



Convention on the Rights of the Child

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Committee on the Rights of the Child Thirty-ninth session

Summary record of the 1034th meeting

Held at the Palais Wilson, Geneva, on Monday, 23 May 2005, at 10 a.m.

Chairperson: Mr. Doek

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The meeting was called to order at 10.05 a.m.

Solemn declaration by the new members of the Committee (agenda item 2)

(continued)

1. *At the invitation of the Chairperson, **Mr. Parfitt** made the following solemn declaration, provided for in rule 15 of the provisional Rules of Procedure:*

“I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Rights of the Child honourably, faithfully, impartially and conscientiously.”

Consideration of reports of States parties (agenda item 5) *(continued)*

Second and third periodic reports of Ecuador (CRC/C/65/Add.28; CRC/C/Q/ECU/2 (list of issues); CRC/C/RESP/86 (written replies of Ecuador, in Spanish and English only))

2. *At the invitation of the Chairperson, the delegation of Ecuador took places at the Committee table.*

3. **Mr. Escudero** (Ecuador) said that the political situation in recent months and the change of government had not prevented the Ecuadorian State from continuing to work towards better implementation of the national and international provisions on the rights of the child. The country had been hard hit by the recession, which had forced it to cut its basic social spending by 20 per cent, and servicing the public debt was a further obstacle to making the necessary investment in health and education of which children and adolescents were the main beneficiaries.

4. Drawn up with the active involvement of civil society and adopted in 2003, the Code on Children and Adolescents was entirely consonant with the Convention and even went a step further in some areas, recognizing the right to life from the moment of conception and the right to be breastfed, and banning genetic experimentation and manipulation. The National Council for Children and Adolescents had been set up under the Code and had begun work in February 2004; it was an independent body bringing together representatives of governmental institutions as well as of democratically selected civil-society organizations. As a developing country, Ecuador hoped that international cooperation would assist it in enhancing that new structure and rapidly achieving the objectives which it had set itself in the 10-year national comprehensive protection plan for children and young people, which was due to be adopted on 1 June 2005.

5. The second and third periodic reports, as well as the written replies, were the product of significant interdisciplinary work carried out under the auspices of the Public Coordination Commission for Human Rights, which included representatives of the Government, the National Council for Children and Adolescents and civil society. The Commission, which had been set up in 2002, was responsible for preparing Ecuador's reports for the various treaty bodies, thus supplementing the existing mechanisms, including the standing commission for monitoring and evaluating the national human rights plan.

6. **Ms. Moreira** (Ecuador) added that the second and third periodic reports had been prepared taking due account of the Committee's concluding observations on the initial report. The major progress of recent years in setting in place reliable and permanent statistical sources covering the whole country had made it possible to systematize the collection, organization and distribution of data on children. That progress had been reflected in the establishment of the National System of Social Indicators on Children and Adolescents (SINIÑEZ), which met one of the main concerns voiced by the Committee on

conclusion of its consideration of the initial report, and was an integral part of the Ecuador Integrated System of Social Indicators (SIISE), the data from which had assisted in the preparation of those reports.

7. Other recent progress included recognition of the citizenship of children in the 1998 Constitution and the introduction, in 2001, of the monitoring of social spending and investment. The concept of the shared responsibility of the State and civil society for promoting and monitoring human rights was gradually becoming established and had been reflected by the creation, in June 2002, of the Observatory on the Rights of Children and Young Persons, a network of individuals from different movements and backgrounds who set out to collect, analyse and distribute information on the real situation regarding the exercise of the rights of the child, while monitoring the process of public policy formulation in the field.

8. When the Committee had considered Ecuador's initial report, it had also voiced concern at certain elements, including the discrepancies between the principles of the Convention and domestic legislation. It had to be stressed in that connection that the 1998 Constitution had opened the way to the introduction of a broader legal framework for the exercise of the rights of the child, by establishing the joint responsibility of the State, society and the family in guaranteeing the rights of children and young people, by recognizing the social citizenship of children and young people, by making children and young people a national priority and by defining children as a population group that was at risk and vulnerable.

9. Turning to the compatibility of Ecuador's judicial system with articles 37 to 39 of the Convention, the new Code on Children and Adolescents provided that juvenile courts now came under the auspices of the federal judiciary and that a specialized branch of the system for the administration of justice for minors would be created. The new Code also provided that minors between the ages of 12 to 17 would not be criminally responsible but would be accountable for their actions and established immunity for minors under the age of 12.

