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Alternative Child Care and Deinstitutionalisation

A case study of Ecuador

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Acronyms

CCPD:	Cantonal rights Protection Council
CNNA:	National Council for Children and Adolescents
CONA:	Code for Children and Adolescents
CPE:	Special Protection Centers
CRE:	The Constitution of Ecuador
DINAPEN:	National Directorate of Specialized Police for Children and Adolescents
ENIPLA:	intersectoral - National Strategy for Family Planning and Teenage Pregnancy Prevention
INNFA:	National Institute for Children and Families
MIES:	Ministry of Economic and Social Inclusion
NGO:	Non-governmental organisation
ODNA:	Observatory for the rights of children and adolescents
SNDPINA:	Decentralized National System of Integral Protection of Children and Adolescents

Executive summary

Introduction

The European Commission Directorate-General for International Cooperation and Development (DG DEVCO) commissioned SOS Children's Villages International to undertake case studies of arrangements for 'alternative child care' in six non-European countries across three continents to help inform the EU's future strategy for provision of support for children in countries outside Europe. This report is a case study of one of the six countries, Ecuador. A companion report provides a summary of alternative child care across Central and South America. The results of the regional reports and case studies are synthesised in a report entitled *Towards the Right Care for Children: Orientations for reforming alternative care systems. Africa, Asia, Latin America* (European Union, Brussels, 2017).

Methodology

The methodology employed for this study included a literature review undertaken through a key word search in the database Web of Science and other web-based search engines. Literature was also supplied by contacts in Chile. One international consultant conducted interviews with key informants and one national staff member of SOS Children's Villages conducted interviews with children and young people.

The socio-economic and cultural context

Ecuador is classified by the World Bank as being in the upper middle income group.¹ In 2016 the population of Ecuador was an estimated 16,080,776 inhabitants². Life expectancy at birth is 73.8 years for males and 79.9 years for females.³

Almost half the population lives in the interior of the country in the Andean intermountain basins and valleys, with large concentrations also found along the western coastal strip. Areas of rainforests of the east remain sparsely populated.⁴ In 2015 it was estimated that 63.7% of total population lived in urban conurbations.⁵

Results of the 2010 Population and Housing Census showed 7% of the population to be indigenous, 7.2% Afro-Ecuadorian, 7.4 % Montubian, 6.1 % white, 71.9 % mestizo and 0.4 % 'other'.⁶ In 2010, approximately 10% of children under the age of 5 years were not registered at birth. This increases to 30% with the Afro-Ecuadorian population.⁷

1 Source: <http://data.worldbank.org/country/ecuador>

2 Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

3 *ibid.* <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

4 Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

5 *ibid.*

6 UNICEF (2014) *Ecuador: Country programme document 2015-2018*.

7 UNICEF (2014) *Ecuador: Country programme document 2015-2018*.

Why children are placed in formal alternative care

Children are placed in alternative care as a measure of protection from all forms of abuse, exploitation and neglect. Overwhelmingly it is claimed that poverty is no longer the driving factor, although this often remains an underlying concern. Children can be removed from parental care through a judicial or an administrative order when there are concerns of abuse and neglect.

Types of alternative care available

The most common form of care is informal care within the extended family. This is mostly undocumented and unregulated. Lack of available data means it is has not been possible to identify the benefits and challenges of this form of care in Ecuador.

There are no other formal alternative care arrangements in Ecuador other than the use of residential facilities. Residential facilities are operated by Government and non-state providers. Residential facilities vary in size and the quality of care they offer. In 2015, a total of 2,520⁸ children were living in residential facilities in Ecuador, falling from 4,111 in 2012. The latest population data in 2010 states those aged 0-17 years totalled 5,567,700,⁹ this indicates approximately 0.045% of the total child population in Ecuador are children living in residential care.

A pilot foster care programme initiated by a non-state service provider with the agreement of the Ministry of Economic and Social Inclusion (MIES) was suspended by the Ministry in January this year. During the pilot only a small number of children had been placed in care through the programme. For example, two NGOs indicated they had approximately 9 children in total either placed, or in the process of going, into foster care. However, it was also believed this pilot has already provided 'a richness of information and experience.

Although the Government of Ecuador has various programmes and policies related to delivery of services for children and families, key informants in this study were unanimous in their view that specially targeted interventions to prevent family separation are weak and under-resourced. In addition, a major concern is recent changes to legislation that detract from the specificity of child protection to one that integrates this concern into a broader inter-generational approach to addressing the most vulnerable in society.

The Code for Children and Adolescents (CONA) along with other policy and statutory regulations endorse Government requirement to support reunification of children from

⁸ *ibid.*

⁹ Source: http://www.unicef.org/infobycountry/ecuador_statistics.html

formal care back with parents or extended family when and as soon as possible. In 2014, of a total of 2,585 children in residential care, 796 returned to their families endorsed by a legal measure approving family reintegration. In 2015, this figure rose to 1,098 children.¹⁰ Once again this study has found that programmes of reintegration are not being systematically applied by service providers.

