



**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 12, PARAGRAPH 1, OF THE  
OPTIONAL PROTOCOL TO THE CONVENTION ON THE  
RIGHTS OF THE CHILD ON THE SALE OF CHILDREN,  
CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

**Initial reports of States parties due in 2006**

**ECUADOR\* \*\***

[20 March 2008]

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\* 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 to this report are on file with the Secretariat and are available for consultation.

## I. INTRODUCTION

1. By Executive Decree No. 1226, Ecuador ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 7 January 2004. The Optional Protocol entered into force upon its publication in No. 153 of the official gazette (*Registro Oficial*) of 25 November 2005.
2. The Optional Protocol may be invoked by citizens and is applied by the courts and other competent authorities pursuant to the Constitution.
3. This report is being submitted to the Committee on the Rights of the Child in accordance with article 12, paragraph 1, of the Optional Protocol.
4. The new Children's and Youth Code entered into effect in 2003. The Code systematizes and defines the guarantees and the responsibilities of children, young persons, families, civil society at large and the State as a whole in respect of the protection, enjoyment and restitution of the human rights of children and young persons under the Convention on the Rights of the Child.
5. In accordance with the Constitution of Ecuador, the Code establishes and defines the Decentralized Nationwide System for the Comprehensive Protection of Children and Young Persons. This system, as specified in article 190 of the Code, is an interlinked, coordinated cluster of public and private agencies, units and services that design, implement, monitor and assess policies, plans, programmes and actions to guarantee the full protection of children and young persons. It also defines measures, procedures, sanctions and resources, in all areas, for ensuring the enjoyment, exercise, enforceability and restitution of children's and young persons' rights as set forth in the Code, the Constitution and international legal instruments.
6. Ecuador believes that State action is essential in order to effectively protect children and young persons from sale, exploitation and their use in pornography. Public authorities at both the national and local levels must be responsible for preventive actions and restitution in the event of threats to or violations of such rights and should work with national and international NGOs to accomplish this by availing themselves of the financial and technical support made available by such organizations.
7. Ecuador takes a comprehensive approach to the offences covered in the Optional Protocol. The point of departure for that approach is a recognition of the risk factors or conditions that expose children and young persons to situations entailing extreme violations of their rights, many of which are associated with domestic or sexual violence. It also, however, is cognizant of the fact that extreme poverty, poor health conditions and a lack of education are all factors that heighten potential victims' vulnerability.
8. Pursuant to the criminal legislation in force in Ecuador since 2005, the sexual exploitation of children and young persons is a crime. Forms of conduct that constitute this offence include

pornography in which use is made of children or young persons, trafficking for the specific purpose of sexual exploitation and sexual tourism. The definition set forth in this legislation reflects a progressive application of international human rights standards and actually goes beyond them.

9. Ecuador believes that sexual exploitation should not be classified as a form of child labour, even as one of its worst forms, because it clearly entails the violation of an array of rights.

10. This report, which reflects that view, covers the relevant actions taken in the major areas of responsibility, in particular, of the following institutions: the Ministry of Government and Police, the Ministry of Foreign Affairs, Trade and Integration, the Ministry of Economic and Social Inclusion (through the Children's and Youth Council (CNNA)), the Ministry of Public Health, the Ministry of Education and the Office of the Attorney General.

11. The report was prepared by the Rights of the Child Group of the Human Rights Coordination Commission under the coordination of a team of CNNA experts and the supervision of the Ministry of Foreign Affairs, Trade and Integration and the Directorate-General for Human Rights. A wide range of State agencies and civil society organizations participated in its preparation as well.

## **II. PROHIBITION AND PUNISHMENT OF THE OFFENCES OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

### **A. Constitutional provisions**

12. The State of Ecuador classifies all forms of violence against children and young persons as extreme violations of their rights and has assigned constitutional responsibilities to all public decision-making bodies for the prevention and eradication of threats to and violations of their rights, including sexual abuse, sexual exploitation, pornography, and the trafficking and sale of children and young persons.

13. Article 23, paragraph 2, of Ecuador's present Constitution, which has been in force since 1998, establishes the right to humane treatment and the State's obligation to adopt such measures as may be necessary to prevent, eliminate and punish, in particular, violence against children, young persons, women and older persons.

14. Article 50 of the Constitution provides that the State shall adopt such measures as may be necessary to protect children and young persons from trafficking, pornography, prostitution, sexual exploitation and the use of narcotic drugs, psychotropic substances and alcoholic beverages. It also enjoins the State to take whatever measures are required to prevent them from being subjected to ill-treatment, neglect, discrimination or violence and to respond to such threats. Accordingly, pursuant to the Constitution, the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the State of Ecuador prohibits and punishes these extreme human rights violations.

## B. Criminal legislation

15. On 23 June 2005, Ecuador amended its Criminal Code<sup>1</sup> in ways which established a number of legal milestones, including:<sup>2</sup>

(a) Definitions of sexual offences have been modernized because, formerly, many of them criminalized forms of behaviour on the basis of parameters such as “indecenty” and “honour” that are at odds with principles of human rights. Previous provisions were also openly discriminatory and, in many instances, entailed an implicit reversal of the burden of proof which undermined the rights of the victim, who was required to demonstrate that he or she stood in good repute. Now, the legal interest that is protected by the punishment of sexual crimes in Ecuador is sexual integrity and the healthy development of children and young persons.

(b) The younger the victim, the greater the punishment stipulated for sexual offences and the offence of human trafficking. The existence of any type of relationship of trust, kinship or authority between the offender(s) and the victim is defined as an aggravating circumstance.

(c) A situation in which a victim is in a vulnerable position and the offender takes advantage of that position to commit the crime is judged to be an aggravating circumstance, as is any physical or psychological injury or damage caused to the victim as a result of such an offence.

16. The amendments define new offences relating to sexual abuse and exploitation that transcend national borders. This type of conduct is generally associated with cybercrime and may involve organized crime as well.

17. In procedural matters, the statute of limitations for prosecution and punishment was extended, as were the terms for the accumulation and imposition of penalties and for restrictions on offenders, such as house arrest.

18. Ecuadorian law classifies a number of behaviours as commercial sexual exploitation, including pornography involving children or young persons, the procurement of minors, sex tourism and trafficking for purposes of sexual exploitation. Consequently, this report makes express reference to these forms of conduct even in connection with matters not covered by the Protocol. Ecuador also draws an express distinction between these offences and other forms of criminal conduct, such as the smuggling of migrants and human trafficking for other purposes, such as labour exploitation.

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<sup>1</sup> See annex I for the text of Act No. 2005-02, published in No. 45 of the *Registro Oficial* on 23 June 2005.

<sup>2</sup> See annex II for a table listing punishable acts and the corresponding penalties.

## C. Achievements in law enforcement

### 1. Punishment of natural persons

19. The following account covers the number of cases tried since 2005, when the amendments defining the offences specified in the Optional Protocol entered into force. For the Committee's convenience, however, reported cases of human trafficking and sexual exploitation and the status of the corresponding proceedings are summarized in the table appearing in annex III.<sup>3</sup>

20. According to the judicial police force, during the approximately eight-month period between the Criminal Code amendments' entry into effect on 23 June 2005 and 28 February 2006, the authorities uncovered a total of 67 cases of human trafficking and smuggling (6 cases of human trafficking, 60 of people-smuggling and 1 case involving both offences). In 1 of these cases, no indictment was handed down, but in another 10, charges have been filed. A total of 124 cases of the procurement and corruption of minors were reported. In 5 of these cases no charges were ultimately lodged; indictments have been returned in 12.

21. In 2006, according to the statistics compiled by the Prosecution Service Inspectorate, 70 reports were received of human trafficking. Indictments have been handed down in eight of these cases; charges have not been dropped in any of them. In that same year, 271 reports of sexual exploitation resulted in 18 cases in which the charges were judged to be unfounded and 39 in which charges were filed. With regard to reports of the procurement and corruption of minors, charges were not filed in two cases and were filed in six.

22. A number of the cases concerning human trafficking or sexual exploitation that have been brought to trial have gained a great deal of notoriety<sup>4</sup> through the media, but the case of Machala Canton is particularly noteworthy.<sup>5</sup> Thanks to the enforcement and crime-watch activities of the Inter-Agency Network to Combat the Commercial Sexual Exploitation of Children and Other Sexual Offences, proceedings have been initiated in 42 cases of commercial sexual exploitation. This effort led to the first conviction to be handed down for this offence in Ecuador, in October 2006, and the first conviction for pornography, in November 2006.

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<sup>3</sup> See annex III for the above-mentioned table, which was prepared by the Judicial Statistics Unit of the Public Prosecutor's Office.

<sup>4</sup> For example, in Quito on 23 April 2007, the Third Criminal Court of Pichincha found Miguel Ángel Quiñónez Rodríguez guilty of human trafficking for purposes of commercial sexual exploitation and sentenced him to 12 years in prison, and Jeferson Eduardo Góngora Canchigre was sentenced to a term of imprisonment of 6 years as his accomplice in the so-called *Dunky* case. These two men, both members of the *Punto Cuarenta* gang in the canton of Santo Domingo de los Colorados, were also charged with trafficking vulnerable adolescents for purposes of sexual exploitation in another two widely publicized cases (known as the *Alondras* and *La Luna* cases).