10. Abuse was now the subject of public debate, and the conduct of teachers in relation to their pupils had been one of the issues considered in the 2000 household survey. The Special Police Department for Children and Young Persons (DINAPEN) had been expanded. Governmental bodies provided technical and financial support to the organizations working to strengthen and maintain family ties and to reintegrate children at risk of being placed in institutions into their extended biological family.

11. Ecuador remained one of the countries of Latin America where social inequalities were most marked and, faced with that situation, the Government had defined 21 priority social programmes designed to improve access to basic services for the most disadvantaged population groups. Supervisory and health-education measures had led to a significant drop in infant mortality, which had fallen from 40 per 1,000 live births to 30 per 1,000 live births between 1994 and 1999.

12. **Ms. Oviedo** (Ecuador) said that the first major task for the National Council for Children and Adolescents, of which she was the Executive Secretary, was to promote the alignment of domestic legislation with the Constitution, the Code on Children and Adolescents and international rules. Much had already been done, and a list of laws in need of amendment had in particular been drawn up in cooperation with the International Labour Organization (ILO). The intention was to make sexual exploitation a crime as part of the current reform of the Criminal Code, and changes to the Labour Code for the purpose of abolishing child labour were soon to be considered by the Ecuadorian Parliament on second reading. The legislation on the payment of maintenance was due to be revised in September.

13. Guidelines had been drawn up and a technical assistance agreement concluded with an association of municipalities for the implementation at cantonal level of the decentralized national system for the comprehensive protection of children and young people. The central authority and the technical body responsible for monitoring instruments were now up and running and had, among other things, drawn up a report on the Quebec Summit of the Americas and prepared the appearance of the delegation of Ecuador before the Committee on the Rights of the Child.

14. Great attention was paid to training professionals in the rights of the child, as demonstrated by the negotiations under way with the National Council of the Judiciary on the training of juvenile court judges or the agreements entered into with universities for the training of officers in the specialized police units for children and young people.

15. **Ms. Ortiz** welcomed the fact the Ecuador's second and third periodic reports, which contained a wealth of information, had been prepared in accordance with the Committee's guidelines and took into account its previous concluding observations and recommendations. Welcoming the extensive involvement of the non-governmental organizations (NGOs) in drafting the current report and in the formulation and monitoring of policies for children generally, she still wondered about the follow-up given to the publication of the State party's initial report and the Committee's recommendations.

16. Since the consideration of its previous report, Ecuador had made the kind of progress that had to be welcomed. It had, in particular, acceded to a number of international instruments, including the two Optional Protocols to the Convention and to ILO Conventions No. 182 on the Worst Forms of Child Labour and No. 138 concerning the Minimum Age for Admission to Employment. It had also signed up to the document "A world fit for children" adopted, in 2002, during the United Nations General Assembly Special Session on Children, and had included the rights of children and young people in its 1998 Constitution. It was also in the process of reforming its Criminal Code to combat sexual harassment, child trafficking and child pornography, as well as its framework law on the judicial system in order to set up juvenile courts.

17. At an institutional level, it was worth mentioning the establishment of the decentralized national system for the comprehensive protection of children and young people, of the National Council for Children and Adolescents, as well as of the cantonal children's and youth councils, children's consultative councils and, in some communes, *juntas* for the protection of the rights of the child. It would be interesting in that regard to be given further details as to: the exact role of the National Institute for Children and the Family (INNFA), a non-governmental body responsible for implementing a significant number of programmes, some of them more costly and ambitious than the programmes of State bodies; any problems encountered in implementing the 10-year national comprehensive protection plan for children and young people, which had been adopted in 2004; and the recent activities financed through the National Children's Fund.

18. Despite that progress, the Committee was concerned to note that many Ecuadorian children had still to contend with poverty, malnutrition, corporal punishment and discrimination, and that the resources allocated to health, education and public social services generally remained very inadequate because of the country's external debt burden.

19. **Mr. Zermatten** congratulated the State party on the effort it had made in terms of legislation, particularly the recognition, under article 49 of the Constitution, that Ecuador's children held citizenship and were legal persons, and the structural changes which had flowed from that. The report did, however, raise a number of questions concerning the actual implementation of the legislation for the benefit of children.

20. Poverty continued to be a factor of inequality and discrimination in Ecuador. The fact that the country was politically very unstable and the constant changes of government

— eight in a 15-year period — made it impossible to secure continuity of action. The number of policies for the benefit of children was constantly increasing, but there was a lack of coordination between the new and old bodies for the protection of the rights of the child. The establishment of the 10-year national comprehensive protection plan for children and young people and the setting up of councils and *juntas* at cantonal level were positive developments, provided that the funding followed. However, at present, the priority was repayment of the debt and social spending was declining. The Code on Children and Adolescents, the Criminal Code and the Labour Code suffered from a lack of harmonization; the reforms embarked upon in terms of legislation were crawling along. All of those factors could prompt doubts as to the real political will to work towards achieving the rights of the child.