Young people are expected to leave their placement in alternative care when they reach their eighteenth birthday. There is no Government social protection or other schemes that assist with this process. In addition although some non-state providers are doing very little for care leavers, others are specifically raising funds and developing support programmes.

Data obtained from an unpublished Government of Ecuador report of May 2016 shows the number of national adoptions administered by the National Office of Adoptions in 2015 totalled 136, with 514 post-adoption cases being followed up.

¹⁰ 5º Y 6º (2016) Informe Combinado con Arreglo al Artículo 44 de la Convención sobre los Derechos del Niño. Ecuador, March 2016, Page 24.

Table 8 on page 63 provides data extracted from this report indicating moderate annual increases in adoption between 2014 and 2016. Data from the same report shows that a total of 15 children were placed in inter-country adoption and 176 children received a 'deceleration of adoptability'

Structures and processes governing alternative care

The Ministry for Economic and Social Inclusion (MIES) holds responsibility for the child protection and child care system of Ecuador. The Ministry is mandated with tasks to define and implement policies strategic plans and child protection and child care programmes. Services of the MIES and the staff responsible for child protection and child care programmes and services have generally been described by key informants for this study as lacking in the financial and human resources necessary for the effective delivery of a child protection system. It is noted, however, the challenges the workers themselves are facing inside the MIES include insufficient allocation of resources, low morale, insufficient technical supervision and high caseloads, with one key informant noting how one social worker may be working with 50 or 60 families at a time.

Boards for the Protection of Rights, known as Juntas, are administrative bodies with a mandate to operationalise the system of child protection (SNDPINA). They have administrative and functional autonomy in decision making. Juntas must be situated within and organised by each municipality. They are tasked with the authority to issue administrative protection orders in cases that are not severe enough to warrant consideration of prosecution and/or a judicial order for the child. A challenge in the implementation of orders issued by the Juntas is the lack of staff and time to follow up on the thousands of cases they receive each year, plus the non-cooperation of colleagues within other sectors responsible for delivering support services to children and families.

Members of the Judiciary are principal gatekeepers and hold responsibility for ordering placement in alternative care. They also have the authority to make orders that mandate family support service for the prevention of separation and the return of children out of care to their families.

A primary weakness in terms of mandatory technical standards and mechanisms for child protection is the lack of standardised tools and methodology for all aspects of the continuum of case management and care provision. In particular, the lack of comprehensive assessments that informs decision making in the best interest of the child risks any judgement about a care placement being an individual, subjective conclusion.

How the workforce is organised, trained and supported

There are passionate, knowledgeable and experienced people in the country, many of whom are working in non-state organisations but there has been a general lack of trust in the skills of state child protection workers. However, it should be acknowledged that these professionals face many challenges, especially those working in the Government

sector. They are poorly remunerated, experience low morale, have high workloads, lack the backing of financial investment in social work services, receive poor supervision and have very little support from other sector colleagues.

One consequence of the poor availability of case management tools and mechanisms coupled with the wide range of technical capacity and differing personal attitudes within state and non-state agency workers, is decision making for children and families remains a highly subjective matter.

In respect of social work education, there are number of academic institutions recognised for their social work programmes at undergraduate and graduate levels. However, key informants were united in calling for much more investment in the skills of all those working with children, and an inter-sectoral approach to child protection.

What is working and what is not working?

In the last 25 years there has been a significant change in the child protection system: the refocussing of use of alternative care away from the driving factor of poverty to one that is a measure of protection. In addition, there are passionate and dedicated people working with children in Ecuador bringing passion, innovation and energy to improving care provision.

There are however, a number of weaknesses in the national child protection and child care system. These include for example, major concerns regarding capacity, skills, knowledge and abilities of some of the workforce, especially those working within government agencies. Challenges particularly relate to lack of investment in all aspects of service development and delivery. There are specific concerns regarding the lack of effective and systematic case management tools including those of referral, assessment, care planning, monitoring and review.

Non-state organisations provide almost all the residential child care in Ecuador and although there are some innovative practices and agencies determined to improve the quality of care, standards of provision within residential facilities remain variable. It is the responsibility of the Government of Ecuador to ensure effective accreditation, regulation and inspection processes. Although systematic inspections are being undertaken, the lack of monitoring of the quality of care afforded to individual children is noted to be a weakness in the Government assessment and inspection process.

The most significant challenge in Ecuador remains the lack of any form of formal alternative care other than residential facilities. This lack of family-based alternative care is not only contrary to the principles of the UN Guidelines for the Alternative Care of Children but also contributes to the ongoing use of residential care.

