



Convention on the Rights of the Child

Distr.: General
29 January 2010
Advance Unedited version
Original: English

Committee on the rights of the Child

Fifty-third session

29 January 2010

Consideration of reports submitted by States parties under article 44 of the Convention

Concluding observations: Ecuador

1. The Committee considered the fourth periodic report of Ecuador (CRC/C/ECU/4) at its 1472 and 1474 meetings (see CRC/C/SR.1472 and 1474), held on 18 and 19 January 2010, and adopted at the 1501st meeting, held on 29 January 2010, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report as well as the written replies to its list of issues (CRC/ECU/Q/4/Add.1). The Committee appreciates the presence of a high level and multi-sectoral delegation and the constructive dialogue, which allowed a better understanding of the situation of children in the State party.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the State party's initial reports to the Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, contained in CRC/C/OPSC/ECU/CO/1 and CRC/C/OPAC/ECU/CO/1.

B. Follow-up measures undertaken and progress achieved by the State party

4. The Committee welcomes a number of positive developments in the reporting period, including the adoption of legislative and policy measures taken with a view to implementing the Convention, such as:

(a) The new Constitution of 2008, establishing the plurinational and intercultural character of the State, which recognizes the respect and protection of a catalogue of human rights as the main duty of the State, including by enhancing attention to economic, social and cultural rights, and by recognizing international human rights treaties as State obligations requiring legislative adaptation;

(b) The 2009 reform of the Code on Children and Adolescents regarding child maintenance payment procedure, including that adolescents over 15 may be fully involved in the process, and the nationwide expansion at local government level of Cantonal Boards for Rights Protection;

(c) The 2005 reform of the Penal Code, which criminalizes sexual exploitation of children, sexual exploitation related to the tourism industry, child pornography, trafficking in persons and sale of persons for the purpose of exploitation;

(d) The 2005 reform of the Labour Code, which includes norms to prevent and eradicate economic exploitation of children; and

(e) The 2005 reform of the Maternity and Infancy Act, which increases the services provided before, during and after birth;

5. The Committee further welcomes that Ecuador has ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol, and the Convention for the Protection of All Persons from Enforced Disappearance.

6. The Committee also welcomes the adoption of:

(a) The National Plan for Good Living 2009-2013 (Plan Nacional del Buen Vivir), which embodies the 10-year National Plan of Action for the Comprehensive Protection of Children and Adolescents 2004-2014 (Plan Nacional Decenal para la Protección Integral de Niños, Niñas y Adolescentes) and its corresponding Social Agenda for Children and Adolescents 2007-2010; and

(b) The State - Indigenous Peoples and Nationalities Agreement for Children and Adolescents - called "Building Sumak Kawsay from the Beginning of Life" ("Construcción del Buen Vivir desde el principio de la vida") which provides the framework for the Minimum Agenda for Indigenous Children in Ecuador.

C. Main areas of concern and recommendations

1 General Measures of Implementation (arts. 4, 42 and 44, paragraph 6 of the Convention)

The Committee's previous recommendations

7. The Committee notes that various concerns and recommendations made for the consideration of the State party's combined second and third periodic report (CRC/C/15/Add.262, 2005) have not been given sufficient follow-up. While noting that recent political, constitutional and economic changes in the country are giving a new impetus to some of these areas, the Committee remains concerned at the lack of implementation.

8. **The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the combined second and third periodic reports that have not yet been implemented, such as those related to data collection, the low minimum age for marriage, corporal punishment, child labour and juvenile justice, and to provide adequate follow-up to the recommendations contained in the present concluding observations on the fourth periodic report.**

Legislation

9. The Committee takes note with appreciation of the progress made by the State party in the legislative review process. In particular it notes with satisfaction the new Constitution, which establishes human rights as fundamental. However, the Committee is very concerned that in the legislative reform, the specific rights of children may become subordinated to more general issues and/or disappear under broader structures. It also notes that national legislation is not entirely in conformity with the Convention, for instance in relation to corporal punishment and the minimum age for marriage.

10. The Committee recommends that the State party strengthen and expedite its efforts to bring domestic law into full compliance with the Convention by completing a comprehensive review of legislation and its implementation, maintaining the specificity and interdependence of all children's rights in policy, legislative, institutional and programme terms, in accordance to the Convention on the Rights of the Child.

Coordination

11. The Committee welcomes the information by the State party delegation that the National Council for Children and Adolescents remains the specific coordination mechanism for national policy on children, and appreciates the increase of its resources. Nevertheless, the Committee is concerned that the National Council and the Decentralized National System for the Comprehensive Protection of Children and Adolescents (Sistema Nacional Decentralizado para la Protección Integrada de Niños, Niñas y Adolescentes) which were created by the Code on Children and Adolescents of 2003, will be subordinated to a new Intergenerational Equality (sub-) Council including other population groups, as part of the setting up of an overall Inclusion and Equality Council covering all areas of social policy, as mandated by the 2008 Constitution.

12. The Committee recommends that careful consideration be given to the need for specificity and specialization of child policy, programmes and human resources, without prejudice to the search for improved institutional and budgetary rationality. It further requests that high-level and clearly identifiable priority consideration is given to children's rights within the structure of the central government and of the decentralized system of government, all of which require authority and specific competences on children's rights. In this respect, the Committee recommends that the new National System for Inclusion and Social Equality respects and strengthens the existing Decentralized National System for the Comprehensive Protection of Children and Adolescents.

