



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Summary record of the 1476th (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Tuesday, 19 January 2010, at 3 p.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 3 p.m.

Consideration of reports of States parties (*continued*)

Initial report of Ecuador on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued)

(CRC/C/OPAC/ECU/1; HRI/CORE/1/Add.7; CRC/C/OPAC/ECU/Q/1;
CRC/C/OPAC/ECU/Q/1/Add.1)

1. *At the invitation of the Chairperson, the delegation of Ecuador took places at the Committee table.*
2. **Ms. Melo Jácome** (Ecuador) said that the Ministry of Foreign Affairs, Trade and Integration and the Ministry of the Interior and the Police had established a refugee care and protection strategy aimed specifically at the most vulnerable among them, namely children. The National Family and Children's Institute had introduced procedures for monitoring the situation of refugee children. Unaccompanied minors were placed in the charge of the Office of the United Nations High Commissioner for Refugees, which provided psychological support and access to health care and education. In addition, the Directorate-General for Refugees in the Ministry of Foreign Affairs had agreed to the issuance of identity documents to unaccompanied minors, priority being given to those holding a refugee visa.
3. The Ministry of Foreign Affairs was the only body authorized to issue such documents to refugees, including both temporary three-month certificates issued pending the granting of a visa, and of the visa itself. In order to help refugees settle, families received microcredits for setting up a small business and meet their own needs. In the northern border regions, refugees were allocated arable land, and many programmes were implemented for them in collaboration with local authorities, notably as part of the "Cities of Solidarity" programme. Coordinated measures were developed by the Ministry of the Interior and the Ministry of Foreign Affairs and implemented jointly with local non-governmental organizations (NGOs).
4. The indigenous population groups in the northern border region had often settled on both sides of the border and therefore crossed it regularly. Consequently, it was difficult to check whether children were recruited into armed opposition groups on the other side of the country's national borders, particularly in Colombia. In any case, the Ecuadorian Criminal Code prohibited child recruitment in all its forms.
5. Any young refugees denied access to secondary education for lack of the necessary documents could ask the Ministry of Foreign Affairs to attest in writing that the only document required for school enrolment was the refugee visa. Pupils unable to produce a transcript or certificate endorsed by their country's authorities needed to take an achievement test in order to be enrolled in the most appropriate class.
6. **The Chairperson** expressed concern at the huge discrepancy between the State party's statistics on the number of child soldiers in Ecuador and those provided by the Child Soldier organization. Under the Optional Protocol, former child soldiers must benefit from specific care and rehabilitation measures different from those proposed for child refugees, hence the importance of identifying former child soldiers and ascertaining their number.
7. **Ms. Melo Jácome** (Ecuador) said that the Directorate-General for Refugees estimated that only some 20 of all refugee children in Ecuador were ex-combatants. Considered to be particularly vulnerable, they were given psychological and educational support in Quito to ensure their reintegration into society. Ecuador was neither involved in nor the scene of any internal conflict.

8. **Mr. Díaz** (Ecuador) added that, as part of the process of strengthening the decentralized national system for the protection of children and adolescents and in collaboration with the Colombian Government, a programme had been implemented on the northern border to inform all children in the region of their rights, particularly with regard to health and education.

9. The Ministry of Human Rights, the Ministry of Justice, the National Council for Children and Adolescents, the Ministry of the Interior and the Police, and the Office of the Prosecutor were working together to update the justice database, which should help to provide a fairly accurate picture of the situation of minors in that regard and to establish indicators on violence and abuse. The project should be completed by October 2010. The National Council for Children and Adolescents had carried out two studies on human trafficking and population movements.

10. **Ms. Sevilla Rueda** (Ecuador) said that international instruments were directly applicable in domestic legislation and did not require implementing legislation.

11. The Government had not drawn up a list of children involved in armed conflict but, since 2005, under the Criminal Code it was an offence to recruit children for that purpose.

12. Ecuador was not a member of the Southern Common Market (Mercosur) but had entered into an agreement with member countries, whereby all parties had undertaken to keep a common register recording minors' entry into and departure from the national territory, the relationship between the minors and the adults accompanying them across the border, and their final destination.

13. Military service was no longer compulsory and enlistment was voluntary. Only persons aged 18 years and over could be recruited, with no exceptions. The delegation had taken note of the fact that the air force website referred to children of 17 years of age and would bring that issue to the attention of the relevant authorities.