There are some efforts being made to realise the focus of current law and policy regarding prevention of family separation, provision of family-based alternative care and

reintegration when possible. However, much of this work still lacks the necessary investment in terms of tools, methods, sufficiently skilled staff and financial resources to effectively support children and families with the necessary range of services. In addition, participation of children and families in decision making that affects their lives remains a concern to many.

Finally, concerns are raised as to the poor working relationships that exist between a number of government and non-state organisations. This is particularly important in view of the wealth of experience and knowledge non-state providers could bring to necessary reforms of the national child protection and child care system.

Recommendations

- 1 All efforts should be made to invest in reforms and multi-sector efforts to strengthen all components of the child protection system in Ecuador.
- 2 The Government of Ecuador, in partnership with non-state providers, should increase investment in high quality family-based alternative care, prevention of family separation and reintegration services.
- 3 The Government of Ecuador should develop a time bound strategic plan for deinstitutionalisation.
- 4 Collaborative efforts by government, non-government, associations and schools of social work should continue to strengthen and scale up training, supervision and accreditation for social workers and all other professionals, including the judiciary, involved in child protection and alternative care.
- 5 The Government of Ecuador should improve and standardise and the use of inter-sectoral case management tools and mechanisms that safeguard gatekeeping processes including those of referral, assessment and care planning, monitoring and review.
- 6 The Government of Ecuador should increase the rigour and range of data collected to inform evidence based policy and planning including the triangulation and analysis of qualitative, quantitative and longitudinal data by which indicators for change can be developed and outcomes for children measured.
- 7 Increasing efforts should be made by all professionals to consult and involve children, parents and caregivers in decisions affecting them, and to ensure decision making in the best interests of the child.

Introduction

Many millions of children around the world live in residential facilities where they lack individual care and a suitable environment in which to fulfil their full potential. Increased awareness of the considerable risks these children face in terms of negative social, cognitive and physical development has prompted ongoing international debate and guidance on deinstitutionalisation, and development of policy and practice that gradually eliminates the use of such harmful alternative care practices.

Investing for children's best interests is a priority for the European Union (EU) and protecting and promoting child rights is at the heart of EU external action. The EU considers that deinstitutionalisation of children through prevention of family separation and encouragement of suitable family-type alternative care solutions is a case of social investment for the best interests of the child. It has therefore invested in deinstitutionalization in specific geographical areas.

On the basis of its commitment to the comprehensive promotion and protection of the rights of the child, the European Commission intends to increase its knowledge of progress in deinstitutionalisation and alternative child care reforms in countries across the world, and on how current challenges might be addressed.

For these reasons, the European Commission's Directorate-General for International Cooperation and Development (DG DEVCO) commissioned SOS Children's Villages International to undertake case studies of arrangements for 'alternative child care' in six non-European countries in three continents, to help inform the EU's future strategy for provision of support for children in countries outside Europe.

The countries selected for study were: Chile and Ecuador in South America; Nepal and Indonesia in Asia; Nigeria and Uganda in Africa. SOS Children's Villages International engaged the services of researchers from CELCIS, based at the University of Strathclyde, Glasgow to assist in compiling the case studies.

This case study of Ecuador was compiled from a desk exercise - reviewing documents sourced by both a literature search and received from contacts in Ecuador - and from conducting interviews with key informants during a field visit in July 2016.

This report should be read alongside a separate report of a desk study of deinstitutionalisation and alternative care in South and Central America and the synthesis report, *Towards the Right Care for Children: Orientations for reforming alternative care systems. Africa, Asia, Latin America* (European Union, Brussels, 2017).

Aim and scope

In order to understand what can be actively undertaken to promote and implement policy and practice for deinstitutionalisation, it is important to understand the situation of children who are at risk of losing, or have already lost, parental care, as well as the

alternative care options available. It is also important to know about the elements of the child protection system that function to prevent unnecessary placements into care, or provision of suitable alternative care placements other than institutionalisation if needed. To this end, this study has considered a body of literature that documents these factors taking into account both regional and individual country perspectives.

The aim of the research undertaken in Ecuador was to gain a deep understanding of the following:

- What are the socio-economic and cultural contexts in which child care reforms are taking place?
- Why children are placed in alternative care?
- What types of alternative care are available?
- What are the structures and processes governing alternative care, including the legal and policy framework, funding, government and non-governmental structures and services for child protection/child care delivery?
- How is the workforce (e.g. social workers and caregivers) organised, trained and supported?
- What is working and what is not working in terms of child care reforms?
- What are the main challenges and opportunities?

Glossary of terms

Alternative care: This includes formal and informal care of children without parental care.¹¹ Alternative care includes kinship care, foster-care, other forms of family-based or family-like care placements, supervised independent living arrangements for children and residential care facilities.