<sup>5</sup> Machala is the capital city of El Oro Province. It is located 518 km to the south-west of Quito in Ecuador's coastal region.

23. The statistics compiled by the Public Prosecutor's Office indicate that in the first half of 2007, there were 38 reports of human trafficking and 41 complaints of offences involving sexual exploitation. The status of these cases is detailed in annex III. However, the Special Police Directorate for Children and Young People (DINAPEN) registered 9 cases of sexual exploitation, 22 of child pornography and 4 of sex tourism during the same period.

24. By the end of 2007, the Public Prosecutor's Office in Pichincha<sup>6</sup> had succeeded in winning convictions for the crime of sexual exploitation in the province's criminal courts in three cases involving victims between the ages of 12 and 15; the sentence in each of the three cases was 12 years of imprisonment. Another person was convicted of having distributed pornographic material in which adolescents appeared and was sentenced to six years in prison.

25. In the just over two years that have passed since Ecuador began to prosecute offences such as the trafficking and sexual exploitation of children and young persons, it has succeeded in identifying and punishing persons guilty of committing and of aiding or abetting the commission of these extreme rights violations and has launched numerous investigations. The national police force, and particularly the anti-trafficking unit of DINAPEN, along with the Public Prosecutor's Office and the courts, are coordinating their operations and have redoubled their efforts to uncover criminal networks and find those responsible for such violations. This demonstrates the State's determination to fulfil its international commitments and, above all, to protect children and young people in the country. To date, seven persons (four in Machala and three in Quito) have been convicted of committing, being an accomplice to, or being an accomplice after the fact to commercial sexual exploitation.

## 2. Penalization of juridical persons

26. Through the Ministry of Tourism, Ecuador penalizes private businesses and organizations that engage in sexually exploitive tourism activities and holds the guilty parties responsible both as natural persons and as representatives of juridical persons. The implementing regulations for the Tourism Act<sup>7</sup> provide that the following persons shall be held responsible for violations of the Tourism Act, its accompanying regulations and any other rules and laws, including those contained in the Criminal Code, applying to the tourism sector:

(a) Natural persons who, either on their own account or on behalf and in representation of a juridical person, commit such an offence;

(b) Natural persons who, either on their own account or on behalf and in representation of a juridical person, promote a proposed action which gives rise to an activity or undertaking that constitutes or leads to the commission of such an offence; (...).

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<sup>6</sup> Ecuador is divided into 23 provinces, one of which is Pichincha. Quito is the capital of this province and the seat of the Metropolitan District of Quito.

<sup>7</sup> See annex IV for the text of the implementing regulations for the Tourism Act, published in No. 244 of the *Registro Oficial* on 5 January 2004.

27. The following administrative penalties may be imposed, without prejudice to any criminal or civil proceedings: temporary or permanent suspension of the annual operating licence or permit of the tourism activity of the offender, termination of contracts or concessions, placement on the list of businesspersons in non-compliance in the event of serious substantiated breaches, and closure.

28. If the authority empowered to impose administrative sanctions believes that, in addition to the infraction in question, an offence has been committed that should give rise to an investigation *ex officio* (e.g., sexual exploitation, pornography involving children or adolescents or the sale of children or adolescents), it sends copies of the file to the corresponding Public Prosecutor's Office so that an enquiry may be initiated. The Ministry of Tourism will, either directly or through the agency that has been delegated responsibility for actionable offences, appear in court and play as active a role as possible. Security forces will assist, as necessary, with the enforcement of protective measures and administrative decisions.

### **3. Professionalization of the Public Prosecutor's Office**

29. The Public Prosecutor's Office has played a leading policy role in setting up permanent specialized regional panels to combat human trafficking. The panels, which focus, in particular, on trafficking for purposes of the sexual exploitation of children or adolescents, are made up of staff from the Prosecutor's Office and the judicial police force. This system, under which the prosecution of such crimes is entrusted to the Regional Prosecutor's Office, has ensured the confidentiality that is key to the success of investigations of this type. This coordinated approach has proven to be both effective and efficient.

30. As part of this strategy, a select group of staff members has received intensive training in the special technical skills required to investigate and prosecute these complex offences. The focus has been on developing suitable investigative techniques for dealing with organized crime, such as agent infiltration, monitoring of capital flows and the tracing of internal connections.

### **D. Extradition**

31. Thus far, Ecuador has not initiated any extradition proceedings in connection with the offences covered in the Optional Protocol.<sup>8</sup>

### **E. Seizure and confiscation of items involved in the commission of an offence**

32. The State of Ecuador recognizes the fact that profit is an important subjective motive for the commission of the crimes covered by the Optional Protocol. In this respect, "profit" is understood to refer to any material advantage rather than solely monetary gain.

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<sup>8</sup> Information provided by the Technical and Legal Advisory Service of the Ministry of Foreign Affairs, Trade and Integration, which is the government agency responsible for hearing and processing extradition cases.

33. The Government of Ecuador has broadened the range of penalties for these offences, which, in addition to imprisonment, may be applied to property related to or obtained by means of such offences.

34. As noted in annex II to this report, penalties include imprisonment, confiscation of property obtained through the commission of such offences, closure of business premises or revocation of corporate status, disqualification from the exercise of certain professions, such as teaching, and the payment of compensation to victims.

### **III. PROTECTION OF CHILD AND ADOLESCENT VICTIMS IN CRIMINAL PROCEEDINGS**

#### **A. Criminal procedure**

35. Ecuador's Code of Criminal Procedure was published in the *Registro Oficial* of 13 January 2000 and entered into force on 13 July 2001. Its establishment, which is a genuine milestone in the reform process, introduced an oral accusatory system into the country's courts.

36. Criminal proceedings regarding the offences of human trafficking, sexual exploitation, pornography and the sale of children or adolescents are public and are prosecuted by the Government on its own initiative. In other words, it is unnecessary for a private party to lodge a complaint as a basis for action. The authorities and auxiliary personnel responsible for the administration of justice are empowered to initiate investigations and the subsequent trials as soon as they become aware of a criminal act.

37. Reports of such offences are not subject to any formal requirements and can even be submitted personally in writing (handwritten in legible script, typewritten or written on a computer). Reports may also be made by telephone. Full evidence is not required, since it is the job of the Public Prosecutor's Office and the national police force, acting through the Judicial Police Directorate, to start an investigation and take the necessary steps to obtain evidence. It is important, however, to provide as much information as possible or to indicate where information can be obtained.

38. These offences can be reported to the judicial police force's complaints reception centre, to DINAPEN if they concern children or adolescents, to the Public Prosecutor's Office, to the Ombudsman or to any NGO concerned with the protection of children's, young people's and women's rights. These agencies will then bring the matter to the attention of the proper authorities for investigation and prosecution.<sup>9</sup>

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<sup>9</sup> See annex V for a description of the different stages of criminal proceedings in Ecuador. Information is also provided on the special protective measures that are in place for children and adolescents.



39. An inter-agency coalition to combat commercial sexual exploitation and trafficking in children and young persons has been formed in the city of Cuenca<sup>10</sup> by the local government, the Cantonal Child and Youth Council, the Public Prosecutor's Office for the District of Azuay, the Red de Prevención y Atención al Niño Maltratado [network for the prevention and care of abused children] (SIREPANM), the Esquel Foundation and USAID. Its aim is to help victims of sexual offences, especially of commercial sexual exploitation and trafficking, gain access to the justice system.

### **1. Victim and witness protection**

40. The Criminal Justice Policy Directorate is the operational arm of the Public Prosecutor's Office responsible for promoting, planning, organizing and ensuring the application of the country's criminal justice policy in coordination with the various institutions belonging to the country's criminal justice system.

41. Its sphere of action is defined in the Public Prosecutor's Office Organization Act and its accompanying operating regulations. One of the Directorate's four main units is the Victim and Witness Protection Office, whose job is to propose and implement policies for ensuring the effective operation of the Programme for the Protection and Assistance of Victims, Witnesses and Other Participants in Criminal Proceedings.

42. This programme offers the following services: (a) immediate shelter; (b) police protection; (c) medical attention; (d) psychological care; (e) economic assistance when a change of residence is necessary; (f) job search support; (g) support to help children and young people to continue their studies.

43. Other programme activities include: (a) regular meetings with networks of foundations that assist victims of domestic violence and sexual abuse; (b) working with university-run legal clinics to provide victims with free legal advice; (c) psychological and legal follow-up; (d) administration of user satisfaction surveys since the second half of 2004.

44. The regulations that had governed the operation of this programme since September 2002 were recently replaced<sup>11</sup> by amended regulations that rectify a number of shortcomings in the preceding instrument. For example, the new regulations are underpinned by three main principles: (a) decentralization of service delivery through district units that can respond quickly to the many requests received in the country; (b) targeting of programme services and beneficiaries; and (c) a cross-cutting approach is used to provide specialized, professional services that will meet each of a victim's specific needs.

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<sup>10</sup> Capital city of Azuay Province located 442 km to the south of Quito.

<sup>11</sup> See annex VI for the text of Executive Decree No. 528 of 7 August 2007, published in No. 150 of the *Registro Oficial* on 17 August 2007.

45. The existence of personal risk is now a sufficient condition for receiving protection. In the specific case of human trafficking, this provision makes it possible to extend protection to victims from the moment they are rescued.

46. Because the Public Prosecutor's Office does not have all the human and material infrastructure on hand that is required to provide these protection and assistance services throughout the country, it has built up a nationwide social safety net through which it can outsource these services in order to respond to victims' and witnesses' needs effectively. The first agreement to be concluded with a shelter specifically for victims of human trafficking has already been signed.

47. Administrative operations have been sited in units providing coverage for 20 districts.<sup>12</sup> The coordinators for these units, which are now in operation, were immediately assigned and trained. This strategy has permitted a nationwide system to be put in place despite the country's resource-constrained administrative structure, which will gradually be strengthened over time. The Attorney General has issued regulations covering these units' financial management<sup>13</sup> and has approved a procedural manual for the programme<sup>14</sup> in order to ensure its operational viability.

48. DINAPEN records indicate that 31 victims of trafficking and sexual exploitation have entered the victim and witness protection programme.

49. The Ministry of Economic and Social Inclusion approved a budgetary allocation of US\$ 2.5 million for 2007 and 2008 to set up 6 specialized residential facilities for victims of violence, including sexual exploitation, and 30 specialized care centres for child and adolescent victims of sexual violence.

## **2. Protection of victims' privacy**

50. Ecuador protects victims' privacy. Article 69 of the Code of Criminal Procedure sets forth the rights of victims, which include protection of their person and their privacy, and recognizes their right to demand that the police, prosecutor, judge and court take such steps as may be necessary to that end, without prejudice to the rights of the accused.

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<sup>12</sup> See annex VII for Agreement No. 038-2007-MFG of 28 August 2007, issued by the Attorney General of Ecuador.

<sup>13</sup> See annex VIII for Agreement No. 039-2007-MFG of 31 August 2007, issued by the Attorney General of Ecuador.

<sup>14</sup> See annex IX for Agreement No. 044-2007-MFG of 26 September 2007, issued by the Attorney General of Ecuador.

51. The use and/or dissemination of images of children and adolescent victims of sexual offences are prohibited. Under article 52 of the Children's and Youth Code on children's and young people's right to dignity and to their own image, the following acts are prohibited:

(a) Publication or exhibit of news, reports, accounts, life stories or any other journalistic piece containing the images or proper names of children or adolescents who have been victims of ill-treatment or abuse;

(b) Publication or exhibit of images and recordings or written references that would allow a child or adolescent victim of ill-treatment, sexual abuse or criminal offences to be identified or individualized, as well as any other reference to their surroundings;

(c) Publication of the name or image of minors charged with or convicted of crimes or offences.

52. Even where permitted by law, use may not be made of the image of an adolescent over 15 years of age without his or her express authorization or of a child or adolescent 15 years of age or less without the authorization of his or her legal guardian, who will issue such authorization only if it will not infringe the child's or the adolescent's rights.

53. In 2007, the Children and Youth Communications Agency (ACCNA) published the first comparative study for 2005 and 2006 on 12 national and provincial media, entitled "La niñez y adolescencia en los medios impresos del Ecuador" [children and young people in the print media in Ecuador].<sup>15</sup> This agency belongs to the Latin American ANDI network, which advocates the creation of a rights-based culture in the media. To this end, the print media's portrayal of children and young people in Ecuador was monitored over a period of two years. Under the motto "Working with the media on behalf of children and young people", the report provides qualitative and quantitative data on material published in the print media regarding this age group. Its findings have been organized and presented in a way designed to motivate Ecuadorian journalists to explore and rethink these issues.

54. Not all the media deal ethically with cases of sexual offences, and on occasion members of the media have infringed the Children's and Youth Code. To deal with this situation, the Government of Ecuador works through the National Radio and Television Council to regulate and monitor the artistic, cultural and moral quality of events or programmes broadcast over radio and television throughout the country. Broadcasters are notified of any rectifications required of them. The Council generally applies the standards set out in the code of ethics of the industry association to which the broadcaster in question belongs: the Asociación Ecuatoriana de Radio y Televisión [Ecuadorian Radio and Television Association] (AER) or the Asociación de Canales de Televisión del Ecuador [Association of Television Broadcasters of Ecuador] (ACTVE). The Government of Ecuador does not have any regulatory body to oversee the print media.

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<sup>15</sup> "La niñez y adolescencia en los medios impresos del Ecuador, Informe comparativo de monitoreo a medios impresos 2005-2006", published by ACNNA, May 2007, Quito.

### **Difficulties hindering the protection of victims' privacy**

55. Ecuador has 1,184 short-wave amplitude-modulated (AM), frequency-modulated (FM) and relay broadcasting radio stations; 331 open VHF and UHF television stations; 195 cable television stations; and 26 national, regional and/or provincial dailies that belong to the Asociación Ecuatoriana de Editores de Periódicos [Ecuadorian Newspaper Association] (AEDEP). There are also, however, a wide range of local dailies in towns around the country that are not members of AEDEP. Their exact number is not known, since no government agency oversees or monitors Ecuador's newspapers. According to the National Radio and Television Council (CONARTEL), most of the broadcasters, especially in the case of television, are commercial stations.

56. Television broadcasters are given a high credibility rating by Ecuadorians; in 2006, 87.2 per cent of all households in Ecuador had a television set and 72.8 per cent had a radio.<sup>16</sup> Nonetheless, some news programmes broadcast before 9 p.m. are laden with lurid or sensationalist stories (the so-called "crónica roja" or "red chronicle") that contravene Ecuador's Television Ethics Code of 2006, which is overseen by an executive board formed by the television channels themselves.

57. To quote the article footnoted in the preceding paragraph, the "red chronicle" covers violence in general and violence against children and adolescents "in isolation and in a simplified, piecemeal manner [which] ... trivializes it" and makes no mention of its consequences and implications for society as a whole or for the victims as human beings.

58. CONARTEL is authorized to do no more than issue warnings when ethical standards are infringed, and the Superintendency of Telecommunications can impose sanctions only in the event of technical and/or administrative problems.

59. Despite these constraints, however, CONARTEL has recently started up a monitoring centre - the Communications, Planning and Control Unit - to compile information on programming and analyse its content.

### **3. Forensic examinations**

60. Under the Children's and Youth Code, forensic examinations of children or adolescents are to be conducted in a manner that maintains strict confidentiality and respects the privacy and the physical and emotional well-being of the patient.

61. Unless it is essential for their treatment and recovery, child and adolescent victims of any of the types of ill-treatment or abuse named in title IV of the Code may not be subjected to a repeat forensic examination.

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<sup>16</sup> "Difusión de la violencia en el Ecuador ¿hasta dónde informar?" [The spread of violence in Ecuador; how much should be reported?], by Jenny Pontón Cevallos, published in *Ciudad Segura: Violencia y Populismo Mediático*, No. 16, Urban Studies Programme of the Facultad Latinoamericana de Ciencias Sociales (FLACSO).

62. Health professionals conducting such examinations are required to safely preserve any evidence found and to testify personally as to the content of their reports.

63. Reports on the findings of those examinations prepared by professionals working at public or private health-care institutions or authorized care facilities will carry the legal weight of an expert report.

64. Pursuant to the Code of Criminal Procedure, persons under 18 years of age are not sworn in when they give testimony; instead, they testify in the presence of a guardian ad litem whom the court appoints at that time.

## **B. Other protective measures**

### **1. Training of police force personnel**

65. DINAPEN provides ongoing training to police force personnel with support from such institutions as the National Children's and Youth Council and universities such as the Central University of Ecuador. In 2005, 2006 and so far in 2007, a total of 213 staff members working in various provincial police stations have been trained.

66. The national police force plans to set up four anti-trafficking units to be staffed by DINAPEN and the Public Prosecutor's Office. The corresponding budget allocation has already been provided for. This initiative has been launched with the establishment of the Anti-Trafficking Unit in Quito, which works on human trafficking and exploitation cases at the national level, as a pilot project.

67. By means of Executive Decree No. 675 of 15 October 2007, the Government of Ecuador declared a state of emergency in respect of the national police force in the areas of infrastructure, communications and logistics, forensic investigation, community police units, welfare and social security and instructed the Ministry of Economic Affairs to identify a source, as a matter of priority, of funding for the immediate outfitting of the force in these areas. This measure is designed to give the institution the reinforcement it needs in order to do its job properly.

68. The National Plan for the Eradication of Gender-Based Violence against Children, Young Persons and Women calls upon the Ministry of Government and Police to provide training and specialized instruction to the police force in the prosecution of such crimes.

### **2. Circulation of information**

69. Pursuant to the National Plan for the Eradication of Gender-Based Violence against Children, Young Persons and Women, the Government of Ecuador has planned and budgeted for the design and establishment of a national record-keeping system on incidents involving violence against children, adolescents and women, including trafficking and sexual exploitation.

70. At least three sources of information will be used: the justice system (i.e., reported cases), primary health-care centres, and both private and public psychological and legal assistance services.

### 3. Notification of the authorities

71. Under article 17 of the Children's and Youth Code, any person, including a judicial or administrative authority, who learns by any means of the violation of a child's or adolescent's rights is legally bound to report this to the relevant authority within 48 hours.

72. Article 72 of the Children's and Youth Code stipulates that this same legal responsibility is borne by persons who, by virtue of their profession or trade, learn of an act that exhibits features characteristic of ill-treatment, abuse, sexual exploitation, trafficking or loss of a child or adolescent. Such persons must report any such act within 24 hours of being apprised thereof to a competent prosecutor or judicial or administrative authority. This latter category includes the Ombudsman responsible for upholding fundamental rights.

73. If DINAPEN learns of any infringement of the laws concerning children and young people or receives a report of such an infringement, it will advise the Public Prosecutor's Office or the competent authority directly so that it can begin an investigation.

## IV. PREVENTION OF ILLICIT PRACTICES AND PROTECTION OF CHILDREN AND YOUNG PERSONS

74. The prevention of sexual exploitation, human trafficking, pornography and the sale of children and adolescents is a matter of State policy in Ecuador. In order to put this policy into action, it has designed and is implementing the plans, programmes and projects discussed below.

75. Some of these plans and programmes were designed in past years, but the current Administration has now provided the political backing and financial support required for their implementation, and they can therefore be expected to produce results in the coming months.

### A. Action plans XXX

#### 1. National Plan to Combat Human Trafficking, Smuggling of Migrants, Sexual Exploitation, Labour Exploitation, Prostitution, Pornography and Other Forms of Exploitation of Women and Children and the Corruption of Minors

76. In 2004, Ecuador declared the struggle against such practices as human trafficking, sexual and labour exploitation, prostitution, pornography and other forms of exploitation of women and children and the corruption of minors to be a State policy. To implement this policy, it established an inter-agency commission at the highest level. This commission is presided over by the Ministry of Government and Police and includes representatives of the Ministry of Public Health, Ministry of Education, Ministry of Foreign Affairs, Ministry of Labour and Employment, Ministry of Economic and Social Inclusion (formerly the Ministry of Social Welfare), the National Council for Women (CONAMU), the National Children's and Youth Council, the Instituto Nacional de la Niñez y la Familia [National Child and Family Institute] (INNFA) and civil society.<sup>17</sup>

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<sup>17</sup> See annex X for Executive Decree No. 1981 of August 2004.

77. The Inter-Agency Commission's technical secretariat headed up a participatory effort to formulate a national action plan for combating these crimes. In 2006, the resulting policy paper, which deals specifically with the offences covered in the Optional Protocol, was issued as the National Plan to Combat Human Trafficking, Smuggling of Migrants, Sexual Exploitation, Labour Exploitation, Prostitution, Pornography and Other Forms of Exploitation of Women and Children and the Corruption of Minors.<sup>18</sup>

78. In the National Plan to Combat Human Trafficking, the Government of Ecuador sets out three policies, together with their strategic objectives, that define the main courses of State action for combating these crimes: (i) prevention; (ii) investigation, protection and punishment; and (iii) protection and restitution of rights.

79. Each of these major courses of action is underpinned by a specific policy, and these policies spell out strategic objectives together with concrete, explicit institutional responsibilities and approaches in keeping with the roles and areas of competence of the various national and local public agencies. The Inter-Agency Commission's technical secretariat prepared an operational scheme for the first year of the Plan's implementation which is to be assessed in 2008.

80. In the area of prevention, Ecuador will promote the formulation of programmes, projects and measures aimed at changing sociocultural attitudes and building capacity for detecting and averting behaviours conducive to criminal activity, eliminating risk factors, encouraging people to report such offences, and enhancing the enforcement and justiciability of the offences addressed by the Plan. The results of these actions are reflected in the high reporting rates shown in section 2.3.1 of this report. A wide range of awareness-raising activities have also been conducted. Many of these activities have been supported by international cooperation agencies and will therefore be discussed in the section on cooperation initiatives.

## **2. National tourism plan**

81. The Ministry of Tourism worked with the private sector and other stakeholders in the tourism industry to draw up a national tourism plan, known as PLANDETUR 2020.<sup>19</sup> The plan provides for campaigns aimed specifically at promoting sustainable tourism and preventing the commercial sexual exploitation of children and young people.

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<sup>18</sup> See annex XI for the National Plan to Combat Human Trafficking, Smuggling of Migrants, Sexual Exploitation, Labour Exploitation, Prostitution, Pornography and Other Forms of Exploitation of Women and Children and the Corruption of Minors, approved by Executive Decree No. 1823 of 30 August 2006 and published in No. 375 of the *Registro Oficial* on 12 October 2006.

<sup>19</sup> See annex XI for the National Tourism Plan.

### **3. The 10-Year National Comprehensive Child and Youth Protection Plan**

82. In 2004, the Children's and Youth Council approved the 10-Year National Comprehensive Child and Youth Protection Plan,<sup>20</sup> which provides the overall public policy framework for the protection of children's and adolescents' rights in Ecuador. Pursuant to the Children's and Youth Code, implementation of this plan is mandatory for all bodies belonging to the Decentralized Nationwide System for the Comprehensive Protection of Children and Adolescents. The 10-Year Plan encompasses 29 policies targeting three age groups. Policies Nos. 8, 9, 15, 17, 20, 21 and 26 include provisions on the prevention of offences covered by the Protocol and the relevant response measures.

### **4. Equal Opportunity Plan for 2005-2009**

83. Based on the Equal Opportunity Plan for 2005-2009,<sup>21</sup> the main lines of action to be undertaken by CONAMU include the promotion and protection of the right to be free from violence, the right to peace, the right to health, sexual and reproduction rights, and the right to have access to justice. The provisions of this plan, and particularly policies Nos. 2, 3 and 5, provide the framework for promotion of the right to be free from violence.

### **5. National Plan for Preventing and Eradicating Sexual Offences from the Education System**

84. The National Plan for Preventing and Eradicating Sexual Offences from the Education System addresses risk factors for the commission of offences involving human trafficking, sexual exploitation and child pornography.

85. In 2006, the Government of Ecuador worked with a number of public and private organizations to draw up this plan in order to establish a special policy on sexual crimes committed in public or private educational institutions, set up referral and cross-referral mechanisms for reports and complaints, and design institutional approaches for the imposition of administrative sanctions on offenders. The plan defines policies on prevention, protection and restitution, the investigation of offences and the punishment of offenders. The policy on prevention calls for action to foster a civic culture based on protection for the right to healthy sexual development, together with safeguards for the physical, psychological, social and sexual integrity of children and young people within the educational system. The ultimate aim is to ensure children's and young people's full enjoyment of their rights and their ability to attain their life goals.

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<sup>20</sup> See annex XII for the 10-Year National Comprehensive Child and Youth Protection Plan.

<sup>21</sup> See annex XIII for the Equal Opportunity Plan for 2005-2009, which was instituted as a policy of State by Executive Decree No. 1270-A, published in No. 234 of the *Registro Oficial* on 22 March 2006.



86. Ecuador has placed priority on preventing the behaviours covered in the Protocol and, to that end, the Ministry of Education has launched a series of programmes on ways of dealing with situations that put people at risk of sexual violence.

### **B. Initiatives of the Ministry of Education**

87. By Ministerial Decision No. 3393, published in No. 431 of the *Registro Oficial* on 29 September 2004, Ecuador issued regulations governing measures for dealing with sexual offences in the education system. These regulations are designed to implement a policy for preventing sexual crimes in the education system and provide for the creation of watchdog committees and provincial and local commissions focusing on prevention and on care and protection for victims of such crimes. These bodies will work in coordination with local councils and rights protection boards.

88. Sex education has been introduced in the schools in accordance with Ministerial Decision No. 403, published in No. 386 of the *Registro Oficial* on 27 October 2006. This initiative has been taken in accordance with the Education for Love and Sexuality Act, the National Plan for Education for Love and Sexuality, and the National Plan for Preventing and Eradicating Sexual Offences from the Education System. Pursuant to this ministerial decision, educational institutions are required to incorporate sex education - with one of the main components of the programme being the prevention of sexual violence - into their annual curricula.

89. Ministerial Decision No. 182 of 22 May 2007 establishes social codes of conduct designed to help people in the educational community to learn to relate to one another in new ways, with special emphasis on human rights.

### **C. Initiatives in the tourism sector**

90. In 1999 the World Tourism Organization issued the Global Code of Ethics for Tourism. In 2005, in the spirit of article 2, paragraph 3, of the Code, which states that the “exploitation of human beings ... conflicts with the fundamental aims of tourism”, the Ministry of Tourism, in collaboration with the World Tourism Organization, conducted a baseline study of the occurrence of commercial sexual exploitation in the travel and tourism industry in Ecuador. This study’s findings pointed up the need to develop and implement measures for preventing exploitative practices of this sort.

91. In order to develop coordinated, well-timed actions to prevent and eradicate commercial sexual exploitation of children and young people in the tourism sector, the Ministry of Tourism embarked upon a process that ultimately led to the establishment of the Inter-Agency Platform for the Prevention and Eradication of the Commercial Sexual Exploitation of Children and Young Persons in the Travel and Tourism Sector. The following organizations are members of the Platform: the Ministry of Tourism, National Children’s and Youth Council, United Nations Children’s Fund (UNICEF), CONAMU, International Labour Organization (ILO), Sustainable Tourism - Eliminating Poverty Programme of the World Tourism Organization (UNWTO ST-EP), INNFA, Asociación de Ejecutivas de Empresas Turísticas [Tourism Executives Association] (ASEET), Federación Nacional de Cámaras de Turismo [National Federation of Chambers of Tourism] (FENACAPTUR) and the Observatorio de los Derechos de la Niñez y la Adolescencia [Child and Youth Rights Watchdog Centre] (ODNA).

92. The Platform has prepared a presentation on the main areas of action relating to this issue, which are: (a) an information and communication campaign; (b) awareness-raising and training; (c) research; and (d) stakeholder commitment and responsibility.

93. As part of the first component, an information and communication campaign targeting the general public was launched by the Ministry of Tourism and UNICEF in 2006 in order to help make the community at large aware of the issue and of the risks run by children and young people. A special information drive was also conducted to warn tourists that the sexual exploitation of minors is a crime in Ecuador.

94. In order to implement the second component, in January 2007 INNFA signed a cooperation agreement with FENACAPTUR and the Ministry of Tourism with a view to raising awareness in the tourism and travel industry about the need to prevent and eradicate the commercial sexual exploitation of children and young people. Since this project specifically targets tourism operators, FENACAPTUR is the executing agency. This initiative led to the publication of a manual on social responsibility in the promotion of sustainable tourism and the prevention and eradication of the commercial sexual exploitation of children and young people in the travel and tourism industry. A number of tourism enterprises and associations have made a commitment to take the following steps:

- (a) Train their tourism operators in ways of dealing with this issue;
- (b) Support and participate actively in efforts to prevent and eradicate the sexual exploitation of children and young people in the travel and tourism industry;
- (c) Check children's and young people's identity papers;
- (d) Make certain that their operations do not engage in, promote, facilitate and/or organize situations involving the sexual exploitation of children or young people;
- (e) Inform their customers and other members of the tourism industry about the issue of the sexual exploitation of children and young people.

### **1. Regional task force**

95. The private sector's involvement in action to address this issue is vital. FENACAPTUR represents the private sector on the Regional Task Force for the Protection of Children and Young Persons from Sexual Exploitation in the Tourism Sector in South America. The Ministry of Tourism of Ecuador has joined in the launch of the regional campaign that is to be conducted in the Task Force's member countries (Argentina, Bolivarian Republic of Venezuela, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Plurinational State of Bolivia, Suriname and Uruguay).

### **2. A regional basis for good practices in tourism**

96. The private sector's engagement in efforts to address this issue is crucial, and for some time now tourism operators have been opting for certification as a means of making their

businesses more competitive and socially responsible. With support from the Rain Forest Alliance and the Ecuadorian Ecotourism Association (ASEC), a number of organizations in Ecuador have now established regional standards for good tourism practices, which include measures to combat crimes involving sexual exploitation. This initiative is one of the tools used by the Ministry of Tourism and FENACAPTUR, together with CARE, to develop a proposal for the formulation of a set of standards for corporate social responsibility in the tourism industry which would include the protection of children and young people and the elimination of any link between their commercial sexual exploitation and tourism operations.

#### **D. Media responsibility**

97. Radio and television programmes broadcast before 9 p.m. must be suitable for all ages. Those broadcast after 9 p.m. are subject to the relevant laws and regulations.

98. In Ecuador, radio and television programming is subject to the following standards: (a) it must place emphasis, from an objective standpoint, on providing information about national and international situations and events, on distributing information on science and technology, on promoting the national culture and human rights, and on the moral development and education of children and young people and of the population at large; (b) it must defend, foster and celebrate the positive features of traditions, customs and mores, religious beliefs and other values associated with the national culture; (c) it (including advertising and programme previews) must be suitable for all viewers if broadcast between the hours of 6 a.m. and 9 p.m. and during that period must therefore avoid scenes or images of violence, cruelty and explicit or promiscuous sexual acts; (d) broadcasters should ensure that their programmes do not glamorize crime, are not morally offensive or indecent, and do not constitute an affront to the national identity, lifestyles or religious beliefs or customs in order to ensure that they do not undermine national values or promote foreign values or the negative experiences of other countries.

#### **E. Public policy at the local level**

##### **1. Quito**

99. In the city of Quito, an initiative is being headed up by municipal government agencies specializing in child, youth and gender issues to combat the sexual exploitation of children and young people.

##### **2. Machala**

100. Since March 2005, the Inter-Agency Network to Combat the Commercial Sexual Exploitation of Children and Other Sexual Offences has been working to develop a policy on prevention and on comprehensive care for child victims of commercial sexual exploitation and trafficking. Agreement was reached on a health-care protocol, and that protocol has been applied since 2006 in the Machala Clinic No. 2. A letter of intent has also been signed by the municipal government of Machala, the canton's Child and Youth Council and other authorities regarding the introduction of a public ordinance that will establish a framework policy on commercial sexual exploitation and trafficking of children and young people.

101. The Inter-Agency Network conducted two ILO-sponsored action programmes in 2005-2007 in Machala Canton on the prevention and eradication of the sexual exploitation of children and young people. This initiative revitalized and strengthened the Network, generated knowledge and new methodologies, and contributed to enforcement efforts. Its impact in terms of the restitution of victims' rights will be assessed by the Government as part of its special protection programme with a view to developing such a programme at the national level.

102. The Network's efforts have enabled the Public Prosecutor's Office of Machala Canton to implement its victim and witness protection programme. Its work has also helped to generate synergies among key stakeholders in the effort to combat the commercial sexual exploitation of children, such as the Prosecution Service, the Victim and Witness Protection Unit and DINAPEN, which have been working in coordination with one another on joint projects.

### **3. Ibarra<sup>22</sup>**

103. Various steps have been taken to deal with the crimes covered in the Protocol: (a) preparation of a baseline survey on the commercial sexual exploitation of children and young people; (b) design of a public policy on the prevention and eradication of the commercial sexual exploitation of children and young people and on the restitution of victims' rights; (c) design of a computerized information system on the commercial sexual exploitation of children and young people and its installation in the municipality; (d) workshops on the issue of the commercial sexual exploitation of children and young people for local business and hotel owners and canton authorities.

104. Local coordination efforts in Ibarra Canton have led to the formation of the Inter-Agency Committee for the Control and Monitoring of Commercial Sexual Exploitation of Children and Young Persons, which helps to organize the actions of all policymaking and other bodies working to protect the rights of children and young people. Resource and information use have been optimized, and follow-up on specific cases has been improved.

### **4. Cuenca**

105. Advances made in this city include the establishment, in coordination with civil society stakeholders, of a special board to develop policies on the prevention of sexual violence, offences and exploitation and on approaches to these problems. In addition, an agreement has been signed with CONAMU to undertake a participatory public policymaking effort at the local level focusing on comprehensive protection for child and adolescent victims of sexual and domestic violence.

106. Also in partnership with CONAMU, the Regional Under-Secretariat for Education, the Provincial Directorate for Education and Cuenca's Cantonal Child and Youth Council have set up a watchdog committee to guard against the commission of sexual offences in the education system.

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<sup>22</sup> Capital city of Imbabura Province, located 115 km to the north of Quito, the national capital.

## **5. Programme of the National Child and Family Institute**

107. The Instituto Nacional de la Niñez y la Familia [National Child and Family Institute] (INNFA), an NGO that receives government funding, is conducting a programme for victims of sexual abuse, ill-treatment and extreme neglect. Under this programme, children, adolescents and their families are provided with services designed to enhance their social integration, psychological support, therapeutic care and legal advice. As part of its work, innovative techniques were used to provide psychological assistance to nine victims in the Burdett-Cedeño child pornography case of Galápagos Province<sup>23</sup> in the course of the hearings conducted in the city of Guayaquil.

108. Centres (known as “centros ternura”, or “tenderness centres”) have been established in Quito and Santo Domingo de los Colorados to provide services for children, young people and families who have experienced problems of sexual abuse, ill-treatment, abandonment or loss. To date, these centres have dealt with 67 cases of sexual abuse in Santo Domingo de los Colorados and 91 cases in Quito.

### **F. Information drives**

109. A campaign against human trafficking and people-smuggling was conducted in 2006 by INNFA. The first stage of this campaign lasted a year (January-December 2006) and focused on raising the awareness of society at large and sensitizing its members to the crime of human trafficking and the danger it poses for children, young people and any other victim. The second stage centred on publicizing the 101 police hotline for reporting cases of trafficking and smuggling. Such reports are then to be channelled to the appropriate agencies: DINAPEN, the national police force, the International Criminal Police Organization (INTERPOL) and shelters.

## **V. LEGAL FRAMEWORK AND PROTECTIVE MEASURES: THE BEST INTERESTS OF THE CHILD**

### **A. Legal framework**

110. In accordance with the 2003 Children’s and Youth Code,<sup>24</sup> the Constitution and international human rights agreements, the State of Ecuador guarantees comprehensive protection for all children and young people living in the country so that they may develop in every respect and fully exercise their rights within a framework of freedom, dignity and equity in keeping with the principle of the best interests of the child and the doctrine of comprehensive protection.

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<sup>23</sup> In the 89 cases made public (there could have been many more), only 12 of the 35 child and adolescent victims lodged complaints of abuse with the Public Prosecutor’s Office of Santa Cruz against the Burdett-Cedeño couple. The Canton of Santa Cruz has no formal, institutional mechanism for responding to such situations on the spot or on an appropriate scale.

<sup>24</sup> See annex XIV for the Children’s and Youth Code, published in No. 737 of the *Registro Oficial* of 3 January 2003.

111. The State, society and the family should, within their respective spheres of action, take such political, administrative, economic, legislative, social and legal steps as may be necessary to ensure children's and young persons' full and effective enjoyment of all of their rights and to guarantee, protect and enforce those rights.