13. The Committee is further concerned that the effective national coverage and systematic implementation, monitoring and evaluation of the national policy on children and adolescents are undermined by inadequate coordination between the central level and the Cantonal Councils for Children and Adolescents (Concejos Cantonales de la Niñez y Adolescencia) and the Cantonal Boards for Protection of Rights (Juntas Cantonales de Protección de Derechos). Since the latter two are not included in the Constitutional reform but are essential parts of the system for the implementation of children's rights, the Committee remains concerned that their competences and attributions may not be focused on children or properly financed.

14. The Committee recommends that the draft Organic Code on Territory, Autonomies and Decentralization allow for the articulation and coordination of the different institutions and organs covering children's rights thus ensuring in practice a comprehensive and specific approach that links the central and cantonal levels and the different child rights institutions among themselves, with proper and specific

competences and funding. The Committee urges that this design maintains the specificity of the Decentralized National System for the Comprehensive Protection of Children and Adolescents. The Committee further recommends that appropriate participation of different interest groups, including children and adolescents, is ensured at all stages.

15. The Committee welcomes the reform of the Child and Family Institute (INFA), its public nature, the support from the national budget and the participation of civil society.

16. The Committee recommends that INFA remains focused on its specific mandate for children, especially those under 5 and those in need of special protection, and that it works in coordination with other institutions dealing with related matters.

National Plan of Action

17. The Committee welcomes the Ecuadorian State's efforts to strengthen its planning process and the formulation of the overall development plan called the Plan Nacional para el Buen Vivir, which is intended to be the instrument to reduce disparities in budgetary allocations and decentralize expenditure. The Committee remains concerned however that plans and agendas relating to children and adolescents might lose specificity and priority in the broader framework, that they are not funded appropriately and that participation of civil society and of children is not ensured. It is also concerned that the Optional Protocols to the Convention are not covered by any plan and may therefore lack the necessary implementation.

18. The Committee recommends that in the harmonization and updating effort being undertaken by the State party to place the 10-year National Plan of Action for Children and Adolescents and its Social Agenda within the new Plan Nacional para el Buen Vivir and reflect it in the national budget, the principles and provisions of the Convention on the Rights of the Child continue to be a priority. It further urges the State party to ensure that it takes into account the Optional Protocols. Likewise, the Committee recommends to take into account, inter alia, the Plan of Action "A World Fit for Children" adopted by the General Assembly Special Session in May 2002 and its mid-term review of 2007 and urges the State party to ensure that the present and emerging Plan of action and/or Agenda should be adequately resourced, in human and financial terms, include specific time-bound and measurable goals, be widely disseminated and regularly monitored. The Committee urges the State party to ensure the participation of civil society and of children and adolescents as appropriate in the harmonization, planning, budgeting and evaluation exercises related to children and adolescents.

Independent Monitoring

19. The Committee welcomes the fact that the 2008 Constitution identifies the Ombudsman (Defensoría) as a legal entity, part of a new Fifth branch of the State, and that it has organizational and financial autonomy as well as a decentralized organization covering each province. The Committee is however concerned that the Ombudsman has not set up specialized arrangements to cover child rights or make its services available to children and that it only has one office for the protection of Women and Children's Rights. It is further concerned at the delay in appointing an Ombudsman.

20. **The Committee recommends that the State party:**

- (a) Expedite the appointment of the new Ombudsman;**
- (b) Create a specialized office on child rights, within the Office of the Ombudsman, with the mandate of monitoring the implementation of the Convention**

as well as its **Optional Protocols, in accordance with the Paris Principles (General Assembly resolution 48/134, annex);**

(c) Take into account the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2);

(d) Ensure that the Ombudsman, through the head of this office for the protection of children's rights, be accessible to all children, and be able to receive and investigate complaints from, or on behalf of, children on violations of their rights;

(e) Ensure that the Ombudsman promote and educate children and adults on the Convention and its implementation; and

(f) Provide the office for the protection of children's rights with the necessary human and financial resources.

Allocation of resources

21. The Committee welcomes the constitutional provision to allocate at least 5% and 6% of GDP to health and education, respectively. The Committee also welcomes the increase in public social investment in recent years, especially on health, education and social welfare, and the efforts of the State party to protect social expenditure from the effects of the global financial crisis although it notes that it still remains low. It also welcomes efforts to improve the allocation of resources for children in need of special protection, such as cash transfers to families living below the poverty line, the Bono de Desarrollo Humano (conditioned to the use of basic health services for young boys and girls and to school attendance of boys, girls and adolescents 5 to 18 years of age) but it is concerned that it is not yet possible to indicate what proportion of social spending is specifically dedicated to children nor that it is possible to disaggregate by gender, age group, ethnic origin, geographical and/or administrative location and others. The Committee notes efforts to start articulating the new planning process with pluriannual and regionalized budgeting but it is concerned that specific child-related spending, if not identified, may not be sustained over time as part of the national development strategy. The Committee is also concerned at the insufficient budget allocation for implementation of the Code on Children and Adolescents.

22. The Committee recommends that the State party, in light of articles 3 and 4 of the Convention, undertake all appropriate measures to the maximum extent of available resources to ensure that sufficient budgetary allocation is provided to services for children and that particular attention is paid to the protection of the rights of children belonging to disadvantaged groups, including indigenous children, Afro-Ecuadorian children and children living in poverty. In particular and in line with the Committee's recommendations resulting from its Day of General Discussion on "resources for the rights of the child-responsibility of States", it encourages the State party to:

(a) Continue increasing the level of social investment maintaining its sustainability and aiming at achievement of the constitutional mandate for health and education as well as at full financing of the Social Agenda for Children and Adolescents, and the related programmes and agenda for children;

(b) Protect children's budget and social budget from any external shock or internal shock, such as situations of economic crisis, natural disasters or other emergencies in order to maintain the sustainability of investments;

(c) Continue the work undertaken by the Ministry of Finance and the Secretaría Nacional de Planificación y Desarrollo (SENPLADES) to develop a methodology for budgeting and elaboration of indicators for tracking and monitoring

allocations to children, providing visibility to the investment and enabling its evaluation;

(d) Ensure that the expansion of allocations to disadvantaged groups in order to address disparities, through for example the Bono de Desarrollo Humano, is based on the appropriate disaggregation of budget data by geographical and administrative location and other relevant categories, including gender, age and ethnic origin;

(e) Define strategic budgetary lines for those situations that may require affirmative social measures (such as birth registration, chronic malnutrition, violence against children, etc.)

(f) Ensure proper accountability by local authorities in an open and transparent way that enables participation by communities and children and concerted allocation of resources;

(g) Seek technical assistance from UNICEF and other international organizations, as appropriate.

Data collection

23. While acknowledging recent efforts to improve planning and budgeting including data collection, the Committee is concerned at the lack of a comprehensive system of data collection and analysis as well as inadequate data on specific groups of children, particularly indigenous and Afro-Ecuadorian children, children with disabilities, children out of school, working children, and other children in need of special protection.

24. **The Committee recommends that the State party strengthen its system of collecting disaggregated data by age group, gender, ethnicity, geographic and/or administrative location, etc. covering all areas of the Convention as a basis to assess progress achieved in the realization of children's rights and to help design policies to implement the Convention. The Committee recommends that the State party seek technical assistance from, inter alia, UNICEF, for this purpose.**

Dissemination, training and awareness-raising

25. While welcoming the good experiences in Ecuador particularly by children on dissemination and awareness raising, like the Communication Agency of Children and Adolescents (ACNNA), the Committee remains concerned at the low level of awareness of the Convention among professionals working with and for children, the media, and the general public. The Committee welcomes the two-year research done by ACNNA in monitoring the publications of 10 national and local newspapers for their quantitative and qualitative coverage of children's issues, which clearly shows the little interest and inadequate understanding of the press on these issues.

26. **The Committee recommends that the State party strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by adults and children. It also recommends the reinforcement of adequate and systematic training of all professional groups working for and with children, in particular law enforcements officials, teachers, including teachers in indigenous communities and rural and remote areas, health personnel, social workers and personnel working in all forms of alternative care.**

27. **The Committee recommends that the media, both private and public, respect and disseminate the rights of the child taking into account cultural diversity and gender, among others, and include in its programmes the expressions and points of view of children. In particular, the Committee recommends that the findings by**

ACNNA are examined by the State and the media, with a view to learning and adapting the coverage by written media and extending it to radio, television and digital press.

Cooperation with civil society

28. The Committee notes with satisfaction the involvement of civil society, including non-governmental organizations, in the preparation of the State party's report. While it notes with interest the Constitution's idea of a Fifth power of the State on transparency and social control based on the people's mandate, the Committee remains concerned that due account may not be taken of civil society participation and the contribution children and adolescents can make to put in place this State function.

29. **The Committee encourages the State party to continue to systematically involve communities and civil society, as well as children and adolescents in all aspects of the elaboration of laws and regulations, policies, plans and budgets, especially at local level, and that relate to them directly or indirectly.**

Child rights and the business sector

30. The Committee notes with concern the recent lack of public agreement in the country on social and environmental standards to be placed on projects for the oil and mineral sector. The Committee is concerned over the lack of clear guidelines and regulations to enable the protection and respect by business corporations, both national and international, of children's rights.

31. **The Committee urges the State party to develop clear guidelines for the business sector to protect and respect children's rights as enshrined in the Convention, the Code on Children and Adolescents and the Constitution. The Committee recalls the 2008 Committee on the Elimination of Racial Discrimination (CERD/C/ECU/CO/19, para. 16) recommendation in this respect to ensure that oil companies conduct proper environmental and social assessments of impact and do so in consultation with local communities, including indigenous communities.**

2. Definition of the child (Article 1 of the Convention)

32. The Committee notes the formal distinction made in the State party between a child (under 12 years) and an adolescent (between the ages of 12 and 18 years). While noting the proposed changes to the Civil Code, the Committee is deeply concerned at the continuation of the legal minimum age for contracting marriage for girls at 12 years and for boys at 14 years.