Children: Defined as girls and boys under the age of 18 years¹²

Children without parental care: 'All children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances.'¹³

Formal care: All care provided in a family environment which has been ordered by a competent administrative body or judicial authority and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures.¹⁴

Foster-care: 'Situations whereby children are placed by a competent authority for the purposes of alternative care in the domestic environment of a family, other than

¹¹ United Nations General Assembly (2009) *Guidelines for the Alternative Care of Children*

¹² based on Article 1 of the UN Convention on the Rights of the Child (CRC) (UN, 1989).

¹³ United Nations General Assembly (2009) *Guidelines for the Alternative Care of Children* Article III, 29a.

¹⁴ *ibid.* 29b.ii.

children's own family, that has been selected, qualified, approved and supervised for providing such care.¹⁵

Informal care: Any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends ('informal kinship care') or by others in their individual capacity. The arrangement is at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body.¹⁶

Kinship care: 'Family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature.'¹⁷ Kinship care is both a form of permanent family-based care and a form of temporary alternative care. There are two types of kinship care. Informal kinship care is: 'any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends ... at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body.'¹⁸ Formal kinship care is care by extended family or close friends, which has been ordered by an administrative or judicial authority or duly accredited body.¹⁹ This may in some settings include guardianship or foster-care.

Residential care: 'Care provided in any non-family based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short- and long-term residential care facilities, including group homes.'²⁰

Small group homes: Where children are cared for in smaller groups, with usually one or two consistent carers responsible for their care. This care is different from foster-care in that it takes place outside of the natural 'domestic environment' of the family, usually in facilities that have been especially designed and/or designated for the care of groups of children.²¹

Terminology

During the review of literature undertaken for this study, the issue of terminology became very important. This was in part due to the different terminology used to denote the same forms of child care as for instance 'foster care' which is a term used for informal and formal care. In some instances this embraced care in which a child was placed within kinship care, within another family, within a setting with up to 10 other

¹⁵ *ibid.* Article III, 29c.ii.

¹⁶ *ibid.* Article 29b.i.

¹⁷ *ibid.* Article III, 29c.i.

¹⁸ *Ibid.* Article 29b.i.

¹⁹ *ibid.* Article 29b.i.

²⁰ *ibid.* Article III, 29c.iv.

²¹ NGO Working Group on Children Without Parental Care (2013) *Identifying Basic Characteristics of Formal Alternative Care Settings For Children: A Discussion Paper*

children cared for by a 'house mother' and 'aunt'. In others, foster care translated from Spanish to English to denote other forms of care including large and small residential settings.

As there is still no internationally agreed definition for children's residential 'institutions'. The international researcher for this study chose to use the term 'residential facilities' to denote the wide range of provision including those that are small and large, offering different standards of personal care and differing living conditions.

Methodology

Desk exercise

A literature search was carried out using the search engine Web of Science. Less systematic searches were made using Ecuadorian government and other web sites including UNICEF, Better Care Network and Save the Children. In addition, source documents were provided by key informants during the field visit or were discovered by colleagues while searching for sources for other aspects of the project.

The literature was reviewed by assessing the relevance of articles to the seven key questions listed in the aim and scope above.

Field visit

The main fieldwork took place between 26 July and 4 August 2016, with a total of 8 days being allocated to visits to residential facilities and the offices of key informants. The arrangements for visits and interviews was made by the expert consultant in Ecuador, and the staff of SOS Children's Villages, Ecuador gave their support with the contacts, coordination and logistics. The visits were predominantly carried out in Quito with visits to three of the six institutions that were performed. Clearly these visits could only provide a snapshot of the lives of children in alternative care in a country as large and diverse as Ecuador; on the other hand, the key informants provided detailed and rich insight into the alternative child care context and current issues.

The following interviews were conducted:

- 23 key informants
- 47 children and young people
- 2 mothers in a reunification programme
- 1 foster care family

Table 1 provide details of the individual and group interviews conducted.

