

**ALTERNATIVE
REPORT
2003-2008**

**ENFORCEMENT
OF THE CONVENTION
ON THE RIGHTS
OF CHILDREN AND
ADOLESCENTS
IN ECUADOR**

August 2009

Forum for Children and Adolescents

**Teresa Carbonell, World Vision
Rubén Zavala, ASA/Forum for Children and Adolescents**



As Ecuador's civil society, we take responsibility for becoming involved in processes that draw up potential responses by the State to meet human development needs and specifically to enforce the rights of children and adolescents.

The Ecuadorian State submitted to the United Nations Committee on the Rights of the Child its **FOURTH OFFICIAL REPORT ON ENFORCEMENT OF THE CONVENTION ON THE RIGHTS OF THE CHILD FOR THE PERIOD 2003-2007**. As a result, we the Ecuadorian Forum for Children and Adolescents wish to be part of this event and submit to the Committee the **ALTERNATIVE REPORT OF CIVIL SOCIETY ORGANIZATIONS**.

In addition to the period of time of the Official Report, we add the government term of office of the year 2008 and we aim to make our Report more useful by commenting on the performance of these two years of an administration which, by mandate of the people as a result of elections, is beginning a new term of office for four years as of this past month of August. We hope that our collective view will provide specifications that build up policies that favor compliance with the Convention on the Rights of the Child. We acknowledge government decisions that promote development and we hope that this development will be increasingly based on human rights and will include the active participation of all citizens.

We would like to thank all those who participated directly in drafting the Report, the team of consultants and the Forum's team, those who attended the workshops and those who, by means of interviews, cooperated extensively with information and viewpoints. Opening up the participation and knowledge of these entities that can promote the results of our daily work was one of the objectives proposed at the beginning of the process. Time factors and the absence of resources constrained the incorporation of other important opinions.

We would like to especially mention Plan International, World Vision, KNH and Compassion International whose staff cooperated directly in this civil society process.

We also recognize the important advisory services and support of the Group of NGOs for the Convention on the Rights of the Child located in Geneva.

In our country, we are experiencing a special period of new political approaches, legislative framework and institutional restructuring, and all of this should open up the possibility of guaranteeing citizen rights in general and the rights of children and adolescents in particular. The active participation of citizens, using the forums provided for by the Constitution, is of the utmost strategic importance. To do this, it must be recommended to the Ecuadorian State that it be fully open to the participation of civil society in all of its sectors and to request that international cooperation to provide its decisive support to civil society institution that have accepted responsibility for this process.

On the basis of different approaches, we hope to convert the contents of the Committee's report and recommendations into elements of political incidence on the Ecuadorian State and we believe that international agencies are important for this purpose. But we would also like to exert an impact on those of us who are also members of civil society. Building a society based on the rule of law, equity and commitment must be responsibility of all.

Cordially,

Patricio Cajas M.
President
Ecuadorian Forum for Children and Adolescents

Technical Committee

Patricio Cajas, Foro por la Niñez y Adolescencia (Forum for Children and Adolescents)
Teresa Carbonell, World Vision
Francisco Delgado, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)
Marcelo del Pino, independent consultant
Adriana Monesterolo, CONFIE
Fabrizio Moreno, independent consultant
César Parra, Compassion International
Kléber Torres, Plan International
Lucy Vallejo, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)
Cecilia Viteri, Contrato Social por la Educación (Social Compact for Education)
Rubén Zavala, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)

Persons and institutions who collaborated in drafting the Report

Gabriela Alarcón, CONSEP	Rosa Morejón, Fe y Alegría (Faith and Joy)
Saskia Alquina, CMT	Rodrigo Muñoz, CECAFEC
Daniela Araujo, Grupo Faro (Lighthouse Group)	Sara Oviedo, CNNA
Cristina Bastidas, SENPLADES	Julio Pazmiño, DINAPEN
Pilar Calderón, FGE	Diego Pólit, CECAFEC
Ma. Augusta Calle, Member of the Parliamentary Assembly	Robert Puertas, Fundación Fabián Ponce
Carla Carrión, UNHCR	Adriana Rodríguez SIISE/SINIÑEZ
Lorena Chávez, INFA	Sandra Ruíz, Plan International Quito
Guillermo Churuchumbi, Ecuarunari	Bernarda Salas, Ministerio de Salud (Ministry of Health)
José Manuel Criollo, FEINE	Humberto Salazar, Esquel
Rebeca Cueva, ACNNA	Patricia Sarsoza, ACJ
Ricardo del Pozo, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)	Walter Torres, Ministerio de Salud (Ministry of Health)
Ma. Teresa Donoso, Fundación Reina de Quito (Miss Quito Foundation)	Jéssica Utreras, Foro por la NNA de Tulcán (Forum for Children and Adolescents of Tulcán)
Érica Duque, SJRM	Carlos Vallejo, Kimirina
Martín Estrella, Centro La Dolorosa	Margarita Velasco, ODNA
Alberto Gómez, Centro Virgilio Guerrero	Juan Villalobos, SJRM
Amira Herdoíza, Kimirina	José Viracocha, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)
Milton Luna, Coordinator of the Social Compact for Education	Marta Zambrano, Proyecto Salesiano Chicos de la Calle (Salesian Project for Street Children)
Manuel Martínez, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)	Verónica Zambrano, PMT
Lilian Mera, FENODIS	

Children and Adolescents

Raúl Carrera, Consejo Estudiantil Dillon (Dillon High School Student Council)
Sinchí Chimba, Red NNACE
Giselle Cueva, Movimiento de NNA (Child and Adolescent Movement)
Miguel Delis, Movimiento de NNA (Child and Adolescent Movement)
Cinthia Durán, Red NNACE
Diego Gálvez, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)
Manuel Guzmán, Consejo Consultivo de Rumiñahui (Consultative Council of Rumiñahui)
David Kattán, Foro de NNA (Forum for Children and Adolescents)
Sharvelt Kattán, Consejo Consultivo (Consultative Council)
Salomón Pachacama, independent consultant
Paola Sandoval, Consejo Consultivo de Mejía (Consultative Council of Mejía)
Selene Vélez, Movimiento de NNA (Child and Adolescent Movement)
Daniela Villacís, Movimiento de NNA (Child and Adolescent Movement)
José Yanchapaxi, Foro por la Niñez y la Adolescencia (Forum for Children and Adolescents)
Diana Zambrano, Red Niños, Niñas y Adolescentes Comunicadores del Ecuador (NNACE) (Network of Media Children and Adolescents of Ecuador)

Focal Groups

7 Regional workshops with civil society institutions (one per region)
7 Workshops with children and adolescents (one per region)
1 National workshop with civil society institutions in Quito

Participants in the workshops

PROVINCES:

**Napo, Pastaza,
Sucumbíos**

FACILITATING:

Nancy López

ADULT:

Balbina Reyes
Judith Shiguango
Martha Lourdes
Glenda Huatatocha
Sacha Panga Pizcingo
Elvia Aguinda
David Mejía
Mayra Torres
René Chimbo
María Fernanda
Pagua
Yalamela Maldonado
Laura Estrada
Tatiana Estrada
Irlanda Guachamín
Maritza Moreta
Alexandra Medina
Álvaro Lozano
Piedad López
Edwin Escobar
Martha Illapa
Miguel Chimbo
Melida Méndez
Eda Rosero
Cecilia Escobar
Santiago Zambrano

PROVINCES:

**Tungurahua,
Cotopaxi**

FACILITATING:

Nancy López

ADULT:

Mariela Vargas
Mónica Balladares
Viviana Vargas
Cecilia Guevara
Verónica Prado
Jimena Muhlehdler
Doris Hidalgo
Teresa Brazales
Johana Martínez
Daniel Muso
Verónica Medina
Pablo Rodríguez
Andrés Andino
Carmita Segovia
Diego Cuacés
Johana Martínez
Carmita Segovia
Diana Paredes
Alexandra Paredes
Jharon Vargas
Cristian Laje

Cristiany Vargas
Mayra Freire
Alexandra Gonzáles
Gardenia Segovia
Mishel Tovar

CHILDREN/GIRLS

Steve Mena
Gregory Mena
Vanessa Achatuña
Viviana Sisdeña
Diego Tipotiza
Ivan Toaquiiza
Pablo Conrado
Israel Conrado

PROVINCES:

Azuay, Cañar

FACILITATING:

Paola Pila

ADULT:

Ximena Lema
Laura Duy
Génesis Navarrete
Mayra Quinde Patiño
Noemí Ganán
Antonella Salinas
Eduardo Pacheco
Joan Quezada
Paola Pila
Nubia Jaramillo
Cristian Alvear
Bruno Martínez
Marco Cuji
Elizabeth Jiménez
Jeanina Campoverde
Ximena Calle
Silvia Guzmán
Julio Pila
Paola Ávila
Wilson Bravo
Diego Palacios
Edgar Cabrera
Ricardo Cordero
Juan Sáenz
Pedro Abad
Isabel Lojano
Magdalena Sunchi
Leonardo Vásquez
José Moscoso

CHILDREN/GIRLS

Andrea Uruña
Sebastián Cañizares
Paola Hidalgo
María Elizabeth León
Natalia Chacho
Tamara Buestán
Rosario Muñoz
Jhon Guamán

Ximena González
Esteban Arevalo

PROVINCIAS:

**Loja, Zamora,
El Oro**

FACILITATING:

Luis Cassola

ADULT:

Fulvio Gallardo
Alfonso Camacho
Pablo Pazmiño
Gladys Granda
María del Cisne
Delgado
Marlon Llanez
José Salinas
Dilma Flores
Jenny Jaramillo
Arelis Cuenca
Gladys Montesdeoca
Leonardo
Encarnación
Myra Valladolid
Alex Regalado
Rodrigo Nugra
Luis Cassola
Mariuxi Castro
Belgica Maldonado

CHILDREN/GIRLS

Gabriel Espinoza
Joselyn Romero
Hugo Quevedo
José Paúl Gallardo
Francisco Villamar
Henry Ajila
Silvana Alvarez

PROVINCES:

**Guayas, Manabí,
Santa Elena**

FACILITATING:

Yomayra Pincar

ADULT:

Washington Ulloa
Sheyla Massay
Patricio Cajas
Adela Briones
Yomayra Pincay
Rafael Carriel
Perla Cucanon
Ana María López
Nayla Berzosa
Omar Trejo
Antonia López
Paola Jumbo
Adrián Ordóñez
Lourdes Mendieta

Carlos Macias
Héctor Hurtado
Cándida Pinoargote

CHILDREN/GIRLS

Raúl Roldán
Marian Vera
Sherly Santana
Washington Ulloa
Silvana Cornejo
David Severino
Víctor Bernabé

PROVINCES:

**Los Ríos, Bolívar,
Santo Domingo**

FACILITATING:

Fernando Mindiola

CHILDREN/GIRLS

Bryan Vélez
Conchita Carvajal
Rubi Jillamar
Andrés Proaño
Rommy Izquierdo
Judson Merizalde
Danny Carriel
Patricia Nogales
Luis Garafalo
Flor Cayambe
Fausto Barragán
Israel Polate
Oscar Valencia
Carlos Kligen
Isabel Cañesco
Karen Berdesoto
Franklin Gibor

ADULT:

Cristian Montoya
Ángel Fabricio Mora
Noma Sosa
Alexandra Pacheco
Oscar Aguilar
Angela Rosado
Johana Cortés
Wilson Loza
Jhonny Caicedo
Nelly Luna
Vanessa Quiroz
Tito Salvatierra
Nancy Pazmiño
Remigio Montoya
Mariana Bustillo
Elda Coli
María Miranda
Dra. Nancy Lozano
Lourdes Monseratte
Tolina Cotto
Susana Pérez
Diana Granja

TABLE OF CONTENTS

I. Introduction	6
II. Overview of the situation	7
III. Thematic structure	8
1. General measures of application (Articles 4, 42, 44 (6))	8
1.1 Legislative provisions	9
1.2 Legislation	9
1.3 Coordination	10
1.4 Allocating enough human resources and funding	11
1.5 National plans of action	12
1.6 Independent surveillance	12
1.7 Data gathering	13
2. Definition of “child” (Article 1)	14
3. General principles (Articles 2, 3, 6, 12)	14
3.1 Non discrimination	14
3.2 Right to life, survival and development	15
3.3 Respect for the opinions of children	16
4. Civil rights and liberties (Articles 7, 8, 13, 14, 15, 16, 17, 19, 37(a))	17
4.1 Vital statistics registration	17
4.2 Corporal punishment	18
5. Family environment and custody alternatives (Articles 5, 9, 10, 11, 18, 20, 21, 25, 27.4)	19
5.1 Parental responsibility	19
5.2 Parental responsibilities (migration)	20
5.3 Family and institutional shelter	21
5.4 Adoption	22
6. Basic health and welfare (Articles 18, 23, 24, 26, 27)	22
6.1 Children with disabilities	22
6.2 Nutrition	24
6.3 HIV-AIDS	24
6.4 Health of adolescents and adolescent pregnancies	25
7. Education, cultural activities, recreation and leisure (Articles 28, 29, 31)	26
7.1 Education	26
8. Special protection measures (Articles 22, 30, 32, 33, 34, 35, 37, 38, 39, 40)	28
8.1 Refugees	28
8.2 Economic exploitation and Child labor	29
8.3 Sexual exploitation and trafficking	30
Final thoughts	31
Recommendations addressed to the Ecuadorian State by civil society	34

ALTERNATIVE REPORT 2003-2008 ON ENFORCEMENT OF THE CONVENTION ON THE RIGHTS OF CHILDREN AND ADOLESCENTS IN ECUADOR

I. INTRODUCTION

Ecuador is a highly diverse country from all perspectives. In this regard, the present report incorporates the visions and perceptions of men, women, children and adolescents of seven regions (that cover all the provinces of Ecuador), who participated in workshops of focal groups with canton and institutional representatives to present their views about the actions that are being implemented in the entire country with respect to children.

