the Child (Observatorio de los derechos de la Niñez).

593. General guidelines for action concerning the issue were developed within the Platform:

- a) Information and communication campaign;
- b) Awareness-raising and training;
- c) Research;
- d) Commitment and responsibility of stakeholders.

594. As a result of this effort, there is now a "Manual of Social Responsibility for Sustainable Tourism and for the prevention and eradication of commercial sexual exploitation of children and adolescents associated with travel and tourism" and there are already several companies and tourism guilds that are committed to:

- a) Train tourism operators to address this problem;
- b) Actively participate in and support initiatives on "Prevention and eradication of sexual exploitation of children and adolescents associated with travel and tourism";
- c) Check the identification documents of children or adolescents;
- d) Ensure that their operation does not consume, promote, facilitate and/or organize situations of sexual exploitation of children and adolescents;
- e) Disseminate information and inform their customers and other stakeholders of the tourism industry about the conditions of sexual exploitation of children and adolescents.

595. In this action plan, it has proven essential to improve the responsiveness of the National Police, through the strengthening of the Anti-Trafficking Unit of DINAPEN, with specialized training in the use of high technology to investigate and dismantle organized gangs

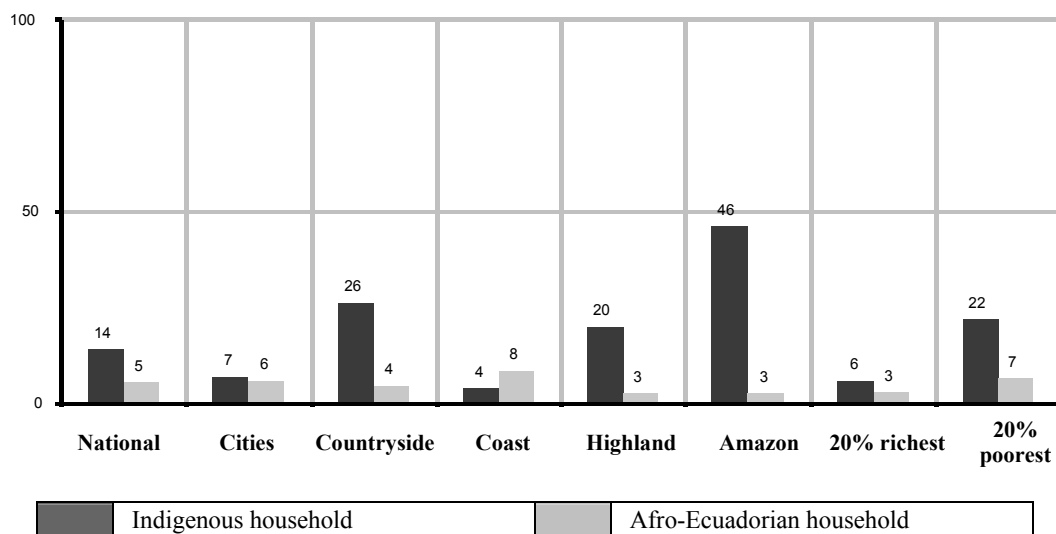
596. Additionally, a significant achievement in the prevention of sexual offenses is the implementation of the National Plan on Sexuality and Love, with emphasis on prevention of HIV/AIDS and STDs in the current curriculum of intermediate educational centres, Spanish-speaking and bilingual, in order to reduce HIV risk practices among adolescent students. The Memorandum of Understanding on sex education signed by the Ministries of Education and Health, CONAMU, the National Council for Childhood and Adolescence, UNFPA and some NGOs on 16 June 2006 forged an important alliance that seeks to institutionalize education on sexuality, prevent HIV/AIDS and eradicate sexual offenses in education with a focus on rights, social equity, gender, and inter-cultural and inter-generational awareness. Under this agreement, to remain in effect for five years, the institutions are committed to providing technical and financial assistance to the Ministry of Education, and the Ministry in turn will ensure that managers, teachers and technical staff of the institution --national, provincial and local--

participate in and support the commitment. It will also promote involvement by the educational community in these processes.

D. Children belonging to minorities and indigenous groups (art. 30)

597. Ecuador is a racially and ethnically diverse country. Personal development opportunities available to Ecuadorian children and youth depend, among other factors, on their cultural heritage or race. Ethnic-racial groups have traditionally suffered hardship as a result of discriminatory practices. The main distinctive features of ethnicity are the sense of ethnic identity, language, history or ancestry, religion and dress. Cultural differences may coincide with certain racial characteristics, as is the case with Afro-Ecuadorian groups. To reflect the diversity of the Ecuadorian population, household surveys of 2000 and 2004 included two types of information, the ethnic-racial self-identification of persons over age 15 and the language of the current and previous generations. With this information, it is possible to describe the ethnic composition of Ecuadorian children.

Figure 16. Percentage of minors under age 18 belonging to households with indigenous and Afro-Ecuadorian members, by place of residence, 2004



Note. A household is defined as “indigenous” if one or more members (i) speak an indigenous language or (ii) identify themselves as “indigenous”; and a household is defined as “Afro-Ecuadorian” if one or more members identify themselves as “black” or “mulatto”.

Source: INEC, SIEH, 2004. - *Preparation:* OSE.

598. One fifth of children in the country belong to indigenous or Afro-Ecuadorian households. 14 per cent of the country’s children live in indigenous households, i.e. households with one or more members who speak indigenous languages or who identify themselves as indigenous. Another six per cent come from households in which one or more members are identify themselves as "black" or "mulatto."

599. Indigenous children are concentrated in the countryside. 26 per cent of children in the countryside live in indigenous households, compared with seven per cent of children who live in cities. The concentration is even greater in the rural highland area (35 per cent) and the Amazon (46 per cent).

600. The provinces with the highest proportion of indigenous children are in the Amazon region and in the central highlands. Indigenous children have a greater presence in Napo (72 per cent), Pastaza (60 per cent), Morona Santiago (59 per cent) and Chimborazo (54 per cent). The provinces with the lowest proportion of indigenous children are on the coast: Los Rios and Manabi (three per cent).

601. Afro-Ecuadorian children constitute the majority in the province of Esmeraldas. Six per cent of country's children live in households of Afro-Ecuadorian descent. Their presence in the cities and in the countryside is similar. Most of them, however, are concentrated in the coastal provinces. Eight per cent of children in the coastal region live in Afro-Ecuadorian homes, in contrast to three per cent in the highland region. In the province of Esmeraldas, six of every 10 children are from households of Afro-Ecuadorian descent.

602. Socioeconomic status is associated with ethnic-racial identification. Nine per cent of children with greater resources are from households that recognize indigenous or Afro-Ecuadorian descent, three times less than in the poorest fifth of households.

XI. OPTIONAL PROTOCOLS TO THE CONVENTION ON THE RIGHTS OF THE CHILD

603. The State of Ecuador, in conjunction with the present fourth periodic report, submits separately the initial reports of Ecuador on implementation of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.