Table 1 Details of interviews conducted

Participants	Location	Date
SOS Ecuador, National Director, National Program Development Adviser and Head of Advocacy	SOS National Office, Quito	26 July 2016
Briefing on National Child Protection System – Patricia Calero Teran and Elizabeth Garcia	SOS National Office, Quito	26 July 2016
Office of the Delegation of the European Commission to Ecuador	UE Office, Quito (not recorded)	26 July 2016
Psychologist	Office of Junta, District, Quito	27 July 2016
Social Worker	ASA	27 July 2016
Technical Team Leader	ASA	27 July 2016
Psychologist and Care Leaving Support Worker	ASA	27 July 2016
Judge	(not recorded)	28 July 2016
Director	Fundacion Laura Vicuña, Amaguana	28 July 2016
Social Worker	Fundacion Laura Vicuña, Amaguana	28 July 2016
Social Worker	Danielle Children Fund, Ambato	29 July 2016
Director	Danielle Children Fund Office, Ambato	29 July 2016
Psychologist	Danielle Children Fund Office, Ambato	29 July 2016
Mother in DCF reunification programme	Danielle Children Fund Office, Ambato	29 July 2016
Foster family in DCF foster programme	Danielle Children Fund Office, Ambato	29 July 2016
UNICEF staff member	UNICEF office, Quito	1 August 2016
Adviser to the Ombudsman	Office of the Ombudsman, Quito	1 August 2016
Representative of MIES	Not recorded	1 August 2016
Director, SOS Village Quito	SOS Village, Quito	2 August 2016
Social Worker	SOS Village, Quito	2 August 2016
Lawyer	SOS Village, Quito	2 August 2016
Mother in reunification programme	SOS Village, Quito	2 August 2016
Psychologist	Fundacion Cristo de la Calle, Ibarra	3 August 2016
Social Worker	Fundacion Cristo de la Calle, Ibarra	3 August 2016
Advisor to Deputy Minister, MIES	Unrecorded location	4 August 2016
Debriefing, with National Director and Advocacy Officer for Aldeas SOS Ecuador, Advocacy Aldeas SOS Ecuador and national consultants	SOS National Office, Quito	4 August 2016

Interviews with key informants

Interviews were conducted using a standard 'research interview guide' which was prepared for all six country case studies. The guide was varied appropriately to suit the responsibilities and knowledge of particular key informants. Interviews took between 30 to 60 minutes, with most were at the upper end of that time range.

Access to key informants was negotiated in advance by the relevant SOS Children's Villages Ecuador office and the national research consultant. The contact was by a letter of introduction signed by the SOS Children's Villages National Director. This information was emailed or hand-delivered, as appropriate for the location. Interview arrangements were typically confirmed by telephone. The research instruments are provided at Appendix 1.

Key informants were invited to review the information sheet immediately prior to the interview and request clarification if required. Consent forms were explained to and completed by key informants. Key informants could elect to be interviewed 'on the record', i.e. indicating they were happy to be quoted in the report, or 'off the record.' Permission was also requested to record the interview. Most key informants elected to be 'on the record' and to be recorded. Where informants declined to be recorded, hand-written notes were taken.

All interviews were conducted by the international consultant and national researcher together.

A standard 'wish list' was prepared for the key informant interviews in all countries:

- A representative of the European Commission office
- Representatives of relevant government departments – particularly Ministry/Department of social services/child protection or equivalent
- Representatives of national NGOs/charities working on child care/organisations running institutions
- Representatives of international agencies, e.g. UNICEF, Save the Children
- Representatives of regional agencies if present in the country
- Social workers or equivalent
- Other child care workers, e.g. staff and/or managers in institutions/foster care services
- Foster/kinship carers and parents

We were able to conduct interviews in all categories, except a direct employee of the Ministry of Social Inclusion and Equity (despite numerous attempts to obtain such a meeting). On the last day of the field visit the Minister delegated a consultant to be interviewed. An interview arranged with the Special Police for Child Protection (DINAPEN) did not go ahead as the Commissioner for Police was called away on urgent business at the last moment.

To address the absence of a voice from the state, two unrecorded interviews were made. The first of these interviews was made with an official of the Ministry of Social Inclusion and Equity who has knowledge of child care programmes. The second interview was conducted with a judge who has extensive experience with cases of child protection and alternative care. The information gained from those interviews informed the background for this report but have not been used directly in the text.

Interviews with children and young people

Work to gather the views of children and young people was conducted through group activities and individual interviews as laid out in

Table 2 and Table 3. The work with the children and young people was undertaken by the national consultant. A standard set of questions was used and varied according to age and time available. Although the questions were asked through group discussion, each session also included a confidential activity in which children/young people were invited to write on coloured 'post-its' the things they were happy about and the things they were worried about, and they were then placed in either a 'happy bag' or a 'worry bag'. Children were also asked if they would like to write a letter to another child in a similar situation as themselves in the future and what advice would they offer.

The interviews with children detailed in

Table 2 and Table 3 were arranged in a similar way to those with the key informants. An information sheet for children and young people was prepared. A member of staff from Ecuador SOS Children's Villages and the national consultant provided information to the representatives of organisations responsible for the care of the children and young people to be interviewed, the goal of working with children and young people and a request for this information to be shared with possible participants. Each organisation selected children and young people who were to be part of focus groups and interviews. Previous to the focus group or interview with children and young people, the national consultant explained the objectives of the work and requested permission to continue. Children were also provided written consent sheets to sign. The research instruments used with children are provided in Appendix 2.