This information, along with secondary sources and guided interviews, has enabled the team responsible for the present report, to rely on a variety of inputs, including insights, studies, data, papers, projects and statistics. It has also facilitated understanding a universe of actions for children and adolescents, in which the country has made progress from 2003 to 2007 (period covered by the present report) and other achievements to 2008, as this is the turning point in establishing a new model for the State, in the framework of the defense of human rights.

The report follows the thematic structure suggested by the Committee on the Rights of the Child (Comité de los Derechos del Niño—CDN) comprised of eight sections, where the items on which the last CDN report made recommendations to the country are specified and comparisons are made with the Fourth Official Report, plus the processed and analyzed information that was gathered from civil society using the above-mentioned methodology is presented. The point of departure is the aspects observed by the CDN in 2002, which were the purpose of the Official Report for 2003-2007. At that time, the concerns of the CND revolved around resource allocations, birth registration in vital statistics offices, child labor, trafficking and disparities between urban and rural areas.

II. OVERVIEW OF THE SITUATION

Ecuador has been living an extended period of crisis in terms of governance which harks back to the period corresponding to the Fourth Official Report on the Convention of the Rights of the Child.

The political situation from 2003 to 2008 featured three administrations: a populist government with a neoliberal orientation in the framework of a weak social policy, where priority was given to payment of the foreign debt to the detriment of social spending. At this time, the third letter of intent with the IMF was signed and the influence of orthodox proposals from the financial sector the United States for the management of Ecuador's economy was consolidated. Allocations for health, education, special protection of children and adolescents were marginal and this led to little care in terms of quality and coverage.

A second government, called the transition period, was unable, in one and half years in office, to upset the status quo and continued to support social policies using a welfare State approach. As a result, its social contribution was to increase budget allocations for education, health, and technology, although giving priority to payment of the foreign debt. It promoted the Free Maternity Law for Adolescents, earmarking for this purpose 3% of taxes on special consumption and US\$15 million per year for the Solidarity Fund.

The third and current democratically elected administration has started a socioeconomic and political transformation of the country. It has paved the way for a new democracy based on the guarantee and enforceability of human rights as a cross-cutting theme of the new Constitution that is in force since October 20, 2008.

A series of changes have started, ranking from the drafting of the National Development Plan for 2007–2010, stemming from the principal economic agenda, drawn up the first nine months of the government's administration, such as the Economic Program of the National Government for 2007-2010, the Social Agenda for 2007 and the Environmental Agenda, and other documents prepared by society in previous governments: the Ten-Year Education Plan for 2006-2015, the Ten-Year National Plan for the Integral Protection of Children and Adolescents for 2015, the Ecuadorian Women's Equal Opportunity Plan for 2005-2009, the National Foreign Policy Plan for 2006-2020, the National Plan for the Elimination of Gender Violence against Children, Adolescents, and Women, and the National Plan for the Elimination of Child Labor (PETI).

The most significant feature of the document, which was drafted with leadership of SENPLADES,¹ is its vision of development that gives priority to achieving the good living by establishing a State that restores its management, planning, regulatory and redistribution capacities, which further extends processes of deconcentration, decentralization and citizen participation. It has an integrative perspective based on a human rights approach.

The current Constitution created the fifth branch of government: the Citizen Participation and Social Control Council whose duties include, among others, promoting mechanisms to ensure the accountability of state institutions, fighting corruption and supporting citizen surveillance and social control of public management. The organizational law on participation that provides the regulatory framework on how the fifth branch of government shall function has been enacted. It is expected that, by August of this year, the law of citizen participation and social control shall be passed

As for the government, the progress made in the social sector is apparent in various social indicators of Ecuador. Compared to previous years, 2008 recorded an improvement. Per capita GDP rose by US\$1,697 between 2003 and 2008, and then increased from US\$2,230 in 2003 to US\$3,335 in 2007 and US\$3,927 in 2008², which would account for an increase of almost 18% in nominal terms compared to the preceding year, as a result of the steep rise in prices. Poverty and extreme poverty declined by 7% and 8%, respectively, since 2006, thanks to the increase in money transfers from both the public sector (by means of social programs, with the Human Development Subsidy being the most important) and the private sector as a result of remittances from abroad sent by immigrants.

¹ National Secretariat for Planning and Development (Secretaría Nacional de Planificación y Desarrollo).

² ILDIS, Economic Situation Analysis (Análisis de Coyuntura Económica), Quito, 2008.

III. THEMATIC STRUCTURE

Major progress between 2003 and 2008

1 General implementation measures (Articles 4, 42, 44 (6))

On the basis of this background, the official report for 2003-2007 was drafted. Regarding the specifications made, the present report shall address each one of them, following the official format that was suggested.

1.1 Legislative provisions

The context in which the Forum for Children is submitting the present civil society report about the Ecuadorian State's compliance with the rights of children and adolescents is characterized by the transition between two models: the former was aimed at catering to the interests of economic liberalism, external debt, and limited social investment, whereas the current model is still in the process of being structured and involves a socially oriented economy, leadership of the State and State control over strategic sectors. In this framework, a milestone is the drafting and adoption of the new Constitution, which is the 20th Constitution in the country's history of democratic rule.

The following table summarizes the reforms and updates of the legal framework, as a result of which guarantees for the enforcement of the rights of children and adolescents have been consolidated in the country from 2003 to 2009.

Table of laws and decrees in force in Ecuadorian legislation with respect to children and adolescents

Laws, Decrees, Agreements	In force and changes	Laws between end of 2007 and 2009 to be considered
		Constitution of 2008
Legal reforms: Law reforming the Penal Code criminalizing offenses against children and adolescents (trafficking, sexual exploitation, and sexual offenses) 2005.	In force	Organizational Code for the Judiciary System, adoption under way 2009 Reform of the Code for Children and Adolescents with respect to Food Pensions (Volume II, Title V), adoption under way 2009
Law Reforming the Labor Code (harmonizing it with the Code for Children) to eliminate exploitation of child labor, forbidden and hazardous labor (2005).	In force	Law Reforming the Criminal Procedure Code (2009)
Law Reforming Free Maternity and Child Care. Enlargement of services (2006).	In force	
Executive Decrees to Guarantee the Rights of Children and Adolescents	Restructuring INNFA	Creating INFA as a public institution in charge of implementing policies for children and adolescents.

Resolutions of the National Council for Children and Adolescents	<p>Resolutions of 2004: Resolution creating the Family Allocation Committees and establishes their jurisdiction. Resolution that adopts the National Integral Protection Plan. Resolution that Designates the Central Authority.</p> <p>Resolutions of 2005: Resolution that creates and regulates the functioning of the Unit of Relations. Resolution that sets forth the General Guidelines for the Registration of Care-Giving Entities.</p> <p>Resolutions of 2006: Regulations for Authorizing International Adoption Intermediation Entities.</p>	<p>Resolutions of 2007: Regulations for electing the four representatives of nongovernmental and community organizations to the National Council for Children and Adolescents.</p> <p>Resolutions of 2008: Resolution on the Right to the Image of Children and Adolescents. Guidelines governing the Legal Representation of International Adoption Intermediary Agencies in Ecuador. Resolution designating the National Council for Children and Adolescents, through its Executive Secretariat as the Central Authority of Ecuador. Regulations on work forbidden to adolescents of legal age to work as employee or free-lance. Guideline for the establishment of the Canton Councils for Children and Adolescents. Resolution setting forth the Guidelines for the Organization, Establishment and Operation of the Canton Boards for the Protection of Rights.</p>
--	--	--

1.2 Legislation

On the basis of the last recommendations made by the Committee on the Rights of the Child (Comité de los Derechos del Niño—CDN), in terms of legislation the country has brought changes to the Penal Code to criminalize offenses involving the sexual exploitation of minors and to put an end to the violation of this right from the punitive sector. Likewise, legislation has been enacted to eliminate the exploitation of child labor and do away with work that jeopardizes the health of children and adolescents, for which purpose the contents of the Code for Children and Adolescents were harmonized with those of the Labor Code.

At present, the Congressional Legislative Committee on Labor and Social Security is promoting enactment of the Reform of the Code for Children and Adolescents with respect to Food Pensions for the purpose of setting up minimum pension tables, standardizing time-limits for payments and increasing the enforceability of this right for children and adolescents.

One of the problems being addressed by the country is a judiciary system that is collapsing under the weight of the many cases that have accumulated in the courts and that cannot be processed because of deficiencies in terms of structure, staff, and resources. In this regard, 40 new juvenile courts have been created, which adds up to 47 courts nationwide.³ This shall help to resolve cases involving the violation of the rights of children and adolescents. Nevertheless, these courts continue to be insufficient to meet the need for processing the legal proceedings that have been filed.

Comment

A change in the justice administration system is required so that the Judiciary Council will give less priority to the application of formal justice and implement alternative justice approaches such as mediation. The country shall save much time and money if this type of intervention is officially installed to process legal proceedings involving children, because in addition mediation brings stakeholders together to dialogue rather than to confront each other.

1.3 Coordination

³ It should be pointed out that, in the country, there are 5,500 judges, and of these a total of 350 are for processing cases involving children and adolescents.

Another concern of the CDN is the need for the many institutions working for the benefit of children to coordinate their actions amongst themselves. One progress has been the transition of the Child and Family Institute (INNFA) from a private institution to an organization run by the State and governed by public administration (INFA). This institution is in charge of child development in the country. This has involved shifting the institutional structure of five large programs (AINA, DAINA ORI, FODI and INNFA), which had been functioning independently and separately, to one single coordinating and articulating institution that has acquired transparency and better resource management.

Another forum of coordination has been between the Ministries of the Social Front, which agreed to draw up and implement the Social Agenda for Children and Adolescents (Agenda Social de Niñez y Adolescencia—ASNA). This agenda envisages six policies that monitor observance of the rights of children and adolescents to survival, development, protection and participation. The latest progress has been the inclusion of each one of these six policies into the National Development Plan, as well as their implementation in line with the vision of the rights of Ecuadorian children and adolescents.

Likewise, the National Integral Protection System (Sistema Nacional de Protección Integral—SNDPINA) has been making progress in its structure by ensuring greater coordination between civil society and the State. The progress achieved, especially in terms of the Community Human Rights Ombudsman's Offices and Consultative Councils, has involved widespread participation of civil society.

Article 341 of the new Constitution ratifies that the National Decentralized System for the Integral Protection of Children and Adolescents (Sistema Nacional Descentralizado de Protección Integral de la Niñez y Adolescencia—SNDPINA) shall be in charge of ensuring the exercise of the rights of children and adolescents. Public, private and community institutions shall be part of this System. Ratification of the SNDPINA in the text of the Constitution should be contrasted with the transformation of the National Councils in coming months in line with the provisions of the 2008 Constitution.

Volume III of the Code for Children and Adolescents describes the structure of SNDPINA and designates the National Council for Children and Adolescents as the entity heading the System as its executive body and with the power to draw up public policies on the basis of the participatory processes that are, to a large extent, based on its egalitarian nature.