14. **Ms. Herczog** said that she did not see how the State party was able to keep a register of minors crossing the border, given its permeability and, consequently, how it managed to combat trafficking in human beings.

15. **Mr. Pollar** asked how the State party could enforce international instruments in the absence of implementing decrees. The State party should amend its criminal legislation and establish penalties for acts covered by the Convention on the Rights of the Child and its Optional Protocols.

16. **Ms. Sevilla Rueda** (Ecuador) said that, in the event that a child was recruited into the armed forces, the judges to whom the case was referred would interpret the Convention to make a ruling, with due regard to the best possible protection for the child concerned. In the chapter on trafficking in human beings, the Criminal Code established penalties for the recruitment of minors and their use in armed conflict and provided for a heavier penalty if the minor concerned was under 14 years of age.

17. With respect to trafficking in children, any attempt to bring a child into Ecuador illegally, including with false papers, was recorded in a register. Such children were immediately placed in protective care while the competent authorities organized their return, in collaboration with the authorities in the country of origin.

18. **Mr. Filali** asked how the State party ensured that minors did not take a direct part in hostilities. He wished to know whether armed opposition groups could recruit children in Ecuador, particularly given the proximity of Colombia. What was the situation of Colombian children who had fled their country and were now in Ecuador?

19. **Mr. Sánchez Cobo** (Ecuador) said that his country was about to institute far-reaching legislative reforms and that, as part of that process, the Criminal Code, the Civil

Code and the Children's and Adolescents' Code would be revised and brought into line with the 2008 Constitution. Accordingly, all the codes needed for the implementation of the Convention and the Optional Protocols would be prepared or revised, as appropriate.

20. **Ms. Melo Jácome** (Ecuador) pointed out that international human rights instruments took precedence over the Constitution.

21. Even though the northern borders were permeable, Ecuador carried out migration controls and was implementing programmes, in collaboration with NGOs, to prevent the trafficking and recruitment of children and their use in armed conflicts.

22. **Mr. Díaz** (Ecuador) said that a peace education workshop had recently been held in the northern provinces on the border with Colombia, raising awareness among Ecuadorians and Colombians of the problem of the recruitment of children into armed forces. Other similar workshops would be organized over the next two years.

23. **Ms. Vaca Jones** (Ecuador) explained that the Ministry of Education had introduced a system of bonuses for teachers accepting a post on the northern border, which had led to abandoned schools being reopened, thereby preventing out-of-school children from being recruited into armed groups.

24. **Ms. Melo Jácome** (Ecuador) added that the State had stepped up the police presence in the country's northern provinces to prevent the recruitment of children.

25. **The Chairperson** asked what steps the State party was taking to generate awareness in schools of the Optional Protocol on the involvement of children in armed conflict and to provide peace education.

26. He would also like to know how the State assessed the age of persons who had not been registered at birth and who wanted to join the army. Could a person without identity documents be enlisted in the armed forces?

27. **Mr. Sánchez Cobo** (Ecuador) said that his country disseminated the principles of the Optional Protocol as part of peace education workshops that included children. No one without identity documents could join the army.

Initial report of Ecuador on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/ECU/1; CRC/C/OPSC/ECU/Q/1; CRC/C/OPSC/ECU/Q/1/Add.1)

28. **Ms. Sevilla Rueda** (Ecuador) said that the Ministry of Tourism had launched a campaign to raise awareness among children and adolescents of the problem of sex tourism.

29. **The Chairperson** asked whether the State party was carrying out awareness-raising and information activities for tourism professionals, such as hoteliers, transport operators and restaurateurs.

30. **Ms. Sevilla Rueda** (Ecuador) explained that, since 2005, anyone participating in any manner in the trafficking or sexual exploitation of children, including owners or managers of tourism establishments, was liable to criminal sanctions.

31. The Ministry of Tourism had taken steps to encourage tourism professionals to introduce labelling schemes to certify measures taken to combat sex tourism.

32. **Ms. Melo Jácome** (Ecuador) said that all measures to combat child trafficking formed part of the national plan to combat trafficking in persons drawn up in 2006 with several objectives: to investigate alleged cases of trafficking, punish perpetrators, provide compensation for victims and place the emphasis on prevention. The Ministry of Justice,

the Ministry of Education, the Ministry of Tourism and the Ministry of Health were among the 14 public bodies involved in its implementation.

33. The State was also developing a consular assistance protocol for victims of trafficking in persons that was designed to raise awareness among Ecuadorian consular staff of the problem of such trafficking and of assistance measures for victims and was supported by online training.

34. **The Chairperson** asked whether there was a precise legal definition of the sale of children, child prostitution and child pornography.

35. **Mr. Koompraphant** asked why the number of criminal prosecutions against the perpetrators of offences involving the sexual exploitation of children was so low.

36. **Ms. Melo Jácome** (Ecuador) said that the situation was due to the fact that judges, prosecutors, doctors, police officers and other professionals had only recently received awareness training on the sexual exploitation of children and that few of them were specialists in the field.

37. **Mr. Díaz** (Ecuador) added that police officers had been trained to provide psychological support to victims of sexual exploitation.

38. **Mr. Sánchez Cobo** (Ecuador) said that the National Institute for Children and the Family (INNFA) was funding a project focused on prevention, protection and assistance, whereby child victims of sexual exploitation had been cared for, socio-economic support had been provided to many families, with interventions in 30 high-risk communities. The project had been in place for two years and was supported by five NGOs. An emergency hotline had been set up so that victims could seek help and lodge complaints. The project was also designed to dismantle Mafia networks which had infiltrated even public bodies, including the police force.

39. **Ms. de los Ángeles Páez** (Ecuador) said that child labour inspectors had received training from the International Organization for Migration (IOM) on the application of a protocol to assist victims of trafficking.

40. Ecuador had succeeded in dismantling child pornography networks thanks to its collaboration with NGOs, the prosecutor's office and special police units for children and adolescents. A school in Quito where child pornography was being produced had been closed through the efforts of a committee for the defence of human rights.

41. **The Chairperson** asked whether offences covered by the Optional Protocol were defined in the State party's Criminal Code, what penalties could be imposed and whether legal persons could be prosecuted.

42. **Mr. Filali** expressed regret at the fact that offences covered by the Optional Protocol were not specifically defined in Ecuador's domestic legislation and asked whether there were any plans to remedy the situation.

43. **Ms. Sevilla Rueda** (Ecuador) said that offences relating to the sale of children, child pornography and the sexual exploitation of children were defined by the Criminal Code and carried a penalty of 25 years' imprisonment. Only natural persons could be prosecuted but the legal representatives of legal persons involved in offences could be prosecuted individually on various counts.

44. **Ms. Melo Jácome** (Ecuador) explained that the Children's and Adolescents' Code empowered child rights protection councils to close businesses and establishments in which child rights violations had been committed and to relieve those responsible of their duties.

The meeting was suspended at 4.35 p.m. and resumed at 4.55 p.m.

45. **The Chairperson** requested more information on rules introduced to protect child witnesses and victims during interviews with police or justice officials. He particularly wished to know whether the authorities used audio-visual media, whether the number of times a child could be interviewed was limited and whether there was provision for the presence of a person of confidence or a lawyer.

46. **Ms. Sevilla Rueda** (Ecuador) said that victims received socio-educational and psychological support. When a victim had been examined by a health professional, no further examination was carried out even if the professional in question was not an expert appointed by the public prosecutor. Once the child had been interviewed, he/she was asked no more questions about events that might be painful to recall.

47. A victim's right to financial compensation could be decided in the context of criminal proceedings but such compensation should be sought through the civil courts. The perpetrator of the acts could be ordered to provide redress to victims to help them realize their life plans, such as continuing their studies or working.

48. **Ms. Melo Jácome** (Ecuador) said that the principle of the best interests of the child was upheld in all proceedings, both administrative and judicial. The authorities still did not have the sort of audio-visual media used in developed countries. Nevertheless, children were interviewed in private and could, if they so wished, be accompanied by a person of confidence.

49. **The Chairperson** asked whether there were any psychological and physical rehabilitation programmes for victims.

50. **Ms. de los Ángeles Páez** (Ecuador) said that the centres known as "Centros Ternura" or "Tenderness Centres" set up by INNFA provided systemic psychological support to victims and their families. A fund for children and adolescents had been established that would provide funding for special protection and reparation programmes for child victims of violations.

51. **The Chairperson** pointed out that systemic care could be provided only by specialists and asked whether the programme was implemented throughout the country, given the considerable human resources it would require.

52. **Mr. Sánchez Cobo** (Ecuador) said that to date 23 Tenderness Centres had been established, each with a legal expert, social workers and psychologists. The long-term goal was to have more than 50 centres. Each centre handled about 1,500 cases annually.

53. **Ms. Maurás Pérez** expressed concern that children devoid of parental care were often placed in institutions. She wished to know what action was taken when family members themselves were responsible for sexual violence against a child or selling or prostituting a child.

54. **Ms. Sevilla Rueda** (Ecuador) explained that when the Tenderness Centres found that a child had been violated they could take immediate protection and assistance measures without awaiting an administrative or judicial order. They were required to report the case and could file a complaint on behalf of the child. Abuse constituted grounds for the withdrawal of parental authority. Wherever possible, the authorities avoided removing children from their home and endeavoured to maintain and restore family ties. Placing a child in an institution was a last resort.

55. **Ms. de los Ángeles Páez** (Ecuador) added that, in cases of child abuse, the Ecuadorian authorities acted on the principle that it was the aggressor who should leave the home rather than the child. Rights protection councils could order the parent concerned to leave the home immediately. If such action could not be taken, or if both parents were

abusing the child, the latter was placed with his/her extended family or a foster family or, as a last resort, in a special protection centre.

56. **Mr. Koompraphant** asked whether any efforts were made to help parents change their behaviour and to enable such children to return to their families.

57. **Ms. Maurás Pérez** requested information on follow-up to the 1,500 complaints handled every year by the Tenderness Centres. Although, in principle, placement in an institution was a last resort, experience showed that in practice it was often the first recourse.

58. **Mr. Sánchez Cobo** (Ecuador) said that child development programmes included a component entitled *creciendo con nuestros hijos* (growing with our children), which involved working with groups of children and parents to promote respect for child rights and to make parents aware of their responsibilities.

59. **Ms. Vaca Jones** (Ecuador) explained that the Ministry of Education was implementing a programme entitled “school for parents” aimed at involving parents in the educational process and establishing participatory forums in educational institutions.

60. **Ms. de los Ángeles Páez** (Ecuador) pointed out that, under the Children’s and Adolescents’ Code, therapy was mandatory for child abusers. As part of the *Aldeas SOS* (SOS Villages) programme, children whose parents were unable to look after them were placed with family groups. The programme included a therapeutic component designed to improve parenting.

61. **Ms. Herczog** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked for information on the outcomes of behavioural therapy programmes for perpetrators of abuse.

62. **The Chairperson** asked whether the State party was planning to explicitly ban corporal punishment in all circumstances.

63. **Ms. Sevilla Rueda** (Ecuador) said that, under the Children’s and Adolescents’ Code adopted in 2003, corporal punishment, cruel or degrading punishment and psychological abuse of children were prohibited in all circumstances. Corporal punishment had been practically eradicated in childcare institutions. A new law on education, in line with the Children’s and Adolescents’ Code, was due to be prepared during 2010.

64. Corporal punishment that resulted in physical injuries or prevented the child from attending school or leading life as normal for at least three days constituted a criminal offence.

65. **Ms. de los Ángeles Páez** (Ecuador) and **Mr. Díaz** (Ecuador) said that care for child victims of abuse followed a specific procedure. Children underwent a medical examination and, in the case of sexual abuse, a psychological assessment.

66. **Ms. Sevilla Rueda** (Ecuador) said that several institutions were tasked with gathering data on ill-treatment and rights violations in general and that there was a system of coordination between the various institutions. Under article 79 of the Constitution, an Ecuadorian could only be tried under Ecuadorian law and could in no circumstances be extradited.

67. **The Chairperson** asked what the possibilities of extradition were when offences covered by articles 2 and 3 of the Optional Protocol had been committed abroad by an Ecuadorian national or in Ecuador by a foreign national who might subsequently have left Ecuadorian territory, if the victim was an Ecuadorian national.

68. **Ms. Sevilla Rueda** (Ecuador) said that in criminal cases the penalties imposed were those established by the legislation of the country where the acts had been committed. If the

offence had been committed against an Ecuadorian national by a foreign national present in a foreign country, it was possible to request the extradition of the person concerned provided that an extradition treaty had been signed with the country in question. An Ecuadorian who, having committed abroad one of the offences covered by articles 2 and 3 of the Optional Protocol, was present in Ecuador would be tried in Ecuador and would in no circumstances be extradited.

69. **Mr. Filali** asked whether Ecuadorian courts were competent to try offences covered by the Optional Protocol when they had been committed abroad by a foreign national present in Ecuador.

70. **Ms. Sevilla Rueda** (Ecuador) said that any such foreign nationals would be extradited to the country where they had committed the offence to stand trial and be convicted under the criminal legislation of the country in question.

71. **The Chairperson** said that, if Ecuador established universal jurisdiction, Ecuadorian courts could try in Ecuador a foreigner who had committed abroad an offence covered by the Optional Protocol.

72. **Ms. Sevilla Rueda** (Ecuador) said that Ecuadorian courts could prosecute a foreign national who had committed abroad one of the offences covered by the Optional Protocol only if the person concerned had committed secondary offences in Ecuador: for example, entering Ecuadorian territory on false papers.

Fourth periodic report of Ecuador on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/ECU/4; CRC/C/ECU/Q/4; CRC/C/ECU/Q/4/Add.1)

73. **Ms. de los Ángeles Páez** (Ecuador) said that the life expectancy of a child working in the mining industry was 21 years, owing in part to the toxic environment. Some Ecuadorian mines in which NGOs and international bodies had carried out vigorous campaigns no longer used child labour. New mines, which had started operating in recent years, called for urgent measures, which were planned for 2010.

74. Many young indigenous girls were employed as domestic workers in large towns. Awareness-raising events were held in indigenous communities to dissuade young girls from going to work in domestic service, and a system of study grants had been introduced for them. A complaint mechanism had been established, making it possible to investigate cases of forced labour and, where appropriate, initiate criminal proceedings.

75. A programme for working children had been adopted in 2009 and implemented by an NGO in the provinces of Esmeraldas, Pichincha and Manabí, where 442 children and adolescents of both sexes working in hotels, bars and restaurants had been taken into care.

76. Sixty-seven per cent of working children were employed in agriculture (banana plantations, rice fields and coffee, cocoa and sugar cane plantations). With respect to banana plantations, a list of hazardous activities and a list of activities authorized for children and adolescents had been drawn up. Banana plantation operators had created an organization, "La Corpe", to combat child labour, including by assisting and encouraging the mothers of working children to set up microenterprises.

77. There were no reports of children working in the building sector.

78. A plan to eradicate child labour by 2016 had been prepared. It was planned to eradicate child labour in dump sites in 2010, the flower-growing sector in 2011, mining in 2012, banana plantations in 2013, the domestic employment sector in 2014 and brickworks in 2015. Ecuador's objective was to eliminate child labour in all hazardous activities by 2012.

79. **Mr. Díaz** (Ecuador) said that the Ministry of Health was running an extensive HIV/AIDS prevention campaign. In particular, in order to prevent mother-to-child transmission of HIV, children whose mothers were HIV-positive received continuous treatment; breastfeeding was suspended and the children were fed infant formula for a year.

80. **Ms. Maurás Pérez** (Country Rapporteur for the Convention on the Rights of the Child) thanked the State party delegation for the quality of the documentation provided and the constructive dialogue established with the Committee. As Ecuador was currently in a period of transition involving extensive changes to its legal and institutional framework and attitudes, it was not surprising that efforts to improve the situation of children in the country did not have an immediate impact.

81. The authorities should make the comprehensive protection of children and adolescents the main focus of their concerns. She hoped in particular that the Children's and Adolescents' Code, adopted in 2003, would be further strengthened, along with the network of institutions involved in child protection.

82. The Committee's recommendations would focus on the juvenile justice system, alternatives to custody, definition of the child, the age for marriage, birth registration, data collection and the production of statistics disaggregated by region, gender and age group and investment in health and education. It was important to enhance collaboration between the State and businesses, not least in the mining sector, so as to continue fighting against child labour and make businesses aware of such key issues as families' living conditions, the balance between work and family life, parental responsibilities and the environment.

83. It was essential to disseminate the Committee's concluding observations, including by translating them into the country's various languages and making them accessible to children.

84. **Mr. Sánchez Cobo** (Ecuador) thanked the Committee members for their advice and warm welcome. Out of the 31 recommendations made in 2005 by the Committee on the Rights of the Child, 28 had been implemented and 3 were in course of implementation, reflecting the importance the Government of Ecuador attached to child issues and both State and NGO efforts.

The meeting rose at 6 p.m.