Table 2 Group work with children

Group activities with children	Location	Date
8 girls and boys (aged 5-16 years) living in institutional care in residential care ²²	Quito	27 July 2016
13 girls living in residential care (aged 11-17 years)	Amaguana	28 July 2016
3 girls and 3 boy adolescents (aged 8-17 years) living in residential care	Ambato	29 July 2016
5 girls (aged 12-16 years) living in residential care	Quito	2 August 2016
2 boys and 1 girl who are brothers and sister (aged 12-15 years) reunified with their father	Quito	2 August 2016
2 boys, brothers (aged 13-15 years) in extended family care	Quito	2 August 2016
4 boys (aged 11-15 years) living in residential care	Ibarra	3 August 2016
1 boy and 1 girl, who are brother and sister (aged 11-16 years) reunified with their mother	Ibarra	3 August 2016

Table 3 Individual work with children

Interview with children and young people	Location	Date
1 girl (aged 14 years) reunified with her father	Quito	27th July 2016
1 young man (aged 19 years) in autonomy	Quito	27th July 2016
1 boy and 1 girl (aged 10-12 years) in foster care program	Ambato	29th July 2016

²² A modality of institutional care, in which several children live in individual houses in charge of a group of caregivers.

Analysis

Verbatim transcripts were made from each interview and group discussions with key informants. Nvivo 10 was used to code and identify emerging themes, enabling a systematic analysis.

Limitations

Due to time and budget restrictions, field work was conducted mainly in Quito and in three nearby municipalities: Amaguaña in the municipality of Rumiñahui, Ibarra in the north, and Ambato in the south. These visits could only offer a snapshot of the lives of children in alternative care and the efforts towards child care reforms that are underway in Ecuador. However, significant efforts were made to meet with the most relevant stakeholders during the field work and each key informant provided detailed and rich insights into the alternative child care context and current issues.

It should be noted that despite numerous requests to central departments, representatives of the Government of Ecuador, these interviews were refused. A meeting was held with a member of staff from the Office of the Ombudsperson and a member of a local authority team. However, no official interviews were made with central Government staff of child protection and alternative child care departments. On the last day of the field work, a meeting with a consultant to the Government was offered to the researcher. Two unrecorded meetings were held with current and ex-members of different Government departments. At the request of three interviewees, the information gained from those discussions, although informing this study, have not been transcribed for use in the NVIVO analysis or quoted in the text. In addition, access to Government data has also proven challenging.

The socio-economic and cultural context

Geography

Ecuador is one of 12 countries in South America and occupies an area of approximately 283.560km². It is bordered to the north by Colombia, south and east by Peru, and on the west by the Pacific Ocean.

Quito is Ecuador's capital city with an estimated 2,300,200 inhabitants. It is the second most populous city. The largest urban conurbation is Guayaquil with approximately 3 million inhabitants. The third largest city is Cuenca.²³ In 2015 it was estimated 63.7% of the total population lived in urban conurbations.²⁴



Figure 1 Map of Ecuador

²³ Source: <http://www.ecuadorencifras.gob.ec/censo-de-poblacion-y-vivienda>

²⁴ *ibid.*

Results of the 2010 Population and Housing Census reported 71.9 % of the population are mestizo, 7% indigenous, 7.2% Afro-Ecuadorian, 7.4 % Montubian, 6.1 % white, and 0.4 % 'other'.³⁰

Approximately 10% of children under 5 are not registered at birth, although among Afro-Ecuadorians this figure rises to 30% (according to 2010 data issued by the Observatory of the Rights of Children and Adolescents (ODNA)).³¹

Migration is an issue related to some children being left without parental care. An estimated 2 to 3 million Ecuadorians live outside the country although economic downturn and rising unemployment in those countries most popular with Ecuadorian migrants - Spain, the United States, and Italy - means this pattern of migration is slowing down.³² According to Acosta et al.³³ there have been two stages of migration. The first is pre-1998, with the United States as the primary destination. In the following period migration to Europe became popular. This second wave of migration has developed as a reaction to what Acosta et al. describe as 'family survival strategy'.³⁴ Ecuador also has a small but growing immigrant population of refugees with many coming from the neighboring country of Columbia from where they have been fleeing violence.³⁵

Political and economic context

Ecuador is a country with a complex political context. In the last twenty years there have been seven presidents, two new constitutions and a profound reform of the state structure. All this occurred with a context of a deep divides between Ecuadorian political class and huge processes of social struggle, motivating the rise of social movements, particularly by indigenous peoples.

In 2008, a new constitution was issued. It was approved in a referendum by 63.93% of the Ecuadorian population. The new Constitution of the Republic of Ecuador contains a catalogue of rights and guarantees. In relation to children and adolescents, the Constitution fully reflects the rights recognised in the UN Convention on the Rights of the Child and establishes the principle of the best interest of the child as an absolute priority (Articles 44 to 46).