In the current Constitution, the Councils of Equality are defined as entities that have the mission to ensure the full exercise of rights and cross-cutting policies in various areas: between generations, identity, human mobility, disabilities and gender; furthermore, the executive powers, which in this case were held by the National Council for Children and Adolescents, are transferred to the Ministry of Social and Economic Inclusion.

In this framework, the State's institutional structure must be reshaped and adapted. The SNDPINA has been strengthened but still needs to work in a coordinated manner with the entire structure of the State and avoid duplicating the work that must be carried out by each Ministry with respect to public policymaking. In this regard, the third chapter of the new Constitution, referring to the executive branch of government, designates the National Councils for Equality (Consejos Nacionales para la Igualdad) as *“the bodies responsible for ensuring full enforcement of the rights enshrined in the Constitution and in international human rights instruments. The Councils shall exercise their duties in the drafting, cross-cutting, enforcement and follow-up of public policies on gender, ethnic groups, generations, intercultural issues, disabilities and human mobility, in keeping with the Law. To achieve their purposes, they must coordinate with leading and steering units and with organizations specializing in the protection of rights at all levels of government.”*

The establishment of the Councils is clear in this regard. As can be observed in the Constitution, the Councils have to draw up public policies and coordinate their implementation with implementing agencies. Therefore their role is important for the drafting of cross-cutting public policies (gender, generation, intercultural approach, etc.) and therefore their implementation duties must be removed.

The Democratic Reform of the State proposes building up the National Councils for Equality in terms of their capacity to draw up, monitor and evaluate public policies that are set up in

coordination with the Sector Ministries. The Sector Ministries are bodies of the executive branch of government in charge of promoting and implementing public policies. The core idea behind the reform of the State is to avoid redundancies in the drafting and implementation of public policies and to create of a coordinated management system that integrates citizen participation as the hub of all public policymaking processes.

This new structure of the National Councils for Equality assumes a structure that is egalitarian between members of civil society and the State.

According to the above, at this time, it is necessary to understand how the Ecuadorian State, through SENPLADES, shall define the structure and implications of these changes, how the National System for Social Inclusion (Sistema Nacional de Inclusión Social), SNDPINA, the Councils of Equality and other entities shall be organized to enforce guarantee of the rights of children and adolescents in line with the new constitutional framework.

1.4 Allocating enough human resources and funding

Between 2000 and 2008, the budget for the social sector recorded a clear upward trend. In 2000, social sector resources that were allocated amounted to only US\$465.3 million, but by 2008 they amounted to US\$3,891.5 million, accounting for a 736.3% rise over this period.

This rise in the allocation and implementation of resources in social investment is also evident as a share of the total Central Government Budget, which rose from 14% in 2000 to 27.5% in 2008.

The new institutional structure of the State has led to a reformulation of the capitalization of resources from the National Child and Adolescent Care Fund (Fondo Nacional de Atención a la Niñez y Adolescencia—FONAN) from the Ministry of Finance to guarantee supply security and guarantee the functioning of the SNDPINA.

Social investment allocated between 2007 and 2008 recorded high growth in terms of budget implementation. In 2007, there was a total of US\$2.69 billion in terms of budget allocations, whereas for 2008, allocations amounted to US\$3,892 million, accounting for a 44% increase.

The progress in implementing the ASNA has taken place on the basis of the following programs and budgets:

Policy 1: Health

Free Maternity and Child Care Law: US\$24,948,782, of which the amount of US\$23,630,142 (95%) has been implemented.

Integral care for persons by life cycle

US\$1,936,159, of which the amount of US\$1,258,557 (65%) has been implemented.

Policy 2: Nutrition

Alimentate Ecuador Program (Eat Well Ecuador): US\$20,000,000, of which the amount of US\$16,926,741 (85%) has been implemented.

School Meal Program: US\$54,687,634, of which the amount of US\$54,318,961.98 (99%) has been implemented.

Food and Nutrition Program: US\$14,000,000, of which 100% has been implemented.

Policy 3: Education

Child Development: US\$80,806,900.58 has been implemented.

Project on Weaving Development: School Uniforms: US\$25,000,000, of which the amount of US\$21,126,562 (85%) has been implemented.

Free School Textbooks Project: US\$18,000,000, of which the amount of US\$16,125,634.80 (90%) has been implemented.

Policy 4 and 5: Protection

Program for the elimination of the worst forms of child labor: US\$462,000, of which 100% has been implemented.

Policy 6: Participation

Several campaigns were carried out such as “Look at me in the eyes” (Mírame a los Ojos), “Optional vote” (Voto Facultativo) and the “Identity Card for Adolescents Campaign” (Campaña de Cedulación para Adolescentes).

1.5 National Plans of Action

The plans that the country has drawn up and that are directly related to compliance with the rights envisaged by the CDN are specified below. The first is the National Development Plan, which encompasses and contains all the other plans that have been described.

Plans	Situation	New plans
National Development Plan for the period 2007-2010	In force	Policies and indicators are being updated on the basis of 12 development goals and are being harmonized on the basis of the new Constitution in force in the country.
National Ten-Year Integral Child and Adolescent Care Plan, 2004-2014	In force	
The Social Agenda for Children and Adolescents, 2007-2010	In force	
Organizational Law for Health	In force	
Reforms to the Free Maternity and Child Care Law	In force	
Multisector Strategic Plan for the National Response to HIV/AIDS, 2007-2015	In force	
National Plan for the Prevention of Adolescent Pregnancies	In force	
National Plan for Reducing Neonatal Mortality	In force	
National Policy for Sexual and Reproductive Health and Rights	In force	
National Education Plan, 2006-2015	In force	
Equal Opportunity Plan, 2005-2009		
National Human Rights Plan, 1998	In force	
National Plan to combat trafficking in persons, the illegal trafficking in migrants, sexual exploitation, labor exploitation and other kinds of exploitation and prostitution of women, children and adolescents, child pornography, and the corruption of minors, 2006	In force	
National Plan on Human Development for Migrations, 2007-2010	In force	

1.6 Independent surveillance

In view of the observation made by the CDN recommending that the country have an autonomous department to deal with the rights of children and adolescents in all regions of the country with enough resources to act as a Human Rights Ombudsman's Office, Article 214 of the new Constitution defines the People's Human Rights Ombudsman's Office as the public law institution with jurisdiction in the entire country, legal status, and administrative and financial autonomy in this matter. It shall have a de-concentrated structure and delegates in each province and abroad, and Article 215 sets forth its functions and powers.

Thus, the new People's Human Rights Ombudsman's Office drops its status as an agency for "institutional guarantees" that had been widely undermined by the Constitution of 1998 and is inserted in the framework of the Duty of Transparency and Social Control of the current Constitution. It has the capacity to issue resolutions that are binding on the required authorities. As for children, the People's Human Rights Ombudsman's Office, as it is a component of the SNDPINA, shall act directly with full power to carry out its duties. The Ombudsman shall be elected as soon as the Participation Council, which is the body in charge of appointing the Ombudsman, formally comes into office. The Ombudsman shall also have jurisdiction as a national court of law and shall benefit from immunity according to the terms set forth by the law.

Comment

As a rule, the legislative branch of government drafts laws on the basis of needs to guarantee observance of the rights of children and adolescents, but this exercise does not come with the budget that is required for its application.

As mentioned earlier, a change is required in the system to administer justice, aimed at having the Judiciary Council stop giving priority to the application of formal justice and to apply an alternative justice like mediation.

Better practices for the enforceability of rights have become evident. The number of reports and complaints has gone up; nevertheless, because the structure of the Integral Protection System is as yet incomplete and the judiciary system is unable to tackle the delays in processing the case workload, it is impossible to ensure even the partial restoration of the rights of children and adolescents, much less an integral restoration of these rights.

Monitoring and follow-up mechanisms needs to be established and implemented, making it possible to monitor the actions that are being taken for special protection and to invest what is needed to carry out sustainable processes of restoration, changing the daily spaces of children and adolescents, working on supporting the reinsertion of children and adolescents who have been victims into their environment, as well as start up structural processes in their families. The building and activation of local and national care networks is a priority.

In this regard, the People's Human Rights Ombudsman's Office is the entity that will make it possible to build up this control. Civil society should therefore be watchful of the process to elect the Participation Council and the exercise of its duties, since this entity appoints the People's Ombudsman among other monitoring authorities, and it is necessary for this entity to permanently watch over the defense of the rights of children and adolescents.

At present, the model's sustainability is at risk and that is why civil society worked to emphasize specialization as a mechanism to guarantee and restore the rights of vulnerable population groups. In view of this, another model set forth in the new Constitution of 2008 is being implemented: the Equality Councils, which are aimed at universalizing the guarantee of rights, which eliminates the sense of specialization. The concern is that the quality and intensity of the intervention to guarantee and restore rights for children and adolescents may be lost.

1.7 Data gathering

The CDN values the progress made with respect to the SIISE. In particular, the SINIÑEZ highlights the need for this System to rely on statistics broken down in terms of age, gender and ethnic origin, especially vulnerable and marginalized groups.

Regarding this, the research that was conducted presents two facts: the first is related to the difficulty of having figures on the situation of children and adolescents updated to 2008, especially with respect to issues such as trafficking, disabilities, and refugees. This is because, in this period, the Ecuadorian State did not fund INEC, which is the state institution in charge of statistics and census, for conducting these surveys for this purpose. Actually, SINIÑEZ has data up to the year 2006.

The data that are available are broken down and so this matches CDN's recommendation, but it is necessary to ensure an update of these figures and that more information on vulnerable groups, such as those mentioned above, be included.

Comment

The budget allocated to SINIÑEZ must be completely envisaged in the National Budget, which does not exclude the contribution of local governments to conduct specific studies or contributions from international cooperation. Nevertheless, the System's sustainability and preparation of surveys or studies must not rely completely on this type of funding.

Another aspect is the dissemination and use made of the information. In the country, decision making based on up-to-date information is starting to be valued, but it has been observed that SINIÑEZ is not sufficiently and widely known. When appraising the dissemination strategy, it was evident that it did not strive to massively spread use of the information. On the contrary, information is available only to very few. It is interesting to point out that, to gain access to the databases of the SIISE and therefore the SINIÑEZ and other systems, it is necessary to download the information from Internet⁴ or to copy it, which in itself is a technical constraint.

SINIÑEZ is definitely a valuable tool that makes it possible to promote in Ecuadorian society the habit of assessing reality on the basis of data and thus better substantiate decisions and actions.

4 The updated program of the SIISE is 670 Mb, in a country where Internet reaches only 9% or 10% of the population.

To do this, it is indispensable to disseminate the tool and spread its use more widely through actions aimed at achieving this purpose.

2. Definition of the child (Article 1)

Regarding the Concept of the Child in the Constitution of 2008, progress has been made with respect to this definition as children are now recognized as citizens, the subjects of rights, and persons living specific conditions of development.

Children enjoy all the rights set forth in the Constitution, in international instruments currently in force and others stemming from the nature of the person and that might be needed for their full moral and material development (Articles 6 and 19).

Progress has been made with respect to legislation on the scope of the rights of children and adolescents in the Code for Children and Adolescents. Nevertheless, with reference to the Civil Code, the Law that would make it possible to harmonize the Codes is still in the hands of the legislative branch of government for two years because of the political changes that have taken place in the country and because of the complexity of this Law, among other reasons. It should also be mentioned that the Constitution of 2008 requires a revision of all laws in the light of human rights.

The CDN is also concerned that the minimum age for marriage in the country is 12 years for girls and 14 years for boys.

Regarding this concern, the Ecuadorian State has made no progress nor has it changed the Civil Code, because indeed, although it is true that the minimum legal age for marrying is 18 years, young people who are under-age must obtain the authorization of their legal representative and, as it turns out, the minimum age for marrying is 12 years for girls and 14 for boys.

It could be expected that, in this revision, the topic of the permissible age for marrying could be extended to higher ages. We believe the Committee could insist on this general revision and harmonization of the Code for Children and Adolescents with the rest of national Codes.

3. General principles (Articles 2, 3, 6, 12)

3.1 Non-discrimination

In 2007, according to data from the Observatory of Children and Adolescents (Observatorio de Niñez y Adolescencia—ODNA), 77% of indigenous households are poor and earn less than US\$2 per day. Data from 2007 point out that poverty was affecting 51% of the population and that the rural population was the most vulnerable, as extreme poverty affects 16% of that population.

There are two major issues that are considered when measuring discrimination: education and health. According to the Territorial Analysis Report on Social Investment for 2006-2007 drawn up by the Grupo Faro (Lighthouse Group) and UNICEF, 5% of resources for primary education are invested in the intercultural bilingual education system, in contrast to the 95% for the Spanish-speaking education system; nevertheless, the population of indigenous children amounts to 9% of the school-age population.

Children under five years of age belonging to indigenous cultures live in deficient conditions, their child mortality rate is 20 points higher than the rate for non-indigenous children. Malnutrition is also twice as high in these populations. As for cognitive development, five out of every ten children have limited development of their intelligence.

In view of these realities, the national government is using the following definition set forth by the new Constitution: *Guaranteeing without any discrimination the effective exercise of the rights enshrined in the Constitution and international instruments, especially education, health, food, social security and clean water for its inhabitants.* Articles 56 and 57 of Chapter IV, Rights of the Indigenous Communities, Nations and Peoples, recognize collective rights, among which: nondiscrimination; compensation for communities affected by racism, xenophobia and related discrimination, including land ownership and ownership of ancestral territories and the rights

stemming from this ownership: inapplicability of the statute of limitations, inalienability, immunity from seizure, usufruct, and prior consultation.

In 2005, the indigenous peoples drew up the Minimum Agenda for the Rights of Indigenous Children and Adolescents of Ecuador, a process that took two years and involved the participation of more than 4,000 children and adolescents and 2,900 leaders from different indigenous nations and peoples of Ecuador. This agenda envisages four thematic lines: 1) territory, identity and culture; 2) health and nutrition; 3) intercultural bilingual education; and 4) social protection. In 2009, the question was asked whether progress had been made on this agenda. After follow-up, it was concluded that the agenda had not been implemented as expected, although there is a certain amount of progress regarding indigenous leadership, but various topics were never implemented because it was not possible to insert them into national development plans. At present, the leaders of indigenous organizations such as Ecuarrunari have approached the CNNA to introduce various items on the Agenda for Indigenous Children and Adolescents onto the ASNA and to examine conditions for their implementation. One of the criticisms of civil society is that, when drawing up the ASNA, there was little consideration and coordination of the Minimum Agenda for the Rights of Indigenous Children and Adolescents. We believe that this leads to a fragmentation of the world of children, based on ideological and political biases, which exerts a direct impact on the implementation of the indigenous agenda, postponing once again guaranteeing egalitarian rights.

As for education, the Government has called for an inclusive education system, measures have been taken to eliminate the US\$25 enrollment fee, textbooks and uniforms are provided free of charge, and a provision has been made forbidding pregnant adolescents from being expelled from school. In addition, the building of 122 ultra-modern schools called the “Schools of the Millennium” has been decided upon, and implementation of this initiative requires US\$1.4 million for each school.

As for health, all children and adolescents are guaranteed access to differentiated health care services for the benefit of this population and the child nutrition program is being extended nationwide, especially in rural and marginal urban areas.

Among Afro-Ecuadorian populations from the province of Esmeraldas, improvements in the situation of children and adolescents are evident, especially compared to the data for 2001. In particular, data from ODNA 2007 rate this province with a score of 6.2 over 10 with respect to the enforcement of rights. One of the conclusions made by the report was that families in Esmeraldas ascribe a high value to providing primary education to their children.

Comment

We believe progress has been made to secure greater well-being in the rural area and to bring greater benefits to indigenous and Afro-Ecuadorian children and adolescents, but there is still much to be done, especially with respect to one-teacher schools that have not recorded any substantial improvements in terms of teacher training to use practices and methodologies that have a human rights approach and where there still are no decent basic facilities for children and adolescents. Building ultra-modern schools in the rural sector shall not manage to improve these conditions unless this initiative is supported by integral actions for the development of these communities. The gamble being made for the well-being of these children is to manage to change the culture of mistreatment and the minimalist version that society has of children, all the more apparent in indigenous and Afro-Ecuadorian contexts. There is still much work to be done, ranging from the provision of basic services such as clean water, electricity, and communications to a change in the relational models and practices in the classrooms and with the families of children and adolescents. Rather than just technologies, better living conditions and good treatment are required.

3.2 Right to life, survival and development

CDN’s recommendations revolved around reducing and eliminating the incidence of violence, in response to which the Ecuadorian State has focused its efforts on drawing up Codes of Peaceful Coexistence for schools.

The Ministry of Education, with the support of other organizations, among which the CNNA, is conducting a nationwide collective process for the drafting of Codes of Peaceful Coexistence (Códigos de Convivencia) in each and every school in Ecuador, including those that belong to the Intercultural Bilingual Education System, as instruments that regulate and balance relationships between adults (teachers) and children and adolescents (students) to guarantee the effective exercise of their rights and to prevent, among others, abuse of all kinds, sexual harassment or other forms of mistreatment. Nevertheless, the adaptation of this process of drafting the Codes of Peaceful Coexistence to the specific social and cultural contexts in which children and adolescents of indigenous peoples and nations and the Afro-Ecuadorian people develop has been recognized as an element of the utmost importance, based on their conceptions, promoting the revitalization of their own languages and fostering the capacity building of their community institutions and organization.

The Codes of Peaceful Coexistence are part of the Education for Democracy Program as one of their principal policies. This program implements the Codes of Peaceful Coexistence by installing mechanisms for the exercise of a culture of peace in education communities.

The Codes of Peaceful Coexistence are a policy of the education system because:

- They benefit from a Ministerial Agreement that obliges the education, public, private, municipal, mixed public-religious, special and other schools to draw up an institutional code for peaceful coexistence.
- They are part of the Ministry's programs such as "Education for Democracy."
- They are part of the rules and regulations of the Education Law.
- They are part of the convention on the culture of "good treatment."⁵

3.3 Respect for the opinions of children

The CND identifies the efforts to guarantee that the opinions of children be duly taken into account in the family, at school, in courts and other environments, as well as by the media.

Regarding the participation of children and adolescents, in Ecuador the tendency is to give priority to processes, whether campaigns, opinion and consultation forums, or the democratic election of representatives, where the key stakeholders are the children and adolescents themselves. This is evident in the establishment of 54 consultative councils where children and adolescents take the floor on subjects that involve them, whether with respect to the law or campaigns like "Look at me in the eyes" (Mírame a los Ojos), "My present and my future in the Constitution" (Mi presente y futuro en la Constitución), and "If you're 16, you can vote" (Si tienes 16 años puedes votar). In the latter, the goal was to raise the awareness of adolescents for the first time they were electing representatives in national elections. On this occasion 507,534 adolescents 16 and 17 years of age exercised their right to vote.

Another noteworthy milestone is the establishment of 108 movements of children and adolescents in 108 cantons. These collectives have drawn up local agendas for human rights on the basis of the local needs of each canton and then these agendas were submitted to local authorities so that they could be taken into account with support from the Canton Councils for Children and Adolescents.

Organizations that provide sponsorship activities in the country (World Vision, CCF, Plan International, CARE International, KNH) conducted with the Social Compact for Education, UNICEF and the Catholic Relief Service (CRS) a joint study, along with the consulting firm Diagonal, on the need to promote a process of research and reflection on the participatory phenomenon, based on their assessment but also attempting proposals regarding the new frameworks of reference on social participation and the need to revise participatory paradigms and methodologies that are in line with the complexity that characterizes Ecuador's current social reality. The restructuring of participatory processes emerges as an important mechanism to reactivate, in terms of the reaffirmation of identity, the various emotional and cognitive dimensions of children and adolescents who are currently being severely neglected and ignored.

5 Answers provided by Sara Oviedo, Executive Secretary of CNNA

The study was socialized at a participation workshop held by the CNNA and aimed at civil society organizations and the State.

Comment

The above refers to child and adolescent mobilization processes, where children and adolescents are repeatedly protagonists in local media, expressing their opinion about the exercise of their rights and aspirations. In addition, they become their own spokespersons to local and central authorities.

The constraints we have observed is that these processes are still governed more by the “democratic” vices that persist in our society: little visibility of genuine participation by the children and adolescent stakeholders themselves, where adult-centered perspectives prevail and where the lower participation of children and adolescents from minorities, whether they are ethnic groups, disabled persons, workers, etc., is evident.

To generate participation and promote the voice of subjects, it is necessary to start up participatory processes, where the country has made progress as those described above. Nevertheless, adult-center perspectives must be overcome and priority given to the participation of children and adolescents in their daily life and normal environment, which involves discovering other forms of participation that focus more on the expression of children and adolescents themselves in their daily life and on the basis of the cognitive, emotional and sociocultural dimensions that are the conditioning factors for the psycho-evolutionary development of children and adolescents.

One task that is still pending is to call upon public institutions to pay special attention to the expressions and manifestations of children and adolescents. Furthermore, the media must set aside their eagerness for increasingly higher earnings to make available daily spots so that the voice of children and adolescent can be appreciated in their real dimension. Finally, local authorities must provide concrete conditions to foster the expressiveness of children and adolescents, especially in more remote areas, excluded social groups, etc.

4 Civil rights and liberties (Articles 7, 8, 13, 14, 15, 16, 17, 19, 37(a))

4.1 Vital Statistics

Regarding the concern about the under-registration of children, Article 35 of the Code for Children and Adolescents provides for the right to an identity: children have the right to be registered immediately after birth with the last names of both their father and mother, respectively. The State guarantees the right to an identity and to identification in the Vital Statistics Office, with procedures that are quick, efficient, free and easy for obtaining identity papers. Nevertheless, the country has high rates of under-registration. If in Ecuador an average of 295,000 children are born, it can be estimated that 40% of them, that is, 118,000 newborns were left out of the Vital Statistics system for the registration of births. In 2003,⁶ there were 332,870 live births registered on the national territory, and of these 53.6 % pertained to births that took place the same year as the registration (registration on time) whereas 46.4% pertained to births taking place previous years (late registration).⁷

It can therefore be concluded that, that year, 178,418 children born in 2003 were recorded and 151,451 live births previous years, which makes it possible to establish, according to UNICEF data (295,000 births per year), a lag of 39.6% in terms of registration.

The rate of under-registration is higher in the Amazon region than in the sierra or Galapagos islands, whereas in the coastal region, there is a lower incidence of late registration, but these data do not include biostatistical information of home births or with traditional birth attendants, which in fact substantially limits the report on live births.

⁶ According to the yearbook of vital statistics on births and deaths of the National Statistics and Census Institute (Instituto Nacional de Estadísticas y Censos—INEC), 2004.

⁷ PLAN INTERNATIONAL, “Make me visible” (Hazme visible) is a situation study and the groundwork for a regional program aimed at supporting the registration of the birth of children.

Among the actions by the country, through the Vital Statistics Office, there are various awareness-raising campaigns and the enlistment of various brigades nationwide during 2006, 2007, and 2008 to reduce the alarming percentages of children who are under-registered. As a result of the campaign, a total of 63,000⁸ births of children and adolescents were registered.

Various state institutions participated and there was coordination with civil society in each campaign, but the efforts were insufficient to register all the children who had not been registered in the county. Among the reasons that prevent enforcing this right are the absence of clear policies along with a low institutional profile of the Vital Statistics Office, because since it is not an autonomous institution, it does not have its own means for the human and technological resources it needs. Other causes are structural, because unregistered children usually belong to remote rural areas or they are the children of immigrants from the border zone or abroad or they belong to marginal urban sectors, Amazon region ethnic groups, single and adolescent mother or fathers, parents who are lawbreakers living in remote areas.

Comment

Those who have had this right violated most severely for many years are living a dual exclusion, as poor people and as a result of discriminatory practices based on administrative, judiciary, economic, and geographical factors. Their right to an identity is infringed because they are children of parents who have no papers, who are being sought by the police, who are illiterate, etc.

The State must identify the severe problem of under-registration with greater commitment. Remedial measures must be applied to give autonomy to the Vital Statistics Office so that radical changes can be made to the management of this institution and to empower it in the performance of its role as an enforcer of one of the fundamental rights, the absence of which can lead to an endless violation of other rights. It is imperative to adopt a new vital statistics law, one that governs and guarantees the right to an identity, on the basis of new principles, approaches, criteria and objectives.

4.2 Corporal punishment

The Constitution of Ecuador provides that it is necessary “to eradicate all forms of violence in the education system and to safeguard the bodily, psychological and sexual safety of students” (Article 347, number 6).