33. **The Committee recommends that the State party set the minimum age for marriage for girls and for boys at 18 years of age.**

3. General principles (Arts. 2, 3, 6 and 12 of the Convention)

Non-Discrimination

34. The Committee welcomes the recognition in the new Constitution of the plurinational and intercultural character of the State party. It however shares the concern of the Committee on the Elimination of Racial Discrimination that a high proportion of persons belonging to the indigenous peoples and Afro-Ecuadorian communities continue to suffer in practice from racism and racial discrimination (CERD/C/ECU/CO/19, para. 8), including children. It is further concerned at the clear manifestations of such discrimination,

such as the under-5 mortality rate of indigenous children which is 50 % higher than the national average, that chronic malnutrition among indigenous children is more than double that of mestizo children and that indigenous women and girls are subject to discrimination and assassination, as expressed by the Committee on the Elimination of Racial Discrimination.

35. **The Committee urges the State party to ensure practical application of the constitutional and legal provisions that outlaw gender, ethnic and any other form of discrimination and to guarantee special protection measures in favour of indigenous and Afro-Ecuadorian children. The Committee further reminds the State party that the Committee on the Elimination of Discrimination against Women recommended in 2008 that special measures be taken for the protection of the rights of indigenous and Afro-Ecuadorian women and girls (CEDAW/C/ECU/CO/7). The Committee would also like to draw the State party's attention to the principles of the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document adopted at the 2009 Durban Review Conference.**

Best interests of the child

36. While welcoming that the principle of the best interests of the child is incorporated in the Constitution and in the Code on Children and Adolescents, the Committee is concerned at the lack of information on how this principle is implemented in practice. It is concerned that this principle may not be taken into account in all decisions, administrative and judicial procedures and programmes concerning children, such as children deprived of their liberty or of family environment.

37. **The Committee recommends that the State party ensures the implementation in practice of the best interests of the child, by fully incorporating the principle in all programmes, policies, judicial and administrative proceedings, including in the implementation of national action plans, and that it undertakes a child impact assessment of all proposed laws, policies and budgetary allocations which affect children and the enjoyment of their rights.**

The right to life, survival and development

38. The Committee is concerned that the child mortality rate in the State party is one of the highest in the region, and at the prevalence of chronic malnutrition among children.

39. **The Committee recommends that the State party continue and strengthen policies and programmes to address issues related to the right to life, survival and development of children, and pay particular attention to addressing the problems of child mortality and chronic malnutrition.**

Respect for the views of the child

40. The Committee welcomes the establishment of the National Consultative Council for Children, and that both the Constitution and the Children's Code guarantee the respect for the views of the child. However, it is still concerned that traditional societal attitudes limit children's right to be heard in schools, within the family or other settings. It is further concerned about inadequate implementation of the children's right to be heard in judicial and administrative proceedings.

41. **The Committee recommends that the State party strengthen its efforts to ensure that children's views are given due consideration in the family, schools, and relevant administrative and other settings, and that they are duly heard in judicial and administrative proceedings affecting them. In this regard, the Committee would**

like to draw the State party's attention to its general comment No. 12 (2009) on the right of the child to be heard (CRC/C/GC/12).

42. While noting the Constitutional measure to allow voluntary voting in public elections for children between 16 and 18 years of age, the Committee encourages the State party to ensure that it is supported by civic and human rights education as a way to ensure early awareness in children that rights are to be exercised as part of citizenship, with autonomy and responsibility. It recommends that the State party evaluate results in an independent manner.

4. Civil rights and freedoms (Arts. 7, 8, 13-17 and 37(a) of the Convention)

Birth registration

43. While taking note of the efforts made by the State party to promote the birth registration of children, such as the National Plan for Birth Registration and mobile registration units, the Committee is concerned that many children are still not registered and lack birth certificates. It is particularly concerned that children born in the State party from parents who are immigrants or asylum seekers are denied the right to birth registration.

44. **In the light of article 7 of the Convention, the Committee recommends that the State party ensure birth registration for all children, including those that are or belong to migrant or asylum seeking families, and that it is free of charge.**

Corporal Punishment and other cruel or degrading forms of punishment

45. While welcoming the prohibition of all forms of violence in the new Constitution, the Committee is concerned that corporal punishment is still not explicitly prohibited in the home and remains a culturally accepted form of discipline in the family and other settings, including schools and other places of care, and that there is no explicit prohibition of corporal punishment as a disciplinary measure against children deprived of liberty.

46. **The Committee recommends that the State party introduce and enforce legislation prohibiting corporal punishment in all settings, including in the family, schools and all places of deprivation of liberty. In this respect, it should take into account the Committee's general comment No. 8 (2007) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8).**

Follow-up to the UN Study on Violence against Children

47. With reference to the United Nations Study on violence against children (A/61/299), the Committee recommends that the State party:

(a) Take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations study on violence against children while taking into account the outcome and recommendations of the regional consultation for Latin America held in Buenos Aires between 30 May and 1 June 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

- Prohibit by law all violence against children, including corporal punishment in all settings;
- Prioritize prevention and promote non-violent values and awareness-raising;
- Ensure accountability and end impunity;

- Address the gender dimension of violence against children; and
- Develop and implement systematic national data collection and research on violence against women, children and adolescents.