According to the Constitution, the Ecuadorian State is composed of five state functions or powers. The three principal functions are the executive powers of the President of the

²⁹ Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

³⁰ UNICEF (2014) *Ecuador : Country programme document 2015-2018* Available at: http://www.unicef.org/about/execboard/files/2014-PL13-Ecuador_CPD-Final_approved-EN.pdf

³¹ *ibid.*

³² Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

³³ Acosta et al. (2009) *My Opinion Matters: A Study on the Impact of Paternal and Maternal Migration on the Lives of Adolescents and their Families*

³⁴ *ibid.*

³⁵ Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/ec.html>

Republic, the Legislature, and the Judiciary. Additionally the Constitution created the Electoral Power and the Power of Transparency and Social Control Council composed of Citizen Participation and Social Control, the State Comptroller General, the Ombudsman and the Superintendents in charge of the control of different sectors.

Ecuador is classified by the World Bank as being in the upper middle income group.³⁶ However, a UNICEF report published in 2013 reveals that 8.6 % of the population were living in extreme poverty.³⁷ This report also highlights the issue of multi-dimensional aspects of poverty; a measurement that considers not only monetary values but also the analysis of child deprivation resulting from gaps in being able to access rights.³⁸ In 2011, it was estimated 40.7% children and young people were living in situations of multi-dimensional poverty and 15.1% in extreme multidimensional poverty.

Religion

Ecuador does not have an official religion as the Constitution declares the country to be a secular state (Article 1 CRE). However, according to a survey on religious affiliation, conducted in 2012, over 90% of the Ecuadorian population³⁹ confirmed a religious affiliation with Catholicism being the predominant choice.

In Ecuador religious bodies have historically had a strong influence in different areas of welfare services. Many have been significant providers of educational services, health care and social protection with provision of government resources also contributing to the churches role in maintaining this provision.

Education

In 2014, a UNICEF study reported⁴⁰ only one third of the 1.7 million children below 5 years of age were attending early education programmes, even though support to early childhood development remained a priority of State policy. The Ministry of Social Development Coordination and the Ministry of Economic and Social Inclusion are reported to be focussing on a national goal that guarantees comprehensive development for children under 5, with a multi and inter-sectoral perspective. The UNICEF study also shows how attendance rates for basic and upper secondary education have continually improved. In middle basic education (for nine to 11 year olds), net attendance rates rose from approximately 80% in 2010 to 83% in 2013. During the same period, the rates in upper basic education (for 12 to 14 year olds) rose from approximately 72% to 77% and in upper-secondary education (for 15-17 year olds) from approximately 59% to 66%.

³⁶ Source: <http://data.worldbank.org/country/ecuador>

³⁷ UNICEF (2014) *Ecuador : Country programme document 2015-2018*.

³⁸ UNICEF (2014) *Ecuador : Country programme document 2015-2018*.

³⁹ Source: http://inec.gob.ec/inec/index.php?option=com_content&view=article&id=513%3Ainec-presenta-por-primera-vez-estadisticas-sobre-religion&catid=56%3Adestacados&Itemid=3&lang=es

⁴⁰ UNICEF (2014) *Ecuador : Country programme document 2015-2018* .

The UNICEF study⁴¹ also shows inequalities that exist particularly in upper-secondary education. For instance, net attendance rate of children from the Montubian population was just under 40%. Furthermore, the attendance rate from the lowest economic quintile was 56% in contrast to 80.3% from the wealthiest quintile.

A 2016 study⁴² on children and young people in Ecuador reveals how almost 4% of the population aged between 5 and 14 years are not attending school. Principal reasons for non-attendance include economic issues, having to work, having to do housework and issues related to harassment. According to a report⁴³ on child rights in Ecuador issued earlier this year, the largest decline in school enrolment especially at high school level is happening in rural locations and areas of intensive indigenous populations. In rural areas, approximately 3 out of every 5 adolescents do not attend school. The percentage of students that drop-out during the first year of high school is estimated at 8.28%. The drop-out rate from literacy programmes accelerated basic education and vocational education is 5% to 12%. In total, it is estimated that approximately 6 million people in Ecuador have not completed basic education or high school. Amongst this there are nearly 200,000 children aged 15 to 18 years of age who have not finished their basic education (up until 10th grade).⁴⁴

Health

Ecuador continues to face challenges in respect of health, health care provision and general living conditions that contribute to wellbeing, especially for children and women. For example, data on chronic malnutrition in under-fives shows a prevalence of 25.3% and amongst the indigenous population this percentage rises to 42.3%. Other concerns include overweight and obesity which has also started to affect Ecuadorian children, with approximately 8.6% of under-fives and 20% aged 5 to 11 years being affected. Amongst those 15 to 19 years old, the rate of overweight and obesity was reported to have reached 26% in 2014.⁴⁵