21. The delegation might therefore clarify how the activities conducted within the framework of the National Directorate for the Protection of Minors, the National Institute for Children and the Family, Child Rescue Operation (ORI), the “Our Children” programme of the Ministry of Social Welfare and the preschool programme of the Ministry of Education and Culture linked up; it might also explain who was steering the policy for children in Ecuador and how the Special Police Department for Children and Young Persons fitted into the system. Further information on the evils of the inter-institutional “esprit de corps” referred to in the written replies; on the responsibility of the Office of the Ombudsman in relation to respect for the rights of mothers and children; on the ambiguous role of the Ombudsman and specialized bodies for minors; and on the financial resources of the Children’s Development Fund and the Special Protection Fund, would be welcome.

22. While the consultations with young people in 1996 and 2004 and the existence of councils in school were to be welcomed, it would be useful to know whether the reforms of the Criminal Code and of the Labour Code that were under way provided for procedures for hearing children, in both civil and administrative or criminal cases, and whether there was now in Ecuador a separate system of juvenile justice, made up of specialist courts or specialist judges within the ordinary court system.

23. It would also be interesting to know whether the State party intended taking measures to eliminate the known sources of discrimination against girls, the poor, indigenous people and refugees, four groups which experienced almost identical problems in terms of accessing education and health care, of their civil status and of being exploited at work. The delegation might also indicate whether there was the political will to resolve the issue of equality of treatment for indigenous children, whether indigenous children and the children of refugees were aware of their rights and whether the criteria for allocating the solidarity vouchers were definitely not discriminatory; it might also describe the Government’s position in relation to refugee children, particularly those children who were the victims of Plan Colombia.

24. **Mr. Kotrane** asked whether the 10-year national plan set in place for the benefit of children in 1990 had been the subject of any form of assessment and whether it was intended, subsequently, to implement the recommendations contained in the document “A world fit for children”.

25. **Mr. Filali** wished to have precise statistics on the make-up of Ecuador’s population, which included 17 indigenous peoples; an explanation of the low level of birth registration in Amazonia; and clarification of the responsibilities of the Special Police Department for Children and Young Persons, given the cases of ill-treatment reported in some police stations.

26. He asked about the respective responsibilities, the specific financial resources and the coordination procedures of the National Council for Children and Adolescents, the Observatory on the Rights of Children and Young Persons and the Office of the

Ombudsman, and also about the measures taken to ensure familiarity with the and the circulation of the provisions of the new Code on Children and Adolescents, particularly in relation to the right of the child to be heard in any procedure relating to it, the possible impact of the provisions at the level of schools, families, the courts and the public administration generally.

27. **Mr. Liwski** asked whether the recent cuts in the social budget were down to the pressure exerted by the international financial institutions and whether the current transitional government was planning to seek a renegotiation of the external debt — the servicing of which accounted for 35 per cent of the State budget and had again increased in 2003–2004 — in order to release resources to invest in public services and programmes, particularly for the benefit of children. It would be useful to know the budget allocation for the decentralized national system for the comprehensive protection of children and young people for the current year. Finally, the delegation might indicate whether, in the context of the free trade negotiations conducted at regional or bilateral level, the Ecuadorian authorities were concerned to secure the free access of children and families to generic medicines, in accordance with the flexibility clauses provided for by the Doha Declaration on the TRIPS Agreement and Public Health.

28. **Mr. Siddiqui** was surprised that the percentage of people living below the poverty line had increased from 56 per cent to 70 per cent between 1997 and 1999, although the rate of infant malnutrition had fallen from 17 per cent to 14 per cent during the same period, and asked for clarification on that point.

29. The Committee wished to know whether the Ombudsman was an effective institution; what criteria were used for the Ombudsman's appointment; whether the State party was planning to create a post of specialist ombudsman for the rights of the child; whether a body had been set up to coordinate the activities of the NGOs working in the field; and whether the activities of the local committees for the protection of the rights of children and young people were resourced from public funds.

30. **Ms. Vuckovic-Sahovic** wished to know whether children deprived of a family environment and placed in an institution and minors in conflict with the law confined in specialized institutions were safe from torture and other forms of cruel, inhuman or degrading treatment and, if not, whether the perpetrators of such acts were prosecuted.