112. Ecuador upholds the fundamental principle of the best interests of the child as a basis for children's and young persons' effective exercise of their rights. It is the duty of all administrative and judicial authorities and public and private institutions to ensure that their decisions and actions are in keeping with this principle, which takes precedence over the principle of ethnic and cultural diversity.

113. The Children's and Youth Code covers behaviours which, because they entail multiple rights violations, are a particular cause of concern and call for special protective measures. In accordance with the country's legislation on criminal offences, the crime of sexual exploitation is defined in the Code as the use of a child or adolescent in sexual activities in exchange for remuneration or any other consideration. Child pornography is defined as any representation, in any medium, of a child or adolescent in explicit sexual activities, whether real or simulated, or of their genitals, with the aim of promoting, suggesting or evoking sexual activity. Trafficking in children or young persons is defined as their removal, transfer or retention within or outside the country by any means for the purpose of using them in prostitution, sexual or labour exploitation, pornography, drug trafficking, trafficking in organs, servitude, illegal adoption or other unlawful activities.

114. The Children's and Youth Code provides that any such legislative, administrative, social, educational or other measure as may be necessary to protect children and young persons must be taken in such cases. It also states that it is everyone's duty to intervene and protect them and that any person who, because of his or her profession or trade, learns of such events must report them to a competent judicial or administrative authority.

115. The Code also sets forth a series of actions, including the following: (a) assistance for children, young people and persons responsible for their care and protection aimed at preventing these types of rights violations; (b) prevention and investigation of cases of ill-treatment, sexual exploitation and abuse, trafficking and loss; (c) searches for children and young people in the event of their loss, abduction, unlawful transfer or trafficking, followed by their rescue or recovery and their reintegration into their families; and (d) promotion of a culture whereby adults, children and young people treat each other properly in their daily lives.

116. Steps will be taken to ensure that society at large, families, children and young people are involved in the development and implementation of the corresponding policies and programmes. These types of behaviours cannot be justified on the grounds that, in Ecuador's diverse, multicultural society, they are child-rearing methods or traditional cultural practices.

117. Children's and young people's right to protection entails the prevention of: (a) the consumption and abuse of alcoholic beverages, tobacco, narcotic drugs or psychotropic substances; (b) their participation in the production, marketing or advertising of such substances and objects; (c) the use of arms, explosives or other substances that put their lives or their persons at risk; (d) public display of organic or functional disabilities or illnesses suffered by them for economic gain; and (e) inducement to participate in games of chance.

118. The protective measures provided for in such cases include:

- (a) Conducting raids of the sites where child or adolescent victims of illicit practices are located and their immediate removal;
- (b) Placing such children or young persons with a family or institution;
- (c) Placing such children or young persons and their families in a protection and care programme;
- (d) Issuing protection orders on behalf of children or adolescents against their aggressors;
- (e) Warning aggressors;
- (f) Placing aggressors in specialized programmes;
- (g) Issuing orders requiring an aggressor to leave the dwelling if cohabitation with the victim poses a risk to the victim's physical, psychological or sexual safety, and return of the victim, where appropriate;
- (h) Prohibiting aggressors from approaching their victims or having any sort of contact with them;
- (i) Prohibiting aggressors from threatening, either directly or indirectly, victims or their relatives;
- (j) Suspending aggressors from their occupational duties or functions;
- (k) Suspending the operation of the institution or establishment in which institutional ill-treatment has taken place for as long as the conditions justifying that suspension persist;
- (l) Having aggressors or the personnel of an establishment where institutional ill-treatment has taken place participate in workshops, courses, or other instructional events; and
- (m) Having social work teams perform follow-up checks to verify that the abusive behaviours have been rectified.

### **B. New child and youth protection agencies**

119. With the promulgation of the new Children's and Youth Code, Ecuador created a number of new government agencies to define, evaluate and enforce public policies on comprehensive protection and to adopt protective measures to prevent individuals' rights from being violated. These bodies include the national and cantonal children's and youth councils, which are the lead agencies in the nation's decentralized system for the comprehensive protection of children and young people at the national and local levels, respectively. In addition, rights protection boards are in place at the local government level.

120. The National Children's and Youth Council is made up of five government and five civil society representatives. The government bodies represented on the Council are the Ministry of Economic and Social Inclusion, Ministry of Labour and Employment, Ministry of Education, Ministry of Public Health and the Ecuadorian Municipalities Association. Civil society is represented by INNFA and four members who are elected by boards composed of community and non-governmental organizations.

121. The cantons' rights protection boards issue administrative measures pursuant to article 206 of the Children's and Youth Code. These public bodies' decisions are binding. In addition to issuing protective measures, they are legally authorized to impose administrative and economic penalties upon persons who violate or threaten to violate children's or young people's rights.

122. Up to the time of writing, there were 106 cantonal children's and youth councils and 20 cantonal rights protection boards in Ecuador.

### **C. Special National Protection Programme: a social agenda for children and young people, 2007-2010**

123. On 23 March 2007, President Rafael Correa, an economist by training, unveiled a social agenda for children and young people entitled "Standing together for equity right from the start". This public policy will guide the actions of organizations belonging to the decentralized system for the comprehensive protection of children and young people in 2007-2010.

124. This social agenda is designed to fulfil the constitutionally mandated purpose of the Children's and Youth Code, which is to ensure the comprehensive protection of children's and young persons' rights and guarantees.<sup>25</sup>

125. To that end, while action to pursue other public goals will continue, priority is to be placed on the following public policy objectives: (a) ensuring that no infant under the age of 28 days dies from preventable causes; (b) ensuring that no child or young person goes hungry or is undernourished; (c) ensuring that no child or young person does not receive an education; (d) protecting children and young people from violence and ill-treatment under all circumstances; (e) ensuring that no child or young person is performing prohibited or dangerous work; and (f) promoting children's and young people's participation in society and providing them with the building blocks for citizenship.

126. In the past, the issue of violence against children and young people was not high on the list of priorities for public policy, investment or institution-building. It was not until the present Administration assumed office that the central government, together with various regional governments, took on the challenge of combating the defencelessness of children and young people by promoting the design and implementation of specialized services to protect them from violence.

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<sup>25</sup> Children's and Youth Code, art. 193.



127. The national authorities working in this area have designed a programme to provide a concrete solution by laying the foundations for developing public policy, building the necessary institutional structure and beginning to allocate increasingly more resources for the achievement of the objectives set out in the social agenda.

128. This special protection programme is intended both to avert threatened violations of children's and young people's rights and to restore those rights when they are violated. It will also substantially increase public investment in social protection in order to build capacity for meeting its objectives. Resources will be drawn from the Special Protection Fund, which will be financed by public and private sources and by budgetary allocations from the ministries represented on the Children's and Youth Council, local governments and INNFA.

#### **D. Arrangements with civil society foundations**

129. In 2007, INNFA signed an agreement with the Quimera, Nuestros Jóvenes and Catholic Relief Services foundations to restart and strengthen programmes for the eradication and prevention of commercial sexual exploitation and to set up care and rehabilitation facilities for child and adolescent victims of commercial sexual exploitation in Machala, Quito and Nueva Loja. This project is intended to increase the exchange of views, feedback and cooperation among the three foundations and to help them develop a common approach and quality standards based on the doctrine of comprehensive protection as applied to actual conditions on the ground.

130. The programme will seek to develop standards in line with the Code's rights-based focus while taking into account these services' obligation to register the methodologies they use and secure the authorization of the corresponding cantonal children's and youth councils in accordance with articles 212 and 213 of the Code.

131. The start-up of this special protection programme goes hand in hand with the creation of the Special Protection Fund, which will finance these types of services, studies and research. This fund will be established by the Ministry of Economic and Social Inclusion and INNFA and is to be linked to the National Fund for the Protection of Children and Young Persons.<sup>26</sup>

### **VI. PARTICIPATION AND SENSITIZATION STRATEGIES**

#### **A. The nationwide "Open your eyes" campaign for the promotion of children's and young people's rights**

132. In 2006, under the leadership of the Government of Ecuador and the coordination of the Children's and Youth Council, 25 public and private organizations conducted the "Open your eyes" campaign. The purpose of this campaign was to promote a political/ethical agenda with respect to children and young people and to ensure its incorporation into the political platforms of the candidates running for office in the general elections. This agenda focuses on ensuring that

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<sup>26</sup> Ibid., arts. 300 and 301.

the creation of a system for detecting and prosecuting the crimes of sexual exploitation, trafficking, pornography, ill-treatment and all forms of violence is one of the priorities of newly elected national and local authorities.

133. In order to promote this agenda, local advocacy groups composed of children, young people and adults from various institutions asked candidates running for election to sign pledges to implement this political/ethical agenda. The current President was one of the candidates who signed this commitment on behalf of the children and young people of Ecuador.

134. Another method used to position this agenda was the organization of a nationwide consultation process involving children and young people in the education system. A sheet was printed up which contained two questions: one asking for support of the ethical agenda in politics and the other listing five actions to be prioritized by newly elected officials. The five options were:

- (a) Eradicate child labour and sexual exploitation, put a stop to violence and discrimination against children and young people, and advocate their proper treatment;
- (b) Ensure access to schooling for all children and young people, encourage them to stay in school and guarantee them a quality education in keeping with the 10-year education plan;
- (c) Promote free health-care services and good nutrition for all children and young persons;
- (d) Foster children's and young people's participation in their families, neighbourhoods, schools and country;
- (e) Put an end to poverty and corruption.