Data provided by the National Information System of the National Secretariat for Planning and Development determines a moderate decrease in the neonatal mortality rate between 2005 and 2011 from 7.5 to 6.1 per 1,000 live births.⁴⁶ In the same period, maternal mortality increased from 41 per 100,000 live births to 70.4, explained in part by an improvement in registration. Adolescent pregnancy has been identified as a

⁴¹ *ibid.*

⁴² CARE Ecuador, Consejo Nacional para la Igualdad Intergeneracional, Fundación Observatorio Social del Ecuador, Plan Internacional, Save the Children Ecuador, UNICEF y World Vision Ecuador. *Niñez y Adolescencia desde la intergeneracionalidad. Ecuador 2016*. Observatorio Social del Ecuador. Quito 2016. . Page. 49

⁴³ *Alternative Report on the Fulfilment of the Convention on Child Rights and its Facultative Protocols by the Ecuadorian Government*, (2016) Prepared by the people and Social Organizations of Ecuador. page.35

⁴⁴ *ibid.*

⁴⁵ UNICEF (2014) *Ecuador: Country programme document 2015-2018*. Available at: http://www.unicef.org/about/execboard/files/2014-PL13-Ecuador_CPD-Final_approved-EN.pdf

⁴⁶ *ibid.*

contributing factor in the incidence of maternal mortality. Ecuador is reported to have one of the highest rates of adolescent pregnancy in Latin America, with 16.9% of females between the ages of 15 to 19 years and 0.6% of those aged 12 to 14 years having had children.⁴⁷

Other indicators on the situation of children and young people:

- Children under 5 are disproportionately represented among children without parental care living in institutions.⁴⁸
- 29% of indigenous children and adolescents work. This is followed by 9% of the Montubian population and 7% from the Mestizo community. Children and adolescents are the group most affected by child labour that is not attending school.⁴⁹
- 3% of children between the ages of 12 and 17 years live or have lived with a partner. Of these, 0.6% are married.⁵⁰
- 6% of girls and adolescents women 10 to 17 years old claim to have had one or more pregnancies. Approximately 50% of causes for hospitalization in adolescents in this age range is related to pregnancy, childbirth and the postpartum period (2009-2011).⁵¹

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.* Page 96

⁵⁰ *ibid.* Page 86

⁵¹ CARE Ecuador, Consejo Nacional para la Igualdad Intergeneracional, Fundación Observatorio Social del Ecuador, Plan Internacional, Save the Children Ecuador, UNICEF and World Vision Ecuador (2016) *Niñez y Adolescencia desde la intergeneracionalidad. Ecuador 2016*. Observatorio Social del Quito: Ecuador. Page .114

Reasons children enter formal alternative care

Being at risk of, or subject to, abuse and neglect is the predominant reason children are entering formal alternative care in Ecuador, including cases of physical, emotional and sexual abuse and neglect⁵². In addition, but thought to be of lesser degree, being orphaned and cases of abandonment are also relevant to being in alternative care.

Children identified the most common spaces in which situations of violence and abuse happen, include: in their own home (54%), at school or college (28%), and in their neighbourhood (11%).⁵³ The children also said that those responsible for their abuse include: their fathers, mothers, and other legal caregivers (52%), siblings (16%) and other family members (5%). Overall, members of the family comprise 73% of those responsible for abuse against children.⁵⁴

Situations of violence (concerns of physical, emotional and sexual abuse and neglect) as described earlier in this report are evident in the records of the Ministry of Economic and Social Inclusion (MIES). For 2012, the 'Care Units Family'⁵⁵ nationwide handled over 17,300 cases in different provinces of the country, as illustrated in

⁵² Oswaldo, A. L.E. (2014) *La adopción como mecanismo jurídico para fortalecer el desarrollo integral de los niños niñas y adolescents*. Universidad Central del Ecuador, Facultad de Jurisprudencia, Ciencias Políticas y Sociales Carrera de Derecho

⁵³ Foro de ONGs de Patrocinio, Plan Internacional Ecuador, Corporación de Estudios DECIDE. *Informe de la consulta realizada a niños, niñas y adolescentes de los programas de las organizaciones del Foro de ONGs y Ideas SOS sobre el cumplimiento de sus derechos*. Ecuador: Quito, Page. 45

⁵⁴ *ibid.*

⁵⁵ Fierro, S.O. (2015) *La Actualización de la Información Respecto del Análisis de la Situación de los Derechos de los Niños, Niñas y Adolescentes que Están en Riesgo O Han Perdido el Cuidado Parental de Sus Padres en El Ecuador*. Page.57

Table 4.

Table 4 Reasons children receive protection services MIES 2010⁵⁶

Atenciones por violencia realizadas por las Unidades de Atención de la Familia del Ministerio de Inