



## **Plan's UPR submission**

# **Ecuador**

June 2012

## **Children and adolescent's rights in Ecuador**

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## **1. INFORMATION ABOUT PLAN INTERNATIONAL**

1. Plan is an international, non-profit, child-centered, rights-based development organization with a focus on gender perspective. It does not have any religious, political or governmental affiliation, and takes into account the social context where it operates. Plan has been working in Ecuador since 1963; its activities in the country aim at promoting rights for the improvement of communities and human groups with low technological and economic resources in sub-urban and rural areas of the country. Plan's approach in Ecuador focuses on child-centered community development<sup>1</sup>, seeking to: contribute to the implementation of State policies as part of its role as duty bearer; promote the society's role as secondary duty bearer; promote the defense and protection of children and adolescents as right-holders.

## **2. MAIN ASPECTS OF THE REPORT**

2. This report addresses the situation of girls, boys and adolescents in Ecuador in the last four years and identifies the issues that represent a challenge to the full implementation of their rights, such as access to education, violence, sexual abuse, teenage pregnancies, maternal mortality, HIV, minimum age for criminal responsibility, birth registration and the creation of institutions that work for children's rights.

## **3. FIRST PART: PROGRESS IN THE PROMOTION AND PROTECTION OF CHILDREN'S RIGHTS**

### **a. Legislation**

3. The Constitution of the Republic of Ecuador entered into force in September 2008; the Constitution represents a significant step forward for the promotion and protection of

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<sup>1</sup> Plan International Ecuador's website is [www.plan.org.ec](http://www.plan.org.ec).

children's and adolescents' rights. It contains a section on children's rights and the obligations of the state, the society and the family to promote them, with a primary concern for the child's best interests<sup>23</sup>. It also highlights the need for special protection measures for children and adolescents against any type of labor or economic exploitation and against all forms of violence, ill-treatment, sexual exploitation or any other type of exploitation, or against neglect which causes such phenomena<sup>4</sup>. Additionally, the Constitution establishes a National Decentralized System for Integral Protection – SNDPINA which includes public, private and community organizations<sup>5</sup>.

4. Secondary Laws: It is important to mention the progress made in terms of special protection and the right to food incorporated in the Code of Children and Adolescents<sup>6</sup> in order to cover the needs of abandoned children. The criminal code<sup>7</sup> has been modified to include the criminalization of violations of the child's sexual integrity – including violations committed by the military or police officers. It also criminalizes the recruitment of girls, boys and adolescents into the armed forces or armed groups. The Intercultural Education Law<sup>8</sup>, which entered into force in March 2011, guarantees that interculturalism and pluri-nationalism are taken into consideration by the whole national education system.

## **b. Public Policies**

5. National Plans: The National Plan for a Good Life (*Plan Nacional del Buen Vivir –PNBV-2009-2013*) and the National 10-Year Plan for the Integral Protection of Children and Adolescents (*Plan Nacional Decenal de Protección Integral a la Niñez y Adolescencia 2004-2014*) include goals and objectives for the protection of girls, boys and adolescents<sup>9</sup>. In the same way, the 2008 Plan for the Eradication of Sexual Crimes in Education (*Plan de Erradicación de Delitos Sexuales en el Ámbito Educativo*) and the National Plan Against Gender Violence (*Plan Nacional contra la Violencia de Género*), as well as the Plan for the Prevention of Teenage Pregnancies (*Plan de Prevención de Embarazo en la Adolescencia*) are a step forward. Since 2010 local public policies have been in the process of discussion and approval; such policies were designed with the participation of authorities from different governmental levels<sup>10</sup>. Regarding the creation of institutions, the Ministry of Economic and Social Inclusion –MIES- created Rights Protection Centers and the Ministry of Health gave priority to cases of violence, with the creation of First Aid and Primary Health Care Rooms.

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<sup>2</sup> Arts. 44 point 1 and point 2 establishes that: “Girls, boys and adolescents have the right to physical and psychological integrity; to an identity, name and citizenship; to integral health and nutrition; to education and culture; to sports and recreation; to social security; to have a family and enjoy family and community coexistence; to social participation, to the respect for this freedom and dignity” as 46 of the Constitution of the Republic of Ecuador – CRE.

<sup>3</sup> Art. 35 CRE highlights that girls, boys and adolescents are Priority Attention Groups. The same Art. 66, establishes the Right to a Life free of Violence, making emphasis on the integral physical, psychological and sexual integrity.

<sup>4</sup> Arts. 44, 45, 46 CRE

<sup>5</sup> Art. 341 CRE

<sup>6</sup> Law without number (Supplement of Official Gazette 544, 9-III-2009) and Law without number (Supplement of Official Gazette 643, 28-VII-2009).

<sup>7</sup> Reforming Law to the Criminal Code for the categorization of criminal offenses committed during the army or police services published in the Official Gazette 196 dated May 19<sup>th</sup>, 2010.

<sup>8</sup> Approved on March 31st, 2011

<sup>9</sup> Objective 9 of the National Plan for a Good Life (PNBV) is aimed at ensuring all people the respect for their human rights and the Access to justice, equality between men and women, integral protection of boys, girls and adolescents, and the promotion of social, impartial, democratic, intergenerational and transnational justice with solidarity.

<sup>10</sup> Currently, a process for the discussion and approval of provincial public policies is under implementation in 24 provinces in Ecuador with the participation of authorities and civil society.

#### 4. SECOND PART: PENDING ISSUES AND RECOMMENDATIONS

##### a. Access and quality of education

6. According to the Ministry of Education, the net enrollment rate for the ten grades of primary education reached 94.8% in 2010 while the enrollment rate for secondary education for adolescents aged 15 to 17 was 59.4%<sup>11</sup>. The total number of children aged 0 to 4 years and 11 months attending early-childhood education is 448,316 (only 31% of children from this age group). Another issue of concern is the limited training provided to the professionals in charge of early childhood education centers, as well as the lack of a governing body responsible for regulation and control of services.
7. Despite the progress made in terms of access to education, in particular to primary education, the quality of education in Ecuador still needs improvement. While welcoming the efforts made by the government to improve school infrastructure, it seems important to point out that it is still not appropriate for the learning environment, and safety is not ensured, considering the high risks of earthquakes. Education is mainly focused on the transmission of content, memory development and repetition, and the contents are not updated with the scientific and technological developments. According to the Citizen's Agenda for Education 2007 – 2015, 21.3% of students who completed the fourth level of primary education do not understand what they read, cannot be understood when they write, and cannot perform basic mathematic operations. This problem affects 32% of students in the rural areas. In the evaluation tests called Aprendo 2007, students received an average grade of 11 out of 20 in language skills, and an average grade of 6.6 out of 20 in mathematics.

##### *Recommendations:*

8. **The government should increase its efforts to ensure access to quality education for all children, including children belonging to disadvantaged groups; in particular, adopt policies to ensure that primary education is compulsory and universal<sup>12</sup>, and provide adequate training to professionals and teachers<sup>13</sup> to ensure quality and dedication of the educational services provided for children under 5 years old.**
9. **Increase efforts to improve the enrollment rate of children aged 15 to 17 years for the first three years of secondary education, by using new distance, semi-distance and on-campus learning methods.**
10. **Strengthen its efforts to guarantee that appropriate human, technical and financial resources are allocated to ensure access to quality education for all children; increase budget allocation for the improvement of school infrastructure; provide training for teachers on relevant pedagogical models; develop performance standards and indicators and ensure that quality of education is monitored and guaranteed; review school curricula and programs to ensure they reflect the country's cultural diversity and include traditionally excluded population groups such as indigenous people, people of African descent and people with disabilities.**

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<sup>11</sup> DINEIB, AMIE 2009 – 2010, INEC. ENEMDU - INEC December 2009, AMIE 2009 – 2010. Ministry of Education

<sup>12</sup> Advocating for the improvement of national formal and non-formal plans and programs at all levels. These plans should be relevant and should respond to the ethnic, geographical and cultural diversity. Achieving equality in the access without exclusion implies that no boy or girl must be out of the educational system, protecting languages, visions and customs, generating significant and transcendental learning, teaching to learn.

<sup>13</sup> To ensure appreciation for the teachers' career, having qualified and well-paid teachers to ensure quality of education at all levels. To reinforce the educational evaluation system and the access to teaching profession.

## **b. Sexual Abuse in Ecuador**

11. In the last 20 years, the magnitude of sexual abuse has not changed in the country. Research carried out in 1991 by Defence for Children International (DCI) showed that in Ecuador 3 out of every 10 children interviewed (3%) have been subject to sexual abuse. In 2009, another research<sup>14</sup> carried out by the Ministry of Economic and Social Inclusion and the Institute for Children and Families (MIES-INFA) and DCI, indicated that 2.8% of the surveyed children, have been experiencing one of the following types of sexual abuse at least once in their lives: genital touching (24.8%), sexual harassment (21.3%), exposure of genitals (18.7%), vaginal or anal penetration (8%), oral sex (6%), child pornography (3.4%).
12. The damaging effects of sexual abuse on children and adolescents –in most cases perpetrated by relatives – are, *inter alia*, severe psychological and emotional harm, causing negative feelings such as: fear (38.7%), shame (29.4%), guilt (11.1%), and anger (10.6%). Regarding silence breaking, 34.7% of children reported to have shared the secret with a friend, 28% said nobody knew about it, 15.5% told the secret to his/her mother, 11.5% told their brothers or sisters, 9.3% told to his father and only 1.4% told to his/her teachers<sup>15</sup>.

### ***Recommendations:***

13. **The government of Ecuador, through the Ministry of Education, should ensure the implementation of effective educational prevention programs aimed at promoting deep changes in power relations among adults and children in order to transform cultural patters<sup>16</sup> related to sexual submission, tolerance and silence, to develop the capacity of girls, boys and adolescents in order to to identify situations of sexual abuse and to break the silence and to receive immediate support and protection.**
14. **Ensure that necessary resources are allocated for investigations of cases of sexual abuse, with particular attention to the most vulnerable groups such as children who do not attend school and children with disabilities. The Ministry of Economic and Social Inclusion and the Institute for Children and Families should implement special protection services in favor of excluded population groups, and prioritize the improvement of the coverage and quality of services to ensure that all child victims have access to adequate procedures to seek, without discriminatzion, compensation for physical, psycho-emotional, social-family, legal and educational damages from those legally responsible.**

## **c. Violence against children, including domestic violence, violence in schools and bullying**

15. Violence against children within the family continues to be an unacknowledged reality that has not yet been adequately and sufficiently addressed by any public policy. 58% of children aged 5 to 11 years old and 22% of adolescents aged 12 to 17 years old are subject to corporal punishment. In 2010, 4 out of 10 children 5 to 17 years old(41%) were subject to corporal punishment by their parents as a disciplinary method. In addition, 74% of children reported having been subject to verbal abuse (scolding and insults).<sup>17</sup>

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<sup>14</sup> MIES/INFA y DNI, Report 2009 on Sexual Abuse, Quito, 2009 pgs. 80-124

<sup>15</sup> MIES/INFA y DNI, Ob. Cit, pg. 99

<sup>16</sup> Promoting permanent information campaigns at community level that help to identify sexual abuse and responsibilities of adults in terms of prevention, complaint, compensation of damages and cultural changes required to eradicate this social phenomenon.

<sup>17</sup> ODNA, ibidem.

16. The school is the second on the list of places where violence against children occurs. Violent forms of punishment increased from 27% in 2004 to 30% in 2010. Insults and mockery increased by 2% in 2010. Teachers continue using violent disciplinary methods. Children (14%) are hit by their teachers five times more than adolescents (3%).<sup>18</sup>
17. Bullying among peers is a growing problem that is not being addressed, and the extent of its effects on children and adolescents has not yet been analysed. Research carried out by the Observatory of Children and Adolescents' Rights (ODNA)<sup>19</sup> in 2010 showed that children 8 to 17 years old are affected by: verbal bullying (insults and mockery) (71%), abusive behaviors (66%) ; fights (66%); discrimination for being different (60%); destruction (55%) and theft (51%) of their personal belongings; and by the creation of violent gangs (13%).

**Recommendations:**

18. **In accordance with the commitments made during the meeting *Encuentro Niño Sur*<sup>20</sup> held in 2011 between the State and civil society, it is necessary that the State continues with the elaboration of a participatory roadmap for the implementation of public policies, coordination of actions, creation of an information system and the strengthening of capacities and responsibilities of civil society, including the family and the school, in favor of respectful treatment and non-violent behavior, and the eradication of structural violence. In addition, it is necessary to ensure the adoption of measures for the prevention of physical, psychological, emotional and sexual violence by promoting non-violent values<sup>21</sup> and through public awareness campaigns that should include, mothers, fathers and other caretakers.**
19. **At the school level, it is necessary to promote school governments and the creation of Codes of Coexistence with greater participation of girls, boys and adolescents and the commitment of the educational community, including families , to uphold a culture of respectful treatment and a better understanding of the effects of violence on the relationships between teacher and student, as well as between parents and children, and among peers.**

**d. Teenage Pregnancy, Maternal Mortality and HIV**

20. Of the total number of maternal deaths, 10% of them occurred among adolescent mothers. Of the 128,530 single spontaneous deliveries, 22% of them were born from adolescent mothers. Of the 556 spontaneous abortions, 96 cases (17%) occurred among teenagers and of the 18,381 non-specified abortions, 2,949 cases (16%) occurred among teenagers too. One in every ten maternal deaths occurs among adolescents<sup>22</sup>. In terms of HIV prevalence, the National AIDS program reported a significant increase among adolescents.

**Recommendations:**

21. **The government should increase its efforts to ensure that sexual education is included in school curricula<sup>23</sup>, with total coverage from primary education up to**

<sup>18</sup> ODNA, Ob. Cit., pgs. 46 and 47

<sup>19</sup> ODNA, Ob. Cit, pgs 48 and 49.

<sup>20</sup> Meeting on April 21st and 22nd, 2011 in Paraguay about the Follow up on the VAC study Recommendations, UN, 2005 .

<sup>21</sup> Also consider paragraph 53, 54 and 55 of the Report of the Children Rights' Committee about Ecuador, CRC/C/ECU/4

<sup>22</sup> National Plan for the Accelerated Reduction of Maternal and Neonatal Mortality in force since 2008  
The study carried out by Plan and UNICEF identified the following gaps: the lack of equipment for the attention of children in the rural areas and limited understanding of names in their native language.

<sup>23</sup> The goal is to ensure that sexual education goes beyond the classroom and it is institutionalized in all social structures: family, school, private institutions, market, media, and the church in order to promote a true change in

secondary education, and with the inclusion of mothers, fathers and caretakers. The programs should promote the analysis and modification of power structures and relationships among men and women, adults and adolescents, and of cultural patterns<sup>24</sup>. In addition, equal opportunities for men and women, girls and boys should be promoted by ensuring the understanding, respect, promotion, claim and exercise of sexual and reproductive rights with a gender perspective and respect for children's rights.

#### **e. Birth Registration**

22. The violation of the right to birth registration in Ecuador generates violations of other social rights such as access to education, which affects most excluded sectors such as indigenous and afro-descendant population, daughters and sons of migrant families. Even though there are governmental programs<sup>25</sup> aimed at the universalization of birth registration, there are still administrative and geographic gaps to be filled.
23. According to the ODNA, one out of every 10 children under 5 years of age does not enjoy the right to a name in this country. Gender, region and ethnicity continue to be determinant factors for the exercise of the right to a name; for this reason, a higher percentage of boys are registered in comparison with girls<sup>26</sup>. Only 69% of afro-descendant children have been registered.

#### **Recommendations:**

24. **The government should ensure that permanent and automated birth registration services are established in all pre and post-natal care health institutions; ensure that such services are established throughout the whole country, including in rural areas, and are accessible to all people, including indigenous people and people of African descent, as well as to guarantee the right of every child to a name and nationality, including for children of migrant parents.**

#### **f. Minimum age of criminal responsibility**

25. The current project of penal reform submitted by the Presidency of the Republic<sup>27</sup> includes a proposal for the reduction of the age of criminal responsibility from 18 years (current) to 16 years of age. The approval of this bill will certainly constitute a step back in the protection of children's rights<sup>28</sup>.

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the culture of prohibition in the access to information, trading of women's body, sexual violence, macho attitude, discrimination and homophobia.

<sup>24</sup>Data from the Cultural Patterns study that have influence on the education for sexuality, carried out by Plan International Ecuador, 2011.

<sup>25</sup> Manuela Espejo Campaign of the Vice President of the Republic that provides coverage for people with disabilities, as well as the Civil Registration with brigades.

<sup>26</sup> ODNA, ob. Cit, pg. 87

<sup>27</sup> Bill for the Integral Criminal Organic Code submitted to the National Assembly on October 13, 2011.

<sup>28</sup> CNNA, Adolescents in Conflict with the Law, Quito, August 2010. On page 7 the research indicates that "by June 2010, at national level there are 606 adolescents are under arrest, which represents 0.05% of the adolescents population aged 14 to 17 years old. If we consider the total population of adolescents in the country (from 12 to 18 years old), the percentage of adolescents under arrest is 0.03%".

26. Despite the existence of alternative measures to detention currently in force that are applicable to all adolescents between 12 and 17<sup>29</sup> -which include, *inter alia*, warnings, family orientation and support, compensation for the damages, community services, probation, home detention, institutional detention - detention is the most used measure, having greater impact in the development of adolescents, according to the Ministry of Justice.

**Recommendations:**

27. **The State must guarantee the respect of the principle of non-regression of rights, and fulfill the provisions of the Convention on the Rights of the Child, i.e. not to lower the minimum age for criminal responsibility as proposed. It is then necessary to work for the true implementation of social-educational measures to ensure that detention is only used as an exceptional measure, for the shortest appropriate time and in appropriate conditions. In doing so, the government should ensure that community is involved and more specialization of justice officers working with and for children is promoted.**

**g. Institutions for Childhood**

28. The 2008 Constitution envisages the creation of National Councils for Equality<sup>30</sup>. For children, a National Intergenerational Council will be set up to replace the current National Council for Children and Adolescents. The new Council will cover the rights of children, adolescents, youth and older adults. The concern is that a drawback in the progress made by the National Decentralized Integral Protection of Children and Adolescents System is likely to occur, and consequently the Absolute Priority principle might not be applied. A loss in the specificity and specialization of services and institutions for the promotion and protection of children and adolescents' rights is also likely to occur.

**Recommendations:**

29. **The State should guarantee that the new institutions preserve the specificity and specialization as well as the experience and strength of the National Decentralized Integral Protection of Children and Adolescents System<sup>31</sup>. In order to achieve this, a greater articulation among different governmental levels in order to coordinate actions and a better implementation of provincial ordinances with allocated budget in favor of girls, boys and adolescents is needed.**

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<sup>29</sup> Art. 369 of Children and Adolescents Code: "Social-educational measures are actions taken by judicial authorities once the responsibility of the adolescent has been declared in an event categorized as a criminal offense. The purpose is to ensure the social integration of the adolescent and the compensation for the damages"

<sup>30</sup> According to Art. 156 of the Constitution, gender, ethnicity, generational, intercultural, disabilities and human mobility aspects are considered.

<sup>31</sup> Also consider paragraph 14 of the Report of the Children Rights Committee on Ecuador CRC/C/ECU/4.