135. This consultation was launched on 27 October 2006 in elementary and secondary schools throughout Ecuador. A total of 934,112 children and young people took part. The results were as follows:

Response	Children and young people
A	308 866
B	147 323
C	149 111
D	41 160
E	213 455
Blank	27 808
Void	46 389
Total	934 112

136. The children and young people of Ecuador secured the State's and its institutions' commitment to place priority on eradicating child labour and sexual exploitation, putting a stop to violence and discrimination, and promoting their proper treatment.

## VII. INTERNATIONAL COOPERATION

### A. Bilateral agreements

137. The Government of Ecuador is pleased to inform the Committee that it has signed cooperation agreements with two countries in the region to provide assistance to children and young people.

138. The first such agreement was signed with Colombia<sup>27</sup> in 1992. Under the terms of this accord, the two countries agreed to: (a) share information and experiences relating to child welfare; (b) facilitate access to social services for child nationals of either State living within their borders; and (c) establish an Ecuadorian/Colombian working group to study and assess the living conditions of children residing in a country other than their own and recommend more appropriate measures for ensuring their development and protection.

139. In 2005, a similar but broader agreement was signed with Chile.<sup>28</sup> This accord calls for the establishment of a system for cooperation and the exchange of experiences in connection with protection and assistance for children and young people in a wide range of areas. The Government of Ecuador feels that the following items may be of particular interest to the Committee, however, because they relate to the implementation of the Optional Protocol:

- (a) Protection of the rights of children and young people, especially of those who have committed a criminal offence;
- (b) Development and optimization of programmes for: (i) the restitution of children's and young people's rights; (ii) re-education to assist with reintegration into society and the family; (iii) welfare and psychological assistance; (iv) protection and medical and prenatal care for adolescent mothers; and (v) assistance for child and adolescent workers, especially in connection with the elimination of the worst forms of child labour;
- (c) Sharing experiences concerning the restitution of victims' rights;
- (d) The following cooperation mechanisms will be used: (i) seminars, workshops and research projects; (ii) exchanges of technical missions and internships; (iii) information exchange via the media; and (iv) other channels.

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<sup>27</sup> See annex XV for the text of the cooperation agreement signed with Colombia.

<sup>28</sup> See annex XVI for the cooperation agreement concerning children and young people signed with Chile.

## **B. Cooperation with international agencies**

### **1. Cooperation in the implementation of the National Plan to Combat Human Trafficking**

140. As mentioned earlier, in 2006 Ecuador adopted the National Plan to Combat Human Trafficking, whose objectives are to prevent, investigate and punish offences covered by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It also calls for extensive measures to protect victims of these crimes and to restore their rights. The Plan reflects the consensus view of the various government institutions and has served as a frame of reference for them in the design and implementation of initiatives in this area.

141. The Government of Ecuador has promoted international cooperation in line with the policies and objectives set forth in the National Plan, and the response has been excellent. The political will exhibited by government agencies, together with the productive efforts of international agencies working in this field in Ecuador, has resulted in the implementation of highly participatory initiatives that have set a milestone in the drive to combat these crimes in Ecuador.

142. The role played by each of these organizations, which have generally shown deference for State decisions and policy, is discussed below. Initiatives have been classified according to the main courses of action provided for in this plan.

#### **Prevention**

##### **Studies, research and methodologies**

143. Ecuador has secured funding from the Inter-American Development Bank (IDB) for a study on human trafficking. This study will be conducted at the national level thanks to support from the State agencies that will serve as national counterpart institutions and the involvement and efforts of the International Organization for Migration (IOM) in Ecuador.

144. This project's objectives include producing a baseline appraisal of the situation with regard to human trafficking, determining the profiles of children, young people and women at risk of human trafficking, assessing the training needs of the relevant national institutions and evaluating a curriculum for future trainers.

145. Under agreements signed with UNICEF and Save the Children-Spain,<sup>29</sup> Ecuador is conducting a preparatory study for the design of a protocol for the provision of care to children and young people who have been victims of trafficking for purposes of sexual exploitation in high-risk areas such as the cantons of Machala, Santo Domingo, Manta, Santa Cruz, Esmeraldas,

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<sup>29</sup> See annex XVII for the agreement with UNICEF and Save the Children-Spain signed by the National Council for Children and Adolescents.

Riobamba and Lago Agrio. Pilot projects are also to be conducted in eight Ecuadorian cities on the design of a methodology for the establishment and operation of comprehensive protection networks.<sup>30</sup>

146. The ILO mission in Ecuador has carried out the following studies: (a) in 2003, it prepared the first nationwide baseline study on commercial sexual exploitation of girls and young women in Ecuador (“Línea de base: dimensión, naturaleza y entorno de la sexual explotación comercial de niñas y adolescentes en Ecuador”); (b) in 2006-2007 it undertook three studies on the commercial sexual exploitation of children in Machala, Quito and Guayaquil which have since served as the basis for rescue and prevention efforts in two of these cities; and (c) in 2006 it prepared an initial exploratory study on the trafficking of minors in nine Ecuadorian cities entitled “Estudio rápido sobre dimensiones, magnitud, circuitos, y otras características importantes sobre la trata de personas menores de edad”.

### **Information and sensitization campaigns**

147. In coordination with the Government of Ecuador and the country’s regional governments, IOM has supported a series of initiatives for fostering a change in sociocultural customs and building prevention and response capacities as part of the effort to address the issue of human trafficking in Ecuador. In Sucumbíos, for example, a special civil society network for the protection of children and young people has been formed by 10 local organizations that are working to safeguard the rights of this sector of the population in the cantons of Lago Agrio and Cascales.

148. In 2006, this special network set up the Anti-Trafficking Desk. IOM provided training for the people staffing the Desk in such topics as the characteristics of human trafficking, victim protection and Ecuador’s laws on the subject. This served as the basis for the design of its strategic plan, and in 2006 a sensitization campaign was carried out using a public service announcement that was broadcast over the Radio Sucumbíos station three times a day, seven days a week, for a period of six months.<sup>31</sup>

149. Also in 2006, at the request of the former First Lady, IOM took charge of implementing the first phase of the “Llama y vive” (“call and live”) regional anti-trafficking campaign in Ecuador under the terms of a memorandum of understanding signed with the Government of Ecuador. The campaign was to include the inauguration of an information and reporting hotline; the number 101 was chosen for this purpose, since that was the number used by the INNFA

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<sup>30</sup> These pilot projects are to be carried out in the cantons of Cuenca, Loja, Riobamba, Manta, Esmeraldas, Lago Agrio, Santo Domingo and Santa Cruz.

<sup>31</sup> The Radio Sucumbíos station broadcasts to the rural and urban populations of the Amazonian provinces of Sucumbíos, Napo and Orellana. Its largest following is in rural areas. As part of this campaign, anti-trafficking messages were also printed on t-shirts, bracelets, caps, course planners and pamphlets.

campaign on the same subject. In conjunction with the American Bar Association, the national police force and IOM, the Government analysed the strengths and weaknesses of the existing 101 software and signed a cooperation agreement with the police force for the use of that line for reporting cases of trafficking and the maintenance of a monthly file on calls concerning that offence.

150. Although the political will to implement this initiative was certainly present, it was ultimately decided that the launch would not be held owing to concerns shared by the Government and IOM about the lack of a sufficient response capacity to meet the demand that this campaign would generate.

151. IOM has supported the CONAMU initiative to increase the visibility of trafficking as a form of gender-based violence by preparing posters for use in its 16 Days of Activism Against Gender Violence campaign. It has also worked with the United Nations system in Ecuador to ensure that the issue of human trafficking is covered in the annual campaign.

### **Awareness-raising workshops**

152. IOM provided technical and financial assistance for a workshop that was coordinated and organized by INNFA, the National Children's and Youth Council and Millennium-IP3/United States Agency for International Development (USAID) in the three cantons of Galápagos Province to broaden and strengthen public awareness of the need to prevent human trafficking. In coordination with the tourism development association of Santa Elena and the local governance project of Millennium-IP3/USAID, IOM also furnished technical and financial assistance for a workshop to train personnel in the prevention of trafficking.

153. IOM has backstopped two initiatives to sensitize the media to this issue. In coordination with the International Centre for Higher Studies in Journalism for Latin America (CIESPAL) and the American Bar Association, it collaborated on a workshop for radio broadcasters at the national level. The goal of this workshop was to inform social communicators and leaders of public opinion about human trafficking and sexual exploitation in order to equip them to deal with these issues appropriately and to initiate preventive action in their communities. IOM also provided funding for the seminar/workshop on socially responsible investigative journalism organized by CIESPAL, the Ecuadorian Committee for Cooperation with the Inter-American Commission of Women (CECIM), the Metropolitan Council for the Comprehensive Protection of Children and Young People (COMPINA) and Ecuador Adolescente, as well as furnishing technical support in the coverage of the issue of trafficking.

154. The Anti-Trafficking Desk, in conjunction with IOM and local stakeholders, held two workshops in the northern border region for members of civil society, municipal personnel from the cantons of Lago Agrio and Cascales, the Lago Agrio Prosecutor's Office and the Office of the United Nations High Commissioner for Refugees (UNHCR). The aim of these workshops, which were attended by a total of 89 local stakeholders, was to familiarize people with the Anti-Trafficking Desk's activities and to encourage them to participate actively in future activities. The Desk also held two youth meetings, attended by 96 participants, to raise young people's awareness about the consequences of trafficking and about ways of avoiding falling victim to such practices.

155. In 2006, under an agreement with the American Bar Association, INNFA provided training for 750 operators assigned to staff the 101 hotline and members of the national police force.

#### **Awareness-raising events**

156. In 2005 the National Seminar on Violence, Sexual Offences and Trafficking in Children, Young People and Women was held at the Catholic University of Ecuador with support and funding from IOM. The three-day event was attended by approximately 300 national and international facilitators and was an initiative of a number of governmental, international and civil society organizations.

157. Its successful inter-agency coordination efforts have enabled the Government to conduct a number of awareness-raising cultural events targeting the media, the general public and senior officials. In November 2006, authorities from national institutions were invited to a screening of the Swedish film *Lilya 4-Ever* and, in May 2007, the acclaimed feature-length film *Holly*, which deals with the commercial sexual exploitation of children and young people, was shown in order to start off an exchange of views among State institutions with a view to future initiatives. IOM provided technical assistance and funding for both of these events.

#### **Victim protection and restitution of victims' rights**

158. Under the auspices of IOM and in coordination with the International Law Enforcement Academy (ILEA), in 2005 the Government of Ecuador offered a specialized training programme on human trafficking to members of the police forces of Ecuador, the Plurinational State of Bolivia and Colombia. This three-day, world-renowned course provided specialized information in 12 different modules dealing with such topics as human trafficking as a criminal practice, victim identification, risk assessment, law enforcement, cooperation with NGOs, the victim as a witness, interpretation of questioning sessions, proactive investigation techniques, the arrest, search and seizure phase, and intelligence gathering.

159. In 2006, officials from the Ministry of Foreign Affairs, Trade and Integration, the national police force, INNFA, the Children's and Youth Council, USAID and IOM travelled to Bogotá to learn about IOM-Colombia's experience with its human trafficking hotline and the awareness-raising campaign that it conducted to encourage people to report such offences and thus strengthen enforcement. IOM-Ecuador provided financial and technical support for this study tour, which then made it possible to replicate the experience for local governments in the northern border region.

160. In coordination with the Public Prosecutor's Office, DINAPEN and civil society, IOM has provided financing from its Global Assistance Fund to furnish comprehensive support for child and adolescent victims of trafficking. Victims of domestic and international trafficking have received medical care and logistical support following their rescue, in the course of the ensuing trial and during the reintegration process.

161. Working in coordination with the Government of Ecuador and counterpart institutions of the Government of Colombia, IOM has also provided technical support and financial resources from its Global Assistance Fund to assist with the repatriation and reintegration of Colombian trafficking victims.

### **Investigation and punishment of sexual offences**

162. IOM has conducted a pilot project on shelters and has drawn financing from its Global Assistance Fund to backstop the Government of Ecuador in providing direct assistance to trafficking victims. In 2007, thanks to the Government's demonstrated commitment and interest, Ecuador was one of two countries in the world to be chosen to participate in a pilot project on shelters for trafficking victims. This IOM-run project will serve 40 victims, 115 families, 12 communities and 115 at-risk children and young people. As part of this project, research is being done on the variables associated with child and adolescent trafficking victims' successful reintegration into society.

163. The project is part of a framework programme on institutional and community response capacity for the protection of children and young people who have either been victims of trafficking or commercial sexual exploitation or who are at risk of becoming victims. This government initiative, which receives funding and technical support from INNFA,<sup>32</sup> is also within the spirit of article 6, paragraph 3, of the Palermo Protocol, which establishes that it is the State's duty to furnish, in coordination with civil society, comprehensive services to victims of human trafficking, as well as providing for significant private-sector inputs.

### **Cross-cutting actions involving all areas of the Plan**

164. The Ministry of Government and Police and the Ministry of Labour and Employment hosted the first technical meeting of senior officials to combat the international trafficking of people in Ecuador, Colombia and Peru. IOM, in conjunction with ILO, provided technical and financial support for this meeting, which was held in 2007.

165. Also in 2007, the Government of Ecuador designated the Under-Secretariat for Political Coordination of the Ministry of Government and Police as the coordinator for the Inter-Agency Commission for the National Plan to Combat Human Trafficking. This body receives technical assistance from IOM in the performance of the important duties it has been assigned.

166. IOM will help to fund the National Plan's technical secretariat, which has designed a website as a tool for the dissemination of information, training, monitoring and evaluation functions focusing on member institutions of the Inter-Agency Commission for the National Plan. The site will be used to post regular reports on programmes, projects, resources, procedures, international and national indicators, other relevant events, the achievement of strategic objectives and the completion of planned actions.

167. In 2007, the Plan's technical secretariat published a handbook under the auspices of IOM to familiarize members of the incoming Administration with the country's progress and needs with respect to the Plan.

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<sup>32</sup> The project is to cover the provinces of Pichincha, El Oro, Sucumbíos, Azuay, Guayas and Galápagos, which represent the four main regions of Ecuador: the coast, the highlands, the Amazon Basin and its island territories.



168. ILO provided financial and technical support for three centres concerned with the prevention and elimination of the sexual exploitation of children and young people: the Nuestros Jóvenes Foundation in Quito, the Quimera Foundation in Machala and the Centro Ecuatoriano para la Promoción y Acción de la Mujer [Ecuadorian Centre for Women's Advocacy and Action] (CEPAM) in Guayaquil. ILO reports that these programmes have made it possible to rescue a total of 129 girls and young women who were being sexually exploited for commercial purposes and to give specific advice to 963 high-risk children and young people. These programmes also provide for educational and health services, counselling, legal assistance, scholarships, the issuance of uniforms and school supplies and other actions to help reintegrate victims into their families, schools, society and the workforce.

169. DINAPEN conducted two specific training courses (one in 2004 and the other in 2005-2006) on the commercial sexual exploitation of children and young people with support from ILO-Ecuador. Some 350 police officers from throughout the country attended the first course and around 300 officers participated in the second. This unit has been in operation since late 2005. As part of the Government's drive to modernize the national police force, it has been proposed that DINAPEN should be converted into an elite unit specializing in offences committed against children and young people.

170. The Child and Youth Council of Tena Canton in the Amazonian province of Napo has signed an agreement with USAID, the Esquel Foundation and the Esperanza Foundation (the latter is also the executing agency) which provides for: (a) preparation of a baseline study on the situation with respect to the commercial sexual exploitation of children and young people; (b) training and awareness-raising activities for officials in the public sector and civil society organizations; (c) formulation of a local action plan for combating the commercial sexual exploitation of children and young people; and (d) promotion of a local public policy and training activities to encourage more people to report the commission of offences covered in the Protocol and to bring charges against such offenders.

171. In the city of Cuenca, an inter-agency network formed by the local government, civil society organizations and the Public Prosecutor's Office for the district signed an agreement with USAID to set up an inter-agency coalition to combat the commercial sexual exploitation and trafficking of children and young people. The following activities are being undertaken within this framework: (a) the updating of information for use in a baseline analysis of the commercial sexual exploitation of children and young people in Cuenca; (b) actions designed to sensitize public officials and members of civil society to the offences covered in the Protocol; (c) measures for strengthening social, legal and victim rehabilitation services; and (d) formulation of a plan for combating human trafficking in Cuenca.

172. In Machala, the Esquel Foundation and USAID are financing the design of a plan of action to combat the commercial sexual exploitation of children and young people in coordination with the Cantonal Child and Youth Council of Machala under the terms of an agreement signed with the Quimera Foundation.

173. Work is also being done to strengthen the special protection network of Nueva Loja, in Sucumbíos Province. This effort involves: (a) the design of information and coordination mechanisms to be used for preventive purposes, the delivery of care and the protection of

children's and young people's rights; (b) preparation of a baseline survey on commercial and sexual exploitation; (c) modelling of an approach for the provision of assistance with the support of the Cantonal Child and Youth Council; and (d) promotion of a local public policy for combating sexual exploitation.

174. The Public Prosecutor's Office, special units of the national police force of Ecuador, INTERPOL, USAID, the Department of National Security/Office of Immigration and Customs, Microsoft Ecuador, S.A., Microsoft and the Ricky Martin Foundation signed a joint statement<sup>33</sup> in December 2006 and established a local partnership for: (a) protecting children from child pornography and human trafficking; (b) promoting online safety; and (c) training government authorities and providing the services of computer experts to gather information during raids and testify in court cases.

175. These experiences have provided many useful lessons for government institutions, the relevant civil society organizations and cooperation agencies themselves. They have also pointed up the need to ensure that the types of projects that have been implemented by international cooperation agencies are complemented by inputs for building public policy and mainstreaming practices developed at the local level in order to ensure that the contributions made by such cooperation activities are sustainable over time.

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<sup>33</sup> See annex XVIII for the joint statement on collaboration signed in December 2006 by the Public Prosecutor's Office, the Crime Unit of the Judicial Police Force, DINAPEN, the National Counter-Narcotics Directorate (DNA), the Contraband Control Operations Centre (COAC), INTERPOL, USAID, Department of National Security/Office of Immigration and Customs, Microsoft Ecuador, S.A. Microsoft and the Ricky Martin Foundation.