(b) Use these recommendations as a tool for action, in partnership with civil society and in particular with the involvement of children, to ensure that every girl and boy is protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse; and

(c) Seek technical cooperation in this respect from the Special Representative of the United Nations Secretary-General on violence against children, OHCHR, UNICEF and other relevant agencies, as well as NGO partners.

5. Family environment and alternative care (arts. 5; 18 (paras.1-2); 9-11; 19-21; 25; 27 (para.4); and 39 of the Convention)

Family environment and parental responsibility

48. While welcoming cash transfer programmes for low-income families, such as the Bono de Desarrollo Humano, the Committee is concerned at inadequate preventive measures to strengthen families with children in need of special protection and training on parental responsibilities. It is further concerned that many children need to take on responsibilities for the household and their younger brothers and sisters due to, inter alia, their parents emigrating from the State party and leaving them behind, as well as at the lack of support for these children. It is further concerned that some children are prevented from living and growing in their families only because of poverty.

49. **The Committee recommends that the State party:**

(a) **Introduce preventive measures at community level to support and strengthen the families, including family education and awareness and the use of cash transfer programmes such as the Bono de Desarrollo Humano in order to prevent children from being separated from their families;**

(b) **Protect children who are separated from their parents, give support from local services to these children and strengthen kinship and foster care capacity to support them;**

(c) **Children placed back in their families should be monitored closely and reviewed regularly, and parents should be given counselling and support; and**

(d) **Undertake a comprehensive study on the situation of children of migrant families, with a view to developing adequate strategies to ensure their protection and the full enjoyment of their rights through, inter alia, community support programmes, education and information campaigns and schools programmes; and**

(e) **Consider introducing legal measures to prevent and protect children from being left behind by their migrant parents.**

Children deprived of a family environment

50. The Committee is concerned that although the State party states its preference for family-type care over institutional care, most children deprived of their family environment are placed in institutions. It is therefore concerned at the high number of children living in institutions and the lack of information on regular inspections and evaluations of these

institutions, on the qualifications of their staff, and on safeguards to protect children from mistreatment and on complaint mechanisms.

51. **The Committee recommends that the State party:**

(a) **Take all necessary measures for children placed in institutions to return to their families whenever possible, or to be placed in family-type care, and consider the placement of children in institutions as a measure of last resort and for the shortest period possible;**

(b) **Undertake a study to assess the situation of children placed in different forms of alternative care, including their living conditions and the services provided, and introduce corrective measures aiming at reducing the number of children in institutions and improving other forms of alternative care;**

(c) **Set clear standards for existing institutions and ensure a comprehensive mechanism of periodic review of children placed in all forms of alternative care, in light of article 25 of the Convention and the Guidelines for the Alternative Care of Children contained in United Nations General Assembly Resolution A/RES/64/142 adopted on 20 November 2009; and**

(d) **Put in place a complaint mechanism for children and use it without detriment to the child's right to privacy and confidentiality.**

Adoption

52. While noting that legislation on inter-country adoption has been implemented and since 2009 closely monitored by restricting the number of international adoption agencies, the Committee is concerned that other agencies advertise the opportunity to adopt children from Ecuador.

53. **The Committee recommends that the State party ensure compliance with the principle of the best interests of the child and the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption at all stages of the adoption procedure, by providing adequate human and financial resources to the central adoption authority so that it can implement its programmes adequately, including by maintaining the oversight and control of all the different phases of the adoption proceedings and adoption agencies and by building the capacity of civil servants involved in the process.**

Abuse and neglect

54. While welcoming the National Plan of Action to Eradicate Gender Violence against Children, Adolescents and Women (Plan Nacional de Erradicación de la Violencia de Género hacia la Niñez, Adolescencia y Mujeres), the Committee is concerned at the high rate of abuse and neglect, including domestic violence against children, often leading to children leaving their homes to escape the violence.

55. **The Committee recommends that the State party conduct public awareness campaigns and provide information, parental guidance and counselling with a view, inter alia, to prevent child abuse and neglect. It further recommends providing training to teachers, law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints about violence and neglect of children in a child and gender-sensitive manner.**

6. Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)

Children with disabilities

56. While welcoming that the Constitution (articles 50 and 53) guarantees full social integration and equal opportunities for children with disabilities, as well as the Ecuador without Barriers Programme (Programa Ecuador sin Barreras), and that children with disabilities have been included in mainstream education, the Committee is concerned at the lack of support provided to the families and at the high cost for the family of treating children with disabilities.

57. In light of art. 23 of the Convention, the Committee's general comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9) and the Convention on the Rights of Persons with Disabilities, the Committee recommends that the State party take all necessary measures to protect and promote the rights of children with disabilities, including access to education and providing adequate resources in order for parents to be able to care properly for their children. It further recommends the collection of data disaggregated by age, sex, ethnic origin and socioeconomic background and increased cooperation with civil society.

Health and health services

58. The Committee welcomes the adoption in 2006 of the Law on Health and the renewed political and financial support to the Plans on Maternal and Infant Death, Adolescent Pregnancy, Child Malnutrition and Free Maternity and Attention to Children. Noting that infant mortality (30.3/1000 in 2000) and chronic malnutrition (1 out of 5 children under 5) continue to be the most pressing health problems of children, the Committee is particularly concerned that despite recent efforts to expand services such as immunization and pre-natal and healthy child services, large segments of rural and peri-urban population still lack access to and/or face poor quality or culturally non-sensitive services and must pay for medicines in most cases. Also, the Committee is concerned at reports on lowering exclusive breastfeeding.