31. **Ms. Aluoch** asked whether children who had not been acknowledged by their father were entered in the register of births under their mother's family name; whether pregnant teenagers — and there were increasing numbers of them — had the right to continue their studies after the birth of their child; and what were the broad lines of the legislation on sex education.

32. It would also be useful to have a response from the delegation to the allegations of corruption against members of the police service and the judiciary who, according to reliable sources, were impeding the proper process of justice in cases where the rights of the child had been violated.

33. **Mr. Krappman** asked whether the Government ring-fenced a special budget for child-related issues and whether, in the context of the 10-year plan for children, specific projects had been planned, accompanied by a timetable and specific objectives, as well as a monitoring system to assess its implementation.

The session was suspended at 11.40 a.m. and resumed at 12 p.m.

34. **Mr. Escudero** (Ecuador) said that Ecuador was suffering from the economic and social crisis that had affected South America, resulting in particular in a fall of 10 per cent in per capita GDP since 2000. Servicing the external debt also took a heavy toll on the State budget, and the international credit institutions placed Ecuador under heavy pressure to

honour its commitments. The recently installed Government had, however, indicated that it wished to negotiate with those institutions, both public and private, with a view to debt relief, so that it could invest more in social policies and child-related policies in particular, and give full effect to the Convention.

35. **Ms. Moreira** (Ecuador) said that the National Council for Children and Adolescents had met for the first time in February 2004 but had not become operational until October 2004, once its executive secretariat had been established. The National Fund for the protection of children and young people, set up under the Children's Code, had yet to be allocated resources, for reasons of an administrative nature, and that was why the National Council was not able to implement the policies on children as it would have wished. It was therefore the lack of resources and the political instability that had wracked the country for several years that had caused it to lag behind in terms of social policy, as there was a real political will to set in place a decentralized system for the comprehensive protection of children and young people, headed up by a body made up of equal numbers of representatives of civil society and the State. The system was still in its infancy but had already resulted in the creation of family and children's courts and councils for the protection of rights (*juntas protectoras de derechos*) in all of the country's cantons.

36. The Special Police Department for Children and Young Persons, which had to deal with many cases of corruption, had asked the National Council for Children and Adolescents to help it to organize training in the rights of the child for members of the police service, evidence that the idea was gaining ground. Finally, the National Council for Children and Adolescents had been consulted in connection with the preparation of two action plans concerning combating trafficking in and the sexual exploitation of children and combating ill-treatment and sexual abuses in schools.

37. Aware of the need to coordinate at national level all of the efforts for the benefit of children and young people in Ecuador, the Government had adopted the 10-year national comprehensive protection plan, but it had unfortunately not yet been possible to start implementing it.

38. The reliability of the data furnished by the information systems certainly left something to be desired, but the close collaboration between the Observatory on the Rights of Children and Young Persons and the secretariat of the Social Front had made it possible to restructure the National System of Social Indicators on Children and Adolescents (SINIÑEZ).

39. While children played an active part in the protection of their rights, that was largely due to the Standing Forum for Children and Young Persons, with which the National Council had signed an agreement under which the National Consultative Council for Children and Young People, which would give children an active role in assessing the results of the 10-year national comprehensive protection plan for children and young people, was to be convened during the year.

40. The recommendations made by the Committee after it had concluded its consideration of the initial report, as well as the Convention itself, had been widely circulated, with the help of UNICEF in particular.

41. The Code on Children and Adolescents had been circulated throughout the country. According to articles 59 and 60 of the Code, children had the right to be consulted on all issues affecting them and to give free expression to their views, which would be taken into consideration in the light of their age and level of maturity.

42. Ecuador had signed bilateral conventions on family reunification for migrant workers with Italy and Spain only because of the lack of political will of the other host countries.