This article responds to CDN’s concern that Ecuador must ensure that discipline at school be administered in line with a child’s human dignity and in conformity with the present Convention.

Minors are the victims of aggression, especially in those places where their care and shelter are socially accepted such as the family, school, and the community.

“In-house” violence is hard to detect and its magnitude is difficult to calculate. Only a small part of violence against children is reported to judiciary authorities and very few perpetrators of this aggression are prosecuted. The scarcity of reporting highlights the extent to which the problem is invisible and how this concealment of the problem is part of a daily permissive culture of mistreatment.

The country has deliberately not drawn up an effective response to child mistreatment, partly because one of the main difficulties to achieve this response is the absence of information on its true dimension and characteristics, especially when it takes place in the home or in the family. Nevertheless, mistreatment that is most apparent to the public eye is mistreatment at school, and regarding this, the national government is proposing, as an alternative, to work in primary and secondary schools with the Codes of Peaceful Coexistence mentioned earlier. It must be mentioned that the actions carried out by the State regarding the implementation of the Codes of Peaceful Coexistence are an alternative aimed at influencing the classroom and building various forms of discipline other than corporal punishment. Nevertheless, it was noted that the process

⁸ Ministry of Social and Economic Inclusion, Report of Plans and Actions Implemented, 2008.

that makes it possible to universalize the Codes of Peaceful Coexistence are very slow, although there is Ministerial Agreement 182 of May 2007 and instructions on how to draw them up. This policy, specified in the Ten-Year Plan itself, is difficult to implement because it tends to modify the traditional school structure and this requires high levels of awareness raising and sensitization. There are various experiences, some of them highly interesting, that have been able to understand the need to carry out processes that involve the participation of local players (students, parents, community, NGOs, local government) securing agreements that start generating a culture of good treatment; and there are other experiences in primary and secondary schools that have been able to install this innovative idea into their traditional forms of relationships, without any possibility of transformation.

Comment

So that the Codes of Peaceful Coexistence can be taken up by the schools as an opportunity where children and adults draw up agreements about relationships, respect, dialogue and listening, they must be highlighted not only as a task to be carried out, but they must also be built if possible with specialized facilitation and the support and assistance of the Ministry of Education and the community itself. The wager is to achieve cultural transformation. The country must make this topic a priority to be able to work on it at all levels and in all public and private institutions purposely and permanently.

5 Family environment and custody alternatives (Articles 5, 9, 10, 11, 18, 20, 21, 25, 27.4)

5.1 Parental responsibility

A closer study of the situation of the family in Ecuador is a task that goes beyond the confines of the present document. Nevertheless, after reviewing data about the conditions in which families are performing their role, the situation of migrant families, the mechanisms of family support and shelter, and the always delicate topic of adoption, it is possible to provide a cursory overview of the situation.

The intercultural variable must also be appraised as it is very important for Ecuador and because most actions are still decided upon on the basis of an urban and technical logic rather than local specificities. Furthermore, problems such as families dealing with HIV-AIDS, abortion, alcohol, and drugs, among other issues, must be the subject of an in-depth, cross-disciplinary, regional, and multisector study.

The Recommendation that the CDN has made to the country in this area was that the State must adopt measures to build up the capacities of families.

In this regard, national programs that have already been mentioned are noteworthy, such as the Human Development Subsidy, whose coverage accounts for 9% of the social investment budget. This information is significant if it is compared with education, which accounts for 29%, and health, which accounts for 14%.⁹

Furthermore, the Labor and Social Security Committee has carried forward the proposal of reforming the Code for Children and Adolescents with respect to food. Nevertheless, this reform, which of the utmost importance because it provides the judiciary with concrete tools to administer justice, contrasts sharply with the time a legal proceeding requires to determine the schedule of visits and set the amount for the food pension.

Another fact mentioned earlier is the unification of public child and family institutions under one single umbrella agency called the INFA, which is also aimed at coordinating adequately, with effectiveness and efficiency, the resources aimed children and the family. The INFA has become the public institution that receives the highest volume of resources in the country for children and the family.

One program that is generating expectations is the Rights Protection Centers, which are forums aimed at providing support to families, children and adolescents. There are 36 centers that have been implemented and 7 more are under way. By 2010, it is forecast that there will be 60 centers. Nevertheless, this process has also highlighted the fact that structural constraints

9 Data from 1997 on the allocated budget.

prevailing in the entities that merged to create the INFA are still generating resistance and preventing the provision of resources, quality of services, and follow-up from efficiently meeting the needs of families and children.

Regarding the above, one evidence of the problem is the lag in allocating resources to institutions implementing programs such as Child Development, Family Support, and School Support as these programs are mostly administered by NGOs which had to wait for the transfer of resources for four, five and up to six months. These delays were caused not by the absence of resources, but by technical and administrative procedures.

In the case of the Consortium of Nongovernmental Organizations for the Ecuadorian Family and Children (Consortio de Organizaciones No Gubernamentales a Favor de la Familia e Infancia Ecuatoriana—CONFIE), the 18 organizations comprising the Consortium recorded delays of up to five months for receiving resources.

Another matter affecting the quality of services for children and families has to do with the resources aimed at paying the staff working with children, in this case, educators or care-giving mothers.

In the country there must be about 25,000 women. Most of them have a high school degree and experience taking care of children. Their salaries were increased in 2008 by percentages that amounted to 40% in some cases, although despite this increase, their total monthly salary is no more than \$130.¹⁰ Beyond their role as educators, it is worth mentioning that they are also mothers responsible for taking care of their own children.

Persons who are in charge of initial education must have the conditions enabling them to tackle education with its entire range of potential, especially with children under five years of age. Nevertheless, this issue has remained in the shadows.

Comment

In short, families in the country, especially from quintiles 1 and 2, benefit from support from INFA, with specialized local services. It is necessary to continue the process of unifying the institutions inside the INFA and also effective coordination with the Ministry of Economic and Social Inclusion (Ministerio de Inclusión Económica y Social—MIES). INFA is now the public institution that exerts the greatest impact on child and family issues. Its role is crucial and it must tackle the problems that have been described such as the relationship with civil society organizations, facilitating the processes of delivering resources, finding a decent solution to the problems of educator mothers and promoting the renewal of care and prevention modalities, incorporating what has already been set forth in the Constitution of 2008.

5.2 Parental responsibilities (migration)

Ecuador is a country whose development has been closely tied to migratory processes, which have triggered major demographic changes over the past decade, to such an extent that remittances from abroad sent by families living outside the country are one of the major elements of earnings supporting the economy, despite the decline of the share of these remittances as a result of the current international crisis. In view of this scenario, the CDN recommended that the State should ensure that mothers and fathers abroad can exercise their parental responsibilities.

The State's response to the topic of migrants has been the coordination between organizations such as SENAMI,¹¹ INFA, CNNA y MIES, the referral of cases and, in addition, follow-up of children and adolescents.

The National Secretariat for Migrants (Secretaría Nacional para el Migrante—SENAMI) has become the leading player with respect to the issues of migrants and has drawn up various strategies, among which the National Plans of Action, Cucayo and Welcome Home. The Cucayo Plan consists of a fund involving an application process aimed at funding 25% of seed capital for Ecuadorian immigrants who wish to return to their home country (support for investment in

¹⁰ The cost of the basic shopping basket amounts to US\$521.76 for a family of four.

¹¹ National Secretariat for Migrants (Secretaría Nacional del Migrante—SENAMI).

production projects). Welcome Home is a plan to encourage immigrants to come back to Ecuador with their personal belongings, including motor vehicle, aimed at facilitating the entry of these returning immigrants.

As for the Program for Capacity Building of Migrant Organizations and Networks (Programa Fortalecimiento de Organizaciones y Redes Migrantes—FORES), the SENAMI is providing legal and social advisory services for migrants. In the framework of the program for reuniting families, which watches over observance of human rights, there are no figures on the families that have been reunited.

The SENAMI has a Handbook of Procedures for dealing with feeding, international restitution, protection and care in conditions of human mobility.

Furthermore, there are civil society organizations such as the Jesuit Service for Refugees and Migrants that are involved in providing training, reinsertion in the education system, vacancies in high schools, documentation, and training of young people and adolescents in citizenship.

The Human Development Pastorship has been developed in the Episcopal Conference, where coordination is conducted with provincial networks to undertake joint actions.

Comment

Regarding the topic of migrants, an agenda of actions drafted making it possible to defend the rights of migrants, with special attention focused on children and adolescents.

Nevertheless, according to an opinion by a specialist of SJRM, there continue to be approaches that victimize children and this prevents carrying out certain activities that could retrieve the tools that they themselves possess. Ultimately, it is not a problem of the migrant and family alone, but a problem that involves all, because those who are around the migrants have not established support and assistance networks either.

As for the issues of migration, family and children and adolescents, just like for most problems, it is indispensable to reckon with the action of communities and civil society for the establishment of support and assistance networks that provide support for the families of migrants in addition to the establishment of local observatories to check actions by the State. In this regard, resources have been invested in SENAMI, an institution that is in the process of being consolidated and built up.

Finally, the Constitutional framework also guarantees that the State shall carry out actions to strengthen the role of mothers and fathers with respect to their children both inside and outside the country.

5.3 Family and Institutional Shelters

Regarding the measures for family and institutional shelters, the country must tackle the problem of having children and adolescents in care centers, without an up-to-date record of the reasons for their confinement or length of stay. In addition, there is no follow-up of each case, much less any intention of coordinating actions aimed at reinserting children and adolescents in their environment after working sustainably with the family. Furthermore, there are judges who, instead of opting for this solution as a last resort, on the contrary rule that it must be the most widespread option, substantiating their decision on the basis of the doctrine of irregularity of the child's or adolescent's situation rather than on the basis of a Doctrine of Integral Protection.

These situations are similar to those that led the CDN to recommend that the country conduct periodical reviews of the placement of children to make sure that institutional confinement is truly a measure of last resort.

At present, INFA is the institution in charge of these modalities, and it is therefore expected that, in coming months, part of the above-mentioned problems shall be resolved.

INFA funds about 60 shelter organizations in the country, one of them for persons with disabilities.

El INFA has seven shelter homes. There are many clandestine shelter institutions that benefit from no protection measures. The discussion about sheltering facilities focuses on the fact that it is a last-resort service, which is at the same very costly, compared to other options. In 2009, sheltering facilities were affected by the delay in the transfer of resources, which is a situation

similar to the Child Development and School Support Projects; on the other hand, they have benefited from the highest budget increases in their history.

Furthermore, in the country, it has not been possible to multiply the sheltering family modalities, partly because of the costs entailed for training and follow-up of the families involved in this type of modality. One matter that has become increasingly important is the “autonomy” of adolescents and young people who are benefiting from shelter, as their needs are different and therefore the type of intervention must also change.

Although no official research has been done, a large number of cases of children and adolescents have been sent to sheltering institutions for critical economic conditions. Extreme poverty, as well as the high levels of violence as a result of poverty, has forced many families to place their children in sheltering facilities.

Comment

It is urgent to have a stringent licensing system for the institutions working with shelter programs in the country, because it is the quality of the care that prevents a child or adolescent from being once again a victim and that, on the contrary, helps find the suitable opportunity for a genuine restoration of the right that was infringed.

5.4 Adoption

The country has designated the institution responsible for adoptions, and it is the National Adoption Department, which is part of the INFA since April 16, 2009, pursuant to Resolution 008. This same resolution indicates that, among the powers of the Executive Secretariat of the National Adoption Department, there is the drafting of the Operational Handbook, Regulations, etc.

In this regard, the CDN recommendation is complied with, as a Central Adoption Institution has been set up with sufficient funding.

Comment

It is now the duty of civil society to request the new entity to provide the information that is needed and to conduct the corresponding follow-up, for example, of the processes of assigning children to adoptive families, to avoid repeating assignments based on criteria related to the social welfare approach instead of the principle of the “higher interest of the child” and the Doctrine of Integral Protection.

6 Basic health and welfare (Articles 18, 23, 24, 26, 27)

6.1 Children with disabilities

Article 47 of the Constitution provides that the State shall guarantee policies for the prevention of disabilities and that, jointly with society and families, it will strive to provide equal opportunities for persons with disabilities and ensure their social inclusion. The Sixth Section provides measures that ensure social inclusion by means of coordinated state and private plans and programs that foster the political, social, cultural, educational, and economic participation of persons with disabilities.

The new Constitution enlarges the rights of persons with disabilities and their families, such as providing shelter for persons with disabilities who have no permanent housing or who cannot be taken care of by their families during the day. In addition, there is an incentive and support for productive projects for the benefit of the families of handicapped persons. Social security is provided for persons and families who take care of persons with disabilities who require permanent care. Likewise, according to law, they are entitled to political representation.

There are 100,000¹² persons who are registered as having some kind of disability in the country. Between 1996 and 2009,¹³ 1,809 persons with visual impairments were registered and provided

¹² CONADIS.

with an identity card, among which 368 were children and adolescents who were enrolled during this period in the various levels and modalities of the national education system.

In 2006, the Ministry of Education set up the National Plan for Inclusion in Education thereby issuing the policy of universal access to, permanence in and promotion at all levels and modalities of Ecuador's education system for students with special education needs, with or without disabilities, and for gifted children was issued.

It also includes sanctions for those who abandon these children or perpetrate any kind of abuse, inhuman or degrading treatment.

By means of Executive Decree 338, it also provides for the implementation of the Ecuador without Barriers Program (Programa Ecuador sin Barreras) which has four major guidelines: employment without barriers, rights without barriers, cities without barriers, and equal opportunities or increasing resource allocations every year. In 2007, it provided US\$4 million for the program and in 2008 the funding amounted to US\$9.12 million.

With local and sectional governments from various cities, the national government started developed the guideline of "cities without barriers" to provide facilities to the entire population with disabilities so they could benefit from better conditions of access to transportation, sanitary infrastructure, educational and recreational facilities.

Actions by the National Division for Special Education of the Ministry of Education come together with the actions of the Global Campaign and Program of the International Council for the Education of Persons with Visual Impairment (ICEVI), along with the World Union for the Blind (UMC) supported by UNESCO and UNICEF, to guarantee that children who are blind or have poor sight have the right to education. Likewise, the Working Child Program is granting student scholarships to children and adolescents who have certain disabilities.

Research is being conducted nationwide on the situation of children and adolescents who have disabilities. This will make it possible to obtain a real vision of each case and to program the care that is needed for each one of them.

Civil society is also at the helm of various processes for the benefit of children and adolescents with disabilities. For example, since 2007, in the framework of the Project entitled "Inclusion of children and young people with special education needs into Ecuador's education system," the Ministry of Education and the Ecuadorian General Foundation are developing various actions to ensure the viability of the process of including children and adolescents with disabilities into primary and secondary schools. The Miss Quito Foundation (Fundación Reina de Quito) has a program to support children with Down Syndrome.

Comment

Over the past three years, the government has earmarked major resources for persons with disabilities and has especially emphasized the fundamental right to education by promoting educational inclusion.

There are no up-to-date figures as the latest pertain to 2004, with a registration of about 100,000 persons with disabilities. This is a major flaw and it is hoped that the new study that is about to be completed in the country will tackle it.

Civil society organizations that work with persons with disabilities believe that greater coordination of actions between the State and civil society is missing and that networks should be developed.

Although the National Disabilities Council (CONADIS) plays an interesting role, in addition to leadership and policymaking, it should adopt a vision of greater coordination and surveillance, calling on state and civil society organizations to comply with policies.

It is necessary to work on adapting and integrating children and adolescents with disabilities into primary and secondary schools, not simply to provide standards for their admittance. Once again this matter requires processes of support and control that the corresponding public institution must carry out so that inclusion can be effectively implemented in the classroom. In this regard, the role of the community, families and the State is essential, so that the contents of the law that has been enacted can actually be implemented locally.

¹³ The National Special Education Division (La División Nacional de Educación Especial)

Finally, the positive role played by the Office of the Vice-President in this area as instructed by decree is highly appreciated. It is hoped that this responsibility shall contribute to structuring public and private interventions in coordination with CONADIS, which according to the Constitution must harmonize its actions in line with this legal framework.

6.2 Nutrition

The Social Development Coordination Ministry (Ministerio Coordinador de Desarrollo Social—MCDS) is spearheading the **National Strategy for Food Security and Elimination of Child Malnutrition** which is being implemented in the framework of the Integral Territorial Nutritional Intervention Plans, which are being coordinated between the Ministries of Education, Health, and Social Inclusion.

Reforms are being made to the management model. One of them has been the transition of the Child and Family Institute (Instituto del Niño y la Familia—INNFA) from a private institution to a publicly administered organization (INFA). This is the institution that is now in charge of child development in the country and its service coverage has grown from 10 to 25 provinces. This has involved restructuring the institutional framework of five major programs (AINA, DAINA ORI, FODI and INNFA) which previously functioned autonomously and separately, into one single coordinating and articulating institution which, as a result, has acquired transparency and better resource administration.

There are 206,000 children who are beneficiaries of child development and of these about 100,000¹⁴ children are from indigenous and Afro-Ecuadorian peoples and nations. Budget issues prevent enlarging the coverage of children suffering from global and chronic malnutrition. The INFA has a budget of US\$130 million for child development, but with this it is unable to reach the entire child population that needs it. The issue of the budget must also include equitable recognition for the work of community mothers in the integral development day-care centers and who are currently being paid a subsidy that does not even amount to the minimum wage.

These programs consist of delivering food supplements and micronutrients starting with pregnancy up to the age of 36 months for children, as well as training family about foods, the provision of food supplements for children from 3 to 5 years of age and the provision of breakfasts in schools.

For the purpose of reaching the cantons that have the highest prevalence of chronic malnutrition, an Integral Territorial Nutritional Intervention Plan is being draw up for the purpose of exerting a greater impact.

From civil society, international cooperation organizations such as World Vision Ecuador, Plan International, CCF, Children International, and KNH, implement child nutrition programs in the country's rural areas and support children and their families with integral farms and training in nutrition.

6.3 HIV-AIDS

As part of Policy No. 1 on the Social Agenda for Children and Adolescents (Agenda Social de Niños, Niñas y Adolescentes—ASNA), there is the following mandate: “No child under 28 days of age dies as a result of preventable causes: Right to survival.”

As of 2002, the Ecuadorian State, through the Ministry of Public Health, specifically the *National AIDS Program*, started providing retrovirus treatment to persons living with HIV/AIDS. Over the past years, the government has made major budget allocations for health and now, the HIV prevention and care program has managed to achieve 100%¹⁵ control over the vertical mother-child transmission among carrier mothers.

¹⁴ Source: Informe de Vigilancia CNNA 2008 (CNNA Surveillance Report for 2008), calculation that is proportional to the population (INEC) of indigenous and Afro-Ecuadorian peoples and nations.

¹⁵ MSP, Bernarda Salas, Director of Standardization of the National Health System (Directora de Normatización del Sistema Nacional del Salud).

The country does not have accurate data about how many children have HIV. This situation hampers taking preventive and healing actions for the target population precisely because of the absence of knowledge about it. Currently, the intervention with children and adolescents with respect to HIV is not integral because there is no linkage between the problems of orphan children, domestic violence, sexual violence, etc., and their status as a carrier of the virus.¹⁶

As part of the progress made in care services, the MSP has scheduled delivering retrovirus medicine to children and adolescents so they can receive precise doses and avoid side effects, which could not be obtained with pills. The infant mortality rate has declined from 26% (2004) to 21% (2008).

The MSP¹⁷ has started a process of standardization and simplification of the specific surveillance and monitoring systems for priority programs that keep a vertical organization aimed at developing parameterized instruments of registration, notification, and report through the Priority Program Surveillance and Monitoring Standardization and Simplification Project. This component of the Integral Epidemiological Surveillance System (Sistema Integral de Vigilancia Epidemiológico—SIVE) includes the notification of deaths and cases admitted to hospital that are registered in INEC for all diseases.

In the framework of this process, in 2008, changes have been made to the notification system that is in force and various new components of the specialized HIV/AIDS surveillance system established in 2007 have been implemented: the formulation of population study protocols to estimate the prevalence of HIV/AIDS to evaluate conducts and take preventive actions.

Comment

Health care for HIV has been improving in the country. Nevertheless, there are many lags in gathering statistics and detecting cases, which leads to neglect of children and adolescents.

Timely follow-up and focus on what has been detected by the specialized HIV/AIDS surveillance systems are needed.

One segment of civil society affected by the virus believes that the State has a minimalist vision of this social problem because there are relatively few cases that have been recorded and no priority is being given in public policymaking to providing greater health care of children and adolescents infected with the virus.

In this matter, the interventions must be developed on the basis of the resources from various public and private institutions, since it is not merely a gender or childhood topic, or an issue of health or education; because of its complexity, HIV/AIDS must be tackled with the contribution of all stakeholders working on preventive and care actions

6.4 Health of adolescents and adolescent pregnancies

Through the National Plan for the Rapid Reduction of Maternal and Neonatal Mortality being implemented by the Ministry of Public Health, the care modality for a culturally suitable childbirth (vertical childbirth) and the respective creation of the conditions for the enlargement and rehabilitation of health services (instructions and signs in two languages, for example) in the country's rural and urban areas are currently being institutionalized.¹⁸

Early pregnancy is an issue of much concern because of the rise that has been recorded. According to a report from the Integrated System of Indicators on Young People (Sistema Integrado de Indicadores de la Juventud—SIJOVEN), in 2006 there were 847,595 adolescent mothers who were cared for compared to 600,000 cases in 1995. The country records 300,000 childbirths per year, and of these one out of every five is by an adolescent between 15 and 18 years of age.

The State is drawing up a Regional Plan for reducing adolescent pregnancies on the basis of four basic strategic guidelines: more information, integral protection, participation of young people, and monitoring and evaluation. For this purpose, the MSP has worked on various protocols in the framework of a National Standardization Program on the basis of an assessment

¹⁶ KIMIRINA, interview with Amira Herdoíza.

¹⁷ MSP, UNGASS Report, 2006-2007.

¹⁸ Accountability MSP 2008 (CNNA programming workshops, January 2009)

of the health needs in 24 provinces. Pilot projects have been drawn up for the dissemination and validation of these protocols. Among them, there is the protocol called “Friendly services of differentiated care for adolescents (Servicios Amables de Atención Diferenciada para Adolescentes—ADAS), which was successfully installed between 2006 and 2007 in all programs. In 2009, there are now 10 provincial systematizations that help ensure ongoing improvement of the service. Among the visible results, there is sound inter-agency coordination for referrals and counter-referrals, greater integration of the service into the community with adult participation but little participation of adolescents.¹⁹

The Ministry of Education has been firm on the issue of support for pregnant adolescents. In 2007, it issued the current agreement, which forbids schools at different levels and modalities of the national education system from expelling pregnant adolescents from school, as well as dismissal, suspension, denial of enrollment or any other kind of discrimination against students who are pregnant.

The paper also points out that, in the case of pregnant students, instead of punishing them, programs providing psychological, health and learning support should be applied, including help aimed at the pregnant student herself and awareness-raising with classmates, teachers and parents. The provision also envisages surveillance actions that monitor compliance with this provision.

The Shelter Center for Pregnant Adolescents, Prevention, and Mental and Reproductive Health (Centro de Acogida para adolescentes embarazadas, prevención y salud mental y reproductiva—ADOLESIS) of the San José Charity Board (Patronato San José) of the Municipality of Quito has been functioning since 2004. It welcomes adolescents who, because of family situations, problems with life partners or because of the pregnancy itself, have left their homes. Each case is first reviewed by the Metropolitan Boards for the Protection of Children and Adolescents and juvenile courts, where the girls themselves or third parties report the irregularities of which they are victims.

At the Center, they benefit from arts and crafts workshops for the purpose of reinserting them in society with a trade that can help them subsist along with their children. In addition, motivation talks are given to raise their self-esteem. Each year, it receives 72 adolescent cases.

7 Education, cultural and recreational activities (Articles 28, 29, 31)

7.1 Education

The New Constitution guarantees universal access, permanence, mobility and admittance without any discrimination to the initial, basic, and secondary education system or its equivalent. It declares that public education shall be universal, lay, and free of charge at all levels until third year of higher education and shall promote intercultural dialogue in its many dimensions and shall ensure that the teaching of at least one ancestral language be progressively included in the curriculums.

Between 2006 and 2007, public investment in education has grown by 27% and with respect to GDP, growth amounted to 2.5% in 2006 and 3% in 2007. Nevertheless, there still are wide differences in the allocation of resources among provinces, between urban and rural sectors, and between Spanish-speaking and bilingual services. Investment in education, which according to the initial budget for 2007 amounted to US\$1.268 billion, is definitely the most important component of social investment envisaged by the Central Government.