59. While noting more recent information by the State party that infant mortality has decreased and that poverty maps are helping the distribution of food through the school system, the Committee urges the State party to continue expanding maternal and child health services and nutritional surveillance and support including to more remote areas, in a gender and culturally sensitive manner and with an emphasis on prevention and promotion. The Committee further recommends that the International Code for Commercialization of Breastfeeding Substitutes be disseminated. It further recommends that coordination with other actors of the Integral Protection System and teamwork be improved. The Committee also urges the State party to continue increasing public allocations to health as established in the Constitution.

Adolescent health

60. While welcoming the National Plan for the Prevention of Adolescent Pregnancies as a response to one of the most pressing health problems faced by adolescents, the Committee shares the concern expressed by the Committee on the Elimination of Discrimination against Women in 2008 (CEDAW/C/ECU/CO/7, para. 38) at the high rate of pregnancy among teenage girls, especially among indigenous and Afro-Ecuadorian girls (1 of 5 deliveries is by girls between 15 and 18 years of age). In this regard it is concerned at the lack of sex and reproductive health education and the absence of information on and access

to contraceptives despite the recent Constitution's explicit guarantee of the rights to take freely, responsibly and well informed decisions on health and reproductive life (article 66, no 10). The Committee is particularly concerned with unwanted pregnancies as a result of rape, as well as the prohibition of some types of emergency contraception, in some cases leading to unsafe abortions and suicides.

61. **The Committee recommends that the State party strengthen its measures to promote access to reproductive health services for all adolescents in all parts of the country, including sex and reproductive health education in schools as well as youth-sensitive and confidential counseling and health-care services, including information on and access to contraceptives. It further recommends that the State party make emergency contraception available to adolescents. In this regard, the State party's attention is drawn to the Committee's general comment no. 4 (2003) on adolescent health and development (CRC/GC/2003/4). The Committee shares the recommendation of the Committee on the Elimination of Discrimination against Women on the need for the State to support in-depth research on the question of abortions in dangerous circumstances and its effects on women (and girls) and on maternal health, enabling the appropriate formulation of laws and norms.**

HIV/AIDS

62. While noting that the State party introduced an HIV prevention policy in 2006 regarding adolescents and a protection policy for children orphaned by HIV/AIDS, it is concerned at the lack of implementation of these policies through the National System for Protection of Children and Adolescents.

63. **The Committee recommends that high priority be given to actual implementation of the prevention and protection policies on HIV/AIDS.**

7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

64. The Committee welcomes increased public spending on education in recent years, as well as the elimination in 2006 of voluntary contributions to schools, and the introduction of free textbooks. It also looks forward to further increase in resources as established in the 2008 Constitution. The Committee also welcomes the 10-year Education Plan that includes early education and aims at full enrolment of all children in basic education and 75% at the secondary level and the 2006 National Action Plan for the Prevention and Eradication of Sexual Offences in the Educational System. It is however concerned at the still high dropout rates, especially of indigenous girls, and at the high rate of sexual abuse and harassment against girls in schools and corporal punishment as a form of "discipline" in schools. It also notes with concern that the low completion rate in secondary education, especially among indigenous children and pregnant girls, point to the inadequate quality of education. The Committee is further concerned that children of irregular migrant workers do not have access to the educational system.

65. **The Committee recommends that the State party:**

(a) **Improve the quality of education and take all measures to ensure that children complete primary and secondary school by addressing the reasons behind non-completion of schooling. In doing so, ensure that the Millennium Educational Units are the centre of a network aiming at reforming all schools at district level rather than diverting resources from the application of mainstream education. Ensure**

the availability of books through public and school libraries and appropriate Internet information and education;

(b) Address disparities more effectively by allocating specific budget and long-term support targeting the most deprived children, namely indigenous children and girls in rural areas, paying attention to alternative informal education and ensuring vocational training leading both to employment and/or to further technical education;

(c) Introduce human rights education in all levels of education aiming at the abandonment of discriminatory practices, xenophobia and violence and at the understanding of diversity, interculturality, the gender approach and citizenship;

(d) Take measures to prevent corporal punishment and sexual abuse and harassment against children, especially girls, in schools and investigate and prosecute as appropriate promptly all such allegations;

(e) Ensure a sufficient number of teachers in all schools who are well-trained, fully qualified and receive adequate remuneration and on-going training;

(f) Provide access to school for all children, irrespective of their legal status in the State party, paying special attention to the children of migrants and to migrant unaccompanied children;

(g) Reform the regulation of the Transport, Transit and Road Security Law to ensure that all school children have access to a preferential tariff for public transportation; and

(h) Take into account the Committee's general comment No. 1 (2001) on the aims of education (CRC/GC/2001/1).

8. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)

Asylum-seeking and refugee children

66. While welcoming the new Constitutional recognition of the right to asylum and the rights of refugees, in line with international human rights instruments, the Committee is concerned at the situation of asylum-seeking and refugee children in the State party, inter alia, their inadequate access to education, despite legislation explicitly guaranteeing the access of refugee children to the national education system. It is also concerned that children born in the State party from asylum-seeking parents are not regularly being registered at birth, therefore deprived from exercising their rights as children.