43. The Department of Child Protection pursued its activities working closely with the National Council for Children and Adolescents.
44. Ecuador's legislation on intellectual property required the use of mandatory licences in strictly defined conditions, as well as the development of generic drugs or their purchase abroad, enabling Ecuador to take advantage of the Doha Declaration on the TRIPS Agreement and Public Health.
45. Under the revised provisions of the Civil Code and the Civil Status Act, mothers, even if unmarried, could enter their children in the register of births giving them either their family name or that of the father, whether or not the latter had acknowledged the child. Discrimination against pregnant teenagers, who used to be expelled from the institutions in which they were studying, was now a thing of the past, and disciplinary action had been taken against the institutions in question.
46. **Ms. Ortiz** wished to know to which authority the councils for the protection of rights at cantonal level, which were being established at a disturbingly slow pace, were accountable; to which body they had to address their recommendations; and whether the executive secretariat of the National Council for Children and Adolescents was responsible for promoting them, in which case it would be helpful to know what human and financial resources it had available for the purpose, and how the executive secretariat was able to gain recognition for the National Council as a newly created body.
47. The delegation might also provide clarification of the programmes designed to help parents to bring up their children, as well of the bodies responsible for implementing them.
48. In addition, the delegation might indicate the reasons for the disappearance of children, as well as the regions and kinds of family in which such disappearances occurred.
49. The Committee wished to know whether the life of many of the child protection programmes set in place depended on the funding allocated, as seemed to be the case, how they were planned, and whether the National Council was involved in their planning.
50. Clarification was also needed in regard to the fate of children deprived of their parents and placed in institutions or living on the street; the identity and powers of the central authority responsible for adoption; the changes introduced by the new Code; and the outcomes of the programme of the National Institute for Children and the Family for care outside institutions and circumstances which had caused it to be dismantled.
51. **Mr. Zermatten** wished to know what criteria had led the State party to establish a distinction between children (up to the age of 12) and adolescents (between the ages of 12 and 18), which impacted on policies, educational systems and data collection.
52. The status of refugee children and their access to information, health care and the defence of their rights also required further clarification and raised the question of whether there was a policy designed to integrate them into Ecuadorian society.
53. Given the large numbers of children of migrant workers who were left to their own devices or placed in the care of the extended family, there was the question of how their interests were taken into account and whether there was a particular programme geared to them.
54. It would be useful to explain exactly what form the juvenile justice system had taken, and whether the training of judges and interdisciplinary cooperation between judges, the police, lawyers and the social services was assured. Finally, it remained unclear whether it was the National Council for Children and Adolescents or the Ministry of Social Welfare that actually took the lead in child protection.

55. **Ms. Lee** asked whether Ecuador was planning to set up a freephone number for children who had been victims of abuse or neglect. She also wished to know whether a national survey of children with a disability was planned: the specialized education services appeared to be concentrated in urban areas, whereas the majority of children with a disability were in rural areas.

56. Paragraph 258 of the report called for further information on the identity and age group of the 9 per cent of children — a significant percentage — who “did not enrol in order to engage in work or domestic work”.

57. **Mr. Krappmann** asked how children managed to reconcile work and schooling; whether special measures were taken to make it easier for them; and how those children were able to exercise their right to rest and recreation. It would also be useful to know whether children received vocational training. Noting that Ecuador had at least one children’s association, he asked whether it was accorded official recognition and whether its proposals were taken into account.

58. **Mr. Filali** asked for clarification in regard to the place and conditions of detention of minors and whether they were accommodated in separate facilities with specially trained staff. The delegation might comment on the situation of Ecuador as a “transit country” for the networks that sexually exploited children and indicate whether the various ILO programmes on child labour, such as the International Programme for the Elimination of Child Labour (IPEC), were implemented and with what results.

59. **Mr. Kotrane** asked what measures were planned to reinforce parental responsibility, and whether Ecuador envisaged developing an instrument guaranteeing the right to child support or entering into international conventions with the countries of emigration.

60. In addition, he wished to know whether the national 10-year plan provided for measures to better control or limit intercountry adoption.

61. He also wondered how adolescents could obtain information on sexual and reproductive health, regardless of whether they were in the education system, and whether the national plan provided for specific programmes in relation to child labour.

62. **Ms. Anderson** wished to know whether the programmes providing for the care in day-care centres of children whose parents were deprived of their liberty had been monitored and what the results were. The delegation might also indicate what happened to children already placed in an institution, what body monitored them and whether there was an organized transition between placement in an institution and the “family care” advocated in its place.

63. Lastly, it would be instructive to know whether foreigners seeking to adopt had to be registered with the relevant service in their country of residence.

64. **Mr. Pollar** asked what follow-up there had been to the Declaration and Programme of Action adopted on conclusion of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and what powers the central Government had to ensure that intercountry adoption was monitored.

65. **Mr. Parfitt**, concerned to find that the funding of the National Council for Children and Adolescents had yet to be decided, wished to know what powers it had to ensure harmonization of the Code on Children and Adolescents, the Criminal Code and the Labour Code, and whether it was answerable to the legislature or a ministry. The delegation might also provide information on the programmes set in place, respectively, by the National Council and the Office of the Ombudsman for Women and Children to inform children who

had been the victims of discrimination of their rights and the services to which they could turn.

66. **Mr. Siddiqui** asked whether there were special programmes for indigenous children, children of African origin and street children, all of whom suffered discrimination in regard to health and education. He also wished to know the number of children born out of wedlock and whether they suffered discrimination.

The meeting rose at 1 p.m.