The illiteracy rate in the Spanish-speaking and bilingual rural sector declined in 2008 to 8.9% compared to the rate of 9.4% in 2004.

In 2006, the CNNA drew up the Social Agenda for Children and Adolescents (Agenda Social de la Niñez y Adolescencia—ASNA), where the right to development is placed on the agenda by means of Policy No. 3, referring to “No child or adolescent without education.”

As for education, the State, through SENPLADES, has opened up coordination and participation of civil society by means of the Social Compact for Education, updating

¹⁹ MSP/UNFPA, Sysematization of experiences in 10 provinces, 2008.

educational policies on the basis of the New State Constitution. This update of the National Plan for 2011-2014 envisages the implementation of a new Education Law that strives to ensure inclusion, equity, quality, and humaneness for the benefit of children and adolescents.

The agenda for indigenous children, incorporating philosophy, world vision and indigenous intercultural approaches, was drawn up in 2005. On the basis of this agenda, it was possible to promote the priority topic of children in the framework of the indigenous movement, with four major guidelines: intercultural bilingual education, social protection, territory, culture and identity, and health and nutrition.

The Codes of Peaceful Coexistence are being implemented since 2008 with an Education Policy in the framework of the Ten-Year Plan for the purpose of modifying the traditional school structure. There are various experiences, some of them interesting, aimed at building different processes of inter-relations between children, adolescents, teachers and families, but there are others stemming from the old institutional framework itself and that continue to prevail in classrooms, on the basis of punitive internal regulations. (The topic of Codes of Peaceful Coexistence is examined in greater depth in Chapter III.2: Right to life, survival and development.)

The intercultural bilingual system is still too small, because only 5% of primary education resources are allocated to the bilingual system whereas 95% are for the Spanish-speaking system although indigenous children and adolescents account for 9% of the total school-aged population. Therefore, the percentage of indigenous children and adolescents who enroll in mestizo schools is growing. By comparison, in 2004, which recorded a rate of 9.4%, in 2006 allocations amounted to US\$10 million whereas in 2007 they amounted to US\$23.5 million. Of this budget, only 17% was for bilingual schools.

To guarantee access to education, the Central Government paid the cost of US\$25 that parents normally made when enrolling their children in all public and mixed public-religious schools. In addition, the government provided school supplies and uniforms free of charge and provided for the establishment of 12,000 budgetary items to increase the number of teachers and start the teacher evaluation process, for the purpose of refreshing their knowledge, highlight flaws and start up massive training.

The State is creating the Schools of the Millennium to guarantee quality education and greater equity in terms of care in the rural sector. This project envisages building and furnishing 122 schools. The first school was inaugurated in September 2008. It is completely equipped with state-of-the-art technology that will enable children to benefit from a privileged education compared to the average education. The facilities envisage basic education and trilingual secondary education diploma. The cost for this school amounted to US\$1.4 million.

During this period, various projects were implemented by civil society and the State focusing on training in citizenship, rights, codes of peaceful coexistence, integration and communication in marginal urban areas, youth information and communication centers, including children and adolescents with visual impairments, which benefited from the participation of 4,000 in coordination with local governments.

Through the Working Child Program (Programa del Muchacho Trabajador—PMT), the program entitled “Hello Democracy, welcome to my school” was developed. It is aimed at improving relationships between teachers and young people. There are 3,000 young people from marginal urban districts participating in this program.

From civil society, there are also major initiatives such as the Education Surveillance Indicators System (Sistema de Indicadores de Vigilancia Educativa—SIVE) as a result of the process promoted by the Social Compact to uphold a citizen surveillance and information system that monitors education as a whole, not only the Ten-Year Education Plan but also all the factors involved in Ecuadorian education.

Civil society is also working forcefully on the topic of infocenters, which are juvenile information and communication centers in marginal urban and rural areas, for the purpose of reducing the digital divide. Several of these projects are supported by the State and civil society. With the cooperation of civil society and the State, 10,000 working children and adolescents were reinserted into the education system from 2005 to 2008. The Human Development Subsidy has been a major stimulus for this, as well as the scholarship system which enables

families to benefit from resources and release children and adolescents from child labor so they can go to school to study.

Comment

The Schools of the Millennium are interesting and innovative. What concerns civil society is that they may be built to the detriment of educational proposals that have been worked on to improve one-teacher schools based on more integral methodologies. They are aimed at guaranteeing universal coverage of education and avoiding exclusion.²⁰

The quality of education must improve in the classroom, but above all it is the treatment of students that must improve. Processes with schools, families and communities must be undertaken to support new forms of relationships and to foster mutual respect so that the rights of children and adolescents are not simply reviewed but fully experienced every day.

8 Special protection measures (Articles 22, 30, 32, 33, 34, 35, 37, 38, 39, 40)

8.1 Refugees

The CDN recommended that the country strengthen its policies for asylum, especially in terms of adopting legislative measures that govern the treatment of children who are unaccompanied.

The Ecuadorian Government's responses to the problems stemming from Plan Colombia have been diverse. Nevertheless, it is possible to identify, on the one hand, the openness to reviewing applications from refugees seeking asylum, and, on the other hand, the request for police records from Colombian immigrants who wish to enter the country.

In the framework of the country's diplomatic relations, another kind of action has been aimed at proposing changes to the Colombian Government with respect to its strategies against the FARC which were affecting the country.

The stance taken with respect to glyphosate fumigations on the northern border made it possible to reduce the spraying. The government required fumigations to be made at a distance of 10 km from the border.

The closing of the Manta Military Base has highlighted the country's position with respect to Plan Colombia and its implications.

The breakdown of relationships with Colombia after the air attack on Ecuadorian territory in Angostura is an incident that is now in the process of being reviewed, and the two governments have opened opportunities for dialogue to continue coordination and mediation activities for this topic that crosses the border of both countries.

Furthermore, because of forced migration, according to figures from the Ministry of Foreign Affairs, between 2000 and 2007, the Ecuadorian Government has received close to 50,243 requests for asylum, according to the research by the ODNA.

As a result of this scenario, the Ecuadorian government drew Plan Ecuador as its response to the context of ongoing political and social confrontation in the border zone, characterized by contraband and violence stemming from the conflict in Colombia (guerrilla, paramilitary groups, drug trade and the involvement of the civil population). Various informers have asserted that the Plan has undergone several changes and that it first had a very humanitarian approach and then its profile decline. Lately, it has acquired greater momentum as a result of the State's involvement in border areas. It is expected that the Plan will be making direct contributions to solving the problems of children and adolescents, because it is one of the guidelines of its work. For now, the change in Ecuadorian legislation to respond to the needs of the refugee population is noteworthy. In this regard, adoption of Ministerial Agreement 337 is important, as it provides that, under no circumstance, shall any child or adolescent be separated from education. Article 41 of the 2008 Constitution also recognizes the right to asylum and of refugees, in line with the law and international human rights instruments. Persons who are in a situation of asylum or refugees shall benefit from special protection that guarantees the full exercise of their rights. The State shall respect and guarantee the principle of non-return, in addition to emergency

²⁰ Social Compact for Education (Contrato Social por la Educación), Interview in Foro, 2009.

humanitarian and legal assistance.

No criminal sanctions shall be applied to persons requesting asylum or refugees simply because they have entered or stayed in the country without papers.

Comment

As for the issue of refugees, both the government of Ecuador and civil society have carried out actions, in addition to those of the Jesuit Service for Refugees and Migrants (Servicio Jesuita para Refugiados y Migrantes—SJRM), which provides services, including training of adult and young migrants and refugees in human rights and citizenship schools, with tools that this population group can use to learn about and defend their rights. Along with this effort, there is the consolidation of working in networks such as the “Early Warnings” program to identify cases and enlist actions for the restoration of rights. Nevertheless, the true dimension of the situation is still hidden and there are very few reliable data about the number of children and adolescents involved in sowing and harvesting drug crops and other aspects of the border conflict.

8.2 Economic exploitation and children labor

The CDN’s recommendation to the country mentions its concern for the high number of children between 5 and 15 years of age who are working. There are 4,000 children working in mines, for example.

According to data from the Observatory for the Rights of Children and Adolescents (Observatorio de Derechos de la Niñez y Adolescencia—ODNA)²¹ by the end of 2008, the percentage of children and adolescents who were going to school and did not work was 78%, which means there was a four-point rise with respect to 2006. It is evident that it is a considerable improvement regarding compliance with the rights of children and adolescents. According to the ODNA itself, children from rural sector, indigenous children and black children were the ones who, to a large extent, improved their situation in terms of being able to stay in or be admitted to school. This outcome was largely due to the implementation of social programs such as the Human Development Subsidy for families of the MIES and the school food programs of the Ministry of Education.

662,664 children and adolescents, between 5 and 17 years of age, are actually working in the country.

45% of children and adolescent in child labor in the country are between 15 and 17 years of age; 30% are between 12 and 14 years of age; and 25% are between 5 and 11 years of age.

85% of these children and adolescents work on farms, fishing, and forestry, and of this group 79% are between 5 to 11 years of age, whereas 63% are between 12 and 14 and 49% are between 15 and 17.

Of the total working children and adolescents, 65% go to school and 35% do not. Among the reasons for the absence from school: 53% for lack of financial means and 24% because they are working. Comparing data for 2001 with data for 2006, there is a drop in child labor as follows: from 779,000 children and adolescents in 2001 to 662,664 children and adolescents between 5 and 17 years of age in 2006.

The evolution of school enrollment of working children and adolescents between 5 and 17 years of age is as follows: 84.2% in 2001 compared to 87.9% in 2006.

Among the actions undertaken in the country, close to 5,000 children have been removed from begging activities, and thus the death of children on roads at Christmastime has been avoided. Preventive work is done with the families three months ahead of time to raise their awareness about the situation so they will not go down to the cities.

The government is working as a network, depending on the modality with the various players of society.

Protection activities go hand in hand with an awareness-raising process.

Among the constraints that have been encountered, the following are noteworthy: the roles of

²¹ Presentation made during the course on “Protection of the Rights of the Child: Prevention and Elimination of Child Labor,” sponsored by UNICEF and FLACSO, April 2009

the institutions participating in the CONEPTI have not been clear, there was redundancy in the duties, and these deep flaws led to their current revision. As for the Child Labor Eradication Plan, there are no institutions that are conducting follow-up activities.

The Ministry of Labor has proposed eliminating domestic work, but this problem is highly complex and has to do with trafficking and, in contrast to child labor in garbage dumps and banana plantations, which is more visible, it is work hidden from the public eye.

Comment

Although CONEPTI is not currently functioning, its presence made it possible to bring together various stakeholders and to orient actions in various sectors: types of work, partnerships between stakeholders to intervene, negotiations, controls, etc. It is therefore necessary to build up a Council that plays a coordinating role, with enough forcefulness to put the higher interest of children and adolescents on the agenda; to draw up a new plan with all players; to further promote follow-up and local control; and above all to exert an impact on actions that tackle causes and that involve more adults than children and adolescents, guarantee employment for adults, promote inclusive schools that are in line with the pace of children and adolescents who have been reinserted, checking child labor in companies, etc.

Because it is a structural problem, an employment policy is being expected but it is late in coming and the change in the education system is expected to generate other forms of approaching the community to draw up agreements that enable families to raise awareness about the importance of having those children and adolescents who work with the consent of their parents enroll and attend school, of opening up alternative modalities such as fast-track learning, for example, so these children can catch up academically with those who have gone to school and of encouraging them to continue learning.

8.3 Sexual exploitation and trafficking

Regarding the topic of trafficking, the CDN observed that legislative measures had to be installed, including revision of the Penal Code, to criminalize sexual exploitation, pornography and sexual tourism and to draw up broad, effective policies that tackle the sexual exploitation of children and avoid criminalizing children who are victims of sexual exploitation. Suitable policies and programs for the prevention, recovery and reintegration of victims shall be applied. Among the achievements, there is the drafting of the National Anti-trafficking Plan. One major step was the establishment of a Committee that can assess the problem. Trafficking prevention actions have been implemented with emphasis on the end purposes of sexual exploitation and labor exploitation. In 2007, the Ministry of Tourism, FENACAPTUR and INNFA developed an awareness-raising process for the benefit of tour operators. Models of care aimed at victims of trafficking for sexual and labor purposes, especially women, children, and adolescents, were drawn up.