67. **The Committee recommends that the State party adopt legislative or other measures to protect asylum-seeking and refugee children, in particular those who are unaccompanied or separated. In this respect it should take into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6). It further recommends ensuring that asylum-seeking and refugee children have an adequate standard of living, including water and food, as well as access to health care services and schools without discrimination.**

Children in armed conflict

68. The Committee is concerned that local communities near the Northern border are unduly affected in their daily lives by violence by foreign non-state armed groups who,

inter alia, recruit and abduct children and sexually abuse them; by lack of services; and, by the disruption of normal commercial and other economic, social and cultural activities. The impact on children's development and exercise of rights is evident as seen in low school attendance and completion rates, the high incidence of mortality and morbidity, accidents, etc.

69. **The Committee urges the State party and the international community to provide local communities affected by conflict and the presence of non-state armed groups, with secure access to quality services, especially those for children and adolescents, and ensure their means of maintaining a safe and protected environment.**

Economic exploitation including child labour

70. The Committee welcomes the amendment to the Labour Code which sets the minimum age for employment at 15 years and the National Action Plan for the Prevention and Progressive Eradication of Child Labour, both from 2005. It is however concerned that many young children perform harmful work, such as domestic work with characteristics of slavery, and hazardous work in garbage dumps, banana plantations and the mining industry, including forced labour, and that many of these children do not attend school.

71. **The Committee recommends that the State party:**

(a) **Continue and strengthen efforts to eliminate child labour and its worst forms by, inter alia, enforcing the Labour Code and ILO Convention no 182 on the worst forms of child labour, ensuring effective monitoring and imposing effective penalties in case of violations of the provisions related to child labour;**

(b) **Ensure that children are enrolled in school and are protected from the harmful effects of child labour;**

(c) **Collect reliable data on working children disaggregated by, inter alia, age, sex, ethnic, socio-economic background and geographical/administrative location, including those who work in the informal sector, inter alia as domestic workers, and monitor their condition;**

(d) **Respect the right of the child to be heard while measures are being developed and applied to eliminate child labour in all its forms; and**

(e) **Continue to seek assistance from the ILO/IPEC programme.**

Children in street situations

72. While welcoming measures taken by the State party to eradicate children begging in the streets at Christmas time, the Committee is concerned at the high number of children in street situations, who are exposed to violence, sexual and economic exploitation and discrimination.

73. **The Committee recommends that the root causes of children in street situations be addressed with a view to ensuring their return to a caring and protective family environment and exercise their rights as children. In doing this, children should be duly heard. The Committee recommends that the State party raise public awareness of the situation of children living in the streets and combat misconceptions and prejudices.**

Sexual exploitation and abuse

74. The Committee welcomes the 2007 National Tourism Plan (PLANDETUR) aimed, inter alia, at preventing the commercial sexual exploitation of children. It is however concerned at the inadequate measures in place to prevent sexual exploitation of children,

and the low number of prosecutions for these offences. It is also concerned at the high rate of children who are victims of sexual abuse and the lack of information on the exact nature of these cases, and that they seem not to have been properly investigated and prosecuted.

75. The Committee recommends that the State party:

(a) Train prosecutors, judges and other public officials on how to identify, investigate and sanction sexual exploitation and abuse of children, being sensitive to their rights to privacy, confidentiality and special needs;

(b) Collect statistics on the victims disaggregated by the nature of the offence, sex, age and ethnicity in order to monitor properly; and

(c) Implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims, in accordance with the outcome documents adopted at the 1996, 2001 and 2008 World Congress against Sexual Exploitation of Children.

Sale, trafficking and abduction

76. The Committee welcomes the 2006 National Plan to Combat Human Trafficking, Smuggling of Migrants, Sexual Exploitation, Labour Exploitation, Prostitution, Pornography and Other Forms of Exploitation of Women and Children. However, the Committee remains concerned at the high number of children trafficked internationally as well as within the country, from border and Central Highland areas to urban centres, for commercial sexual exploitation as well as for domestic servitude, forced begging, and forced labour in mines and other hazardous work. It is further concerned that some children are sold by their parents for forced labour, and that if recovered, these children may be brought back to live with their parents.

77. The Committee recommends that the State party;

(a) Investigate and prosecute sale and trafficking offenses and prosecute and punish all the perpetrators, particularly at the local level;

(b) Increase training for law enforcement and other public officials;

(c) Develop a comprehensive strategy to monitor and identify child victims of sale and trafficking among children who are most susceptible to these practices; and

(d) Take all necessary measures, including educational and financial support, to prevent parents from selling their children.

Administration of juvenile justice

78. The Committee welcomes that the 2008 Constitution establishes a new specialized system of justice for children in conflict with the law (article 341), that it indicates expressly that deprivation of liberty will only be used exceptionally and that children will be detained separately from adults. It also appreciates positively that the draft Code on Criminal Guarantees maintains four years as the maximum length for privation of liberty. However, the Committee is concerned that:

(a) The drafting of the Code on Criminal Guarantees (Código de Garantías Penales) is moving away from a specialized system of justice for children;

(b) The special norms on juvenile justice have not been analyzed and harmonized, are not of the appropriate standard, and do not have corresponding mechanisms and regulations;

(c) An appropriate system for juvenile justice is still not in place, there is a lack of juvenile judges, and there are reports that children are held together with adults in police cells and pre-trial detention centres;

(d) The lack of statistics on children entering custody and the duration of their stay; and

(e) The insufficient information provided on the treatment of children below 12 (present minimum age of criminal responsibility) in conflict with the law or at the existence of any system for resolution of conflicts with the law outside of the judicial system, as per Art. 40 of the CRC.

79. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the Committee urges the State party to take into account the Committee's general comment No. 10 (2007) on the Administration of Juvenile Justice (CRC/C/GC/10). It also recommends that the State party:

(a) Ensure that the new Código de Garantías Penales is harmonized with the 10-year National Plan of Action for the Comprehensive Protection of Children and Adolescents 2004-2014 consecrated in the Constitution and establishes a specialized system for juvenile justice integrated within the Decentralized National System for the Comprehensive Protection of Children and Adolescents;

(b) Ensure that the specialized Juvenile Justice system is separated from the adult penal system in terms of norms on procedures, sanctions, and execution of sentences and ensure that children are always separated from adults in all detention facilities, including in police stations' cells;

(c) Consider arising the present minimum age of criminal responsibility;

(d) Develop non-judicial alternatives to the deprivation of liberty, such as probation, community service or suspended sentences, wherever possible;

(e) Provide sufficient specialized courts in all the regions, with trained specialized judges and staff, including prosecutors, lawyers, law enforcement officials and social workers;

(f) Take preventive measures in order to help eliminate the social conditions leading children to enter into contact with the criminal justice system;

(g) Ensure that all children who have not attained the age of criminal responsibility but are in conflict with the law are treated by civil or administrative authorities in line with the Convention and international standards; in particular, ensure that they have access to socio-educational measures that are alternatives to any form of deprivation of liberty and/or institutionalization; and

(h) Seek technical assistance in the area of juvenile justice from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.

Protection of witnesses and victims of crimes

80. While noting the existence of a Victim and Witness Protection Programme and that the Code on Children and Adolescents establishes administrative and judicial measures to

ensure that rights are protected and restored, the Committee is concerned about the inadequate recovery and reintegration services provided to child victims, especially those of sexual exploitation.

81. **The Committee recommends that the State party incorporate a child rights focus in justice and law enforcement institutions and increase budgetary allocations for the administration of justice. It also recommends that the State party ensure, through adequate legal provisions, procedures, and regulations, that all child victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking as well as witnesses of such crimes have effective access to justice and be provided with the protection required by the Convention, taking fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).**

Children belonging to indigenous groups

82. The Committee welcomes the constitutional definition of Ecuador as a plurinational and intercultural State as well as the participatory process and framework of understanding that has produced the Agreement between the State and Indigenous Peoples and Nationalities for Children as well as the Plan for Good Living from the Beginning of Life, which encompasses the Minimum Agenda for Indigenous Children of Ecuador. It also welcomes current efforts to define and implement local goals for protection and promotion of indigenous children's rights in 54 cantons. Nevertheless, and in line with Art. 30 of the Convention and having noted the serious breaches to the principle of non-discrimination as they affect indigenous children and girls of all ethnic origins, it remains concerned at the insufficient application of the intercultural bilingual education system and the low budgetary allocation per capita to the educational system in provinces with majority indigenous population, and the lack of information on its evaluation. Likewise, it notes with concern the barriers for adolescents to have access to culturally and gender-sensitive sexual and reproductive health information and education.

83. **The Committee recommends that the State party take all necessary measures to protect the rights of indigenous children, respect their culture and guarantee their enjoyment of the rights enshrined in the national constitution, domestic law and in the Convention. In this regard, the Committee refers the State party to its general comment no. 11 (2009) on Indigenous Children and their rights under the Convention (CRC/C/GC/11). The Committee also recommends that the State party implements the Minimum Agenda for Indigenous Children in Ecuador, fully respecting its nature and the participatory process that originated it, trains indigenous and local leaders accordingly as well as related public services staff and provides adequate resources, ensuring that monitoring and evaluation mechanisms are put in place. The Committee encourages the State party to continue strengthening the intercultural and bilingual education, paying due attention to the culture of indigenous children in accordance with article 30 of the Convention.**

9. Ratification of international human rights instruments

84. **The Committee recommends that the State party ratify the core United Nations human rights instruments to which it is not yet a party, namely the Optional Protocol to the Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention against Torture.**

10. Follow-up and dissemination

Follow-up

85. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the Head of State, Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action.

Dissemination

86. The Committee further recommends that the fourth periodic report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available to the public at large, including notably children, youth groups and civil society organizations, in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

87. In the light of the recommendation on reporting periodicity adopted by the Committee and described in its reports CRC/C/114 and CRC/C/124, and noting that the State party's fifth periodic report is due within two years after the consideration of its fourth report, the Committee invites the State party to submit a consolidated fifth and sixth periodic report on 7 March 2016 (i.e. 18 months before the date established in the Convention for the submission of the sixth periodic report). This report should include information on the implementation of the Optional Protocols to the Convention, and should not exceed 120 pages (see CRC/C/118).