Comment

One of the constraints on the actions that were coordinated to combat trafficking was the insufficient budget, which made the process even slower. But the most important problem has to do with implications of this subject for public and private spheres. According to the appraisal of a key informer, the issue is not a priority, does not trigger any response from the State and is even socially tolerated. In this regard, there is the participation of physicians and nurses, maternity wards, the Vital Statistics office responsible for registering persons and eventually the operators of the judiciary.

This issue in particular links the search of solutions to the need to tackle organized crime that profits from trafficking and related activities. The actions must therefore be both structural and deep, to avoid repeating interventions that provide no solutions and that, on the contrary, further jeopardize children, adolescents and communities. The issue involves prevention, which requires major work with families and this is where the ingredients that lead to this victimization have to be eliminated.

The topic of mediation is what we believe should be activated, because it requires a major change in household relationships to understand and address the root cause of the problem.

FINAL THOUGHTS

In Ecuadorian society, it is a culture of widespread mistreatment of children and adolescents that prevails. The structural conditions of little equity and justice have led to a violent social fabric, which in terms of children is manifest in begging, child labor, physical and psychological mistreatment. In the daily places of the school, the family, the community and even in the institutions themselves in charge of restoring rights, this mistreatment is not absent.

With the new development model, the country has been planning and implementing actions in the framework of new social policies, which have not as yet been harmonized with the new Constitution. One major initiative has been undertaking the programmatic and institutional transformation of the largest institution promoting child development: INNFA. Before it was private although funded by the government, but now it is an institution entirely run by the State. The new INFA has the challenge of conducting planning activities only on the basis of a vision of integral protection. This effort shall be useless if no in-depth analysis is conducted aimed at articulating the topic of policymaking with that of the institutional framework.

The policies in the country lead to interventions that are too scattered. They refer to integral development for example, but the true magnitude of the voids under the umbrella of integral protection of children and adolescents do not seem to be visible. There is little control over institutions that are in charge of restoring rights. It seems that, in the best of cases, judges with a backlog of cases issue their rulings and, as a rule, the last option that is recommended internationally, that is, “institutional shelter”, is the first that is decided on by our judges to restore rights.

This is the first item of the problem of restoring rights. Most institutions involved in providing shelter are private institutions, because the State cannot guarantee quality nor can it make major interventions for the follow-up of cases. Walls continue to be built among children and adolescents who are the victims of violence preventing an integral solution to their problems. They cross the thresholds of their own hell to step into the hells that have been created for them with impersonal welfare approaches, in institutions that oftentimes become places for renewed victimization, where cases are never brought to the light of the public eye for fear of institutional scandals. All shelter institutions must be subject to a stringent and permanent process of licensing and monitoring by the State and civil society, enabling the operation of those organizations that meet the necessary requirements to provide children and adolescents quality care that effectively restores their rights, making it possible for children and adolescents to renew ties with their families on the basis of a mediation and awareness-raising process aimed at changing relationships towards good treatment and a human rights.

An “integral” program for the restoration of rights needs to be drawn up to finally give children and adolescents whose rights have been infringed the option to live with their family and loved ones, to be fed and respected, to study, play, choose and express opinions. This requires structural interventions aimed at changing daily ways of living, which at present do not exist in the country. This requires broad budgets, but above all it requires strategic linkages that connect processes within the communities where violent practices can be openly addressed and highlighted on the basis of dialogue and ultimately dismantled in terms of living experience. Institutions, especially those that work with children must promote these social promotion processes, supporting the drafting of peaceful coexistence agreements with methodologies focusing on the rights of children and adolescents, until the communities incorporate good treatment practices into their daily life practice. These are long-term processes but they can act as the groundwork for the drafting of effective public policies that must be built from the grassroots.

On the basis of the observations made by the Convention on the Rights of the Child Committee, the absence of coordination and harmonization between the State and civil society, along with

the little clarity about the integral treatment of the problem of special protection, is a topic that the country should continue working on in-depth.

As long as there is no examination of the monitoring and follow-up role that must be performed by the State and civil society for the enforcement and restoration of rights, to replace a vertical approach with punitive tendencies, and as long as there is no participatory support with binding and integral solutions for the long-term restoration of rights, it is impossible to say that the country is making progress in guaranteeing, protecting, and enforcing the rights of children and adolescents, much less talk about prevention. This requires transforming the institutional framework behind a repressive education system, one that would be able to change its priorities, giving priority to the well-being of children as the focal point of all institutional activities, of all knowledge and science that can be expected to foster good treatment. But what is also required are new conceptions and relationships with respect to children and this is a task that is still pending for the State, civil society, families, institutions, and NGOs.

Forceful state policies are imperative to facilitate monitoring and follow-up of the enforcement and restoration of rights. Policies are urgent to implement good treatment in primary and secondary schools with a monitoring plan to ensure enforcement. It is urgent to systematize the judiciary system, increase the number of specialized judges who have been sensitized to the needs of children and adolescents and who do not process cases on the basis of the easiest and fastest solution, but rather who look for the most suitable solution, even if it requires more time and money. It is also imperative to have a strong civil society, empowered to defend children and adolescents, beyond programmatic institutional practices, aimed at a genuine and permanent enforcement of these rights, involving the responsibility of creating a culture of networks and planned coordination in line with collective approaches although this might require greater effort and commitment.

The country now has a legal framework governed by the Constitution in line with international instruments such as the Convention on the Rights of the Child. The work of harmonizing laws has begun although there is still much to be done. Nevertheless, it is clear that the major challenge now is to achieve what has been enshrined in the law so that it can become reality, correcting inequities, promoting development on the basis of the resources of the people and multiplying options that generate well-being in all respects. To do this, civil society must firmly take up the Constitution as its working tool, especially with respect to the regime of good living, the function of participation, control and transparency. Civil society must strengthen its role as a defender of rights, including enforcement and joint responsibility for building decent living conditions for all, especially children and adolescents.

This report is an effort at gathering data, facts, progress and setbacks. It ultimately makes us feel that Ecuador is indeed making progress and that the actions drawn up and implemented over the past two years are aimed at restructuring central institutions, coordinating and planning, and above all emphasizing social investment in these processes. Progress achieved has been recognized although it is evident that local monitoring is still deficient and that figures are still not being updated fast enough for decision making. The road ahead is fraught with difficulties. Institutional restructuring has made much progress but one has to look at the daily lives of children, where there is a feeling that practices are not in line with the intentions of institutional change.

The State, represented by the current administration, has the opportunity to implement structural changes in education, health, justice, and special protection, changes that not only depend on the amount of resources allocated, which fortunately have been growing, but also on a shift in vision and mentality among stakeholders, public servants and private-sector employees, as well as society as a whole, including the media, forces of law and order, businessmen, etc., toward the imperative need of building a project for the nation, based on what is set forth in the Constitution with respect to the exercise of human rights.

This opportunity must be taken advantage of to educate, in the broadest sense of the term, society about this project for the nation, one based on ethics, joint responsibility, solidarity and respect for diversity, communicating and disseminating to all what it means to live in a framework of human rights, but above all to ensure good living for children, which means making a major qualitative leap. Everyone should know where to go when their rights are infringed and must realize that in each specific place, there is a concrete response. The violation of rights must be prevented by generating opportunities and options in each locality. This task must be constant and involve all possible sectors.

The right to participation is still not well understood or assimilated in the country, in terms of the concept itself. Most of the time, participation is viewed as activism, rather than a cultural practice where children participate in social teaching process aimed at transforming the spheres of daily living. Participation emerges as a construct that is alien to the natural processes of socialization as they occur in the actual lives of children and adolescents.

The participation of children and adolescents is very weak in families, communities and schoolchildren, where values of vertical and authoritarian exclusion prevail and whose clearest manifestation can be found when focusing on ethnic-cultural and gender variables. This phenomenon also appears in explicit interventions or those spearheaded by state institutions and nongovernmental organizations, which tend to assume that participation is confined to reductionist political approaches (participation in assemblies, leadership training, delivering rhetorical speeches) and do not intervene actively in the basic daily sociocultural behavior.

Participation as such requires reviewing and thinking about the behavior of different human groups who live together in one community. It recognizes differences, talking about them and reaching a consensus until new paradigms are drawn up. This process is one of reflection, which exposes established social constructs to discussion and makes it possible to visualize potential changes for the well-being of children and adolescents.

Civil society has the task of organizing itself to review the roles that have been developed until now, forging alliances beyond institutional and personal agendas, recognizing that any plan must essentially respond to an integral and intercultural vision where justice prevails, to quote just a few principles, by returning to the grassroots in a coordinated fashion, taking advantage of the framework of the current Constitution and the action of public institutions which, on the basis of their own pace and understanding, are increasingly present where they were never before to make progress in building “good living” in each corner of the country, placing children and adolescents at the very heart of every intervention.

Recommendations addressed to the Ecuadorian State by civil society

Recognizing the progress that the current administration has made in the social sector and its openness to improving enforcement of the rights of the child, civil society would like to make the following recommendations to ensure consolidation of this responsibility of building better living conditions for children and adolescents living in Ecuador.

- It recommends that the State give high priority to integral and special integration of children and adolescents, especially with respect to the prevention of human rights violation and the restoration of rights. This merits re-scoping interventions (up-to-date resources, coverage of local care in territorial contexts that are closer to persons) without exception, with high-quality and humane professionals, safe facilities focusing on the human being, and permanent monitoring of services.
- It recommends that the restoration of rights be integral and coordinated, involving joint management of public institutions in all spheres of activities. Although the State has made progress in providing care for children and adolescents to ensure universal coverage of higher-quality services, the intervention must be integral. For example, if a child is examined for HIV, then state institutions must intervene in a coordinated fashion with respect to the child's family and the psychological, legal, educational, etc. aspects involved. This is not merely a matter of resources, it is also a consensus-based vision of integral protection.
- It recommends that the State guarantee direct meetings with citizens, especially children and adolescents, to set in motion local mechanisms ensuring access to information and coordinating joint actions for the full exercise of the rights making it possible to bring the Constitution down to daily practices to prevent the violation of rights and restore rights in their communities.
- It recommends that the State draw up state policies that enable the timely monitoring and follow-up of enforcement and restoration of rights, using an approach based not on punitive measures but rather on psycho-social support, with binding and integral solutions for ensuring long-term restoration rights. This idea of restoration implies giving the right that has been infringed back to the child and also tackling the sociocultural causes that led to the violation of the rights to avoid new infringement.
- At this turning point in Ecuador, with the establishment of a new legislative and institutional framework for the State at different levels of government, it is of the utmost importance to build up and support various civil society initiatives, which with the new opportunities provided for by the country's Constitution, must make significant contributions on the basis of a watchful eye and commitments to building a society based on the enforcement of rights. For this capacity building, it is essential to reckon with the support of international cooperation to prevent institutionalization of civil society participation based on an official perspective and to support citizen participation forums and initiatives that are independent and autonomous.
- To build up the preventive dimension, it recommends deploying actions aimed at implementing good treatment in primary and secondary schools and families, with educational support and follow-up, ensuring compliance and transformation of relationships in daily life. Implementation of peaceful coexistence codes (to draw up, among all, including the perspective of children and adolescents, peaceful coexistence agreements regarding the various situations of daily life at school, in the family and in the community) in the education system is a major opportunity to transform relationships between children,

adolescents, their families, the community and teachers. What is missing is appropriate facilitation enabling players and stakeholders to start up an ongoing process of awareness-raising, highlighting their role in achieving sustainable cultural change. In this process, the role of nongovernmental organizations is of the utmost importance not only to support the government's administration but also to motivate and promote the participation of children and adolescents, their families and communities. The wager is to achieve cultural transformation. The country must place the topic as a priority at all levels and in all public and private institutions purposely and permanently.

- It recommends modernizing the judiciary system. On the one hand, there must be a larger number of highly specialized juvenile judges who are aware of the rights of children and adolescents and, on the other hand, it is essential to provide them with the human and logistic resources that will enable them to fulfill their duties efficiently and in a timely fashion. Priority must also be given to mediation as a mechanism for tackling cases involving children. This method opens up the possibility of renewing family ties on a more sustainable basis using psycho-social rehabilitation processes.
- It is recommended that, while thinking about establishing Millennium Schools, proposals for education that have been identified must be worked on to improve one-teacher schools on the basis of more integral methodologies.
- It is recommended that the State continue with capacity building of public institutions, especially with respect to MIES/INFA, the Judiciary Council, and other key institutions for the restoration of rights and the prevention of violation of these rights in order to eliminate all corrupt practices that might constrain the State's local sphere of activities, especially in remote areas or zones of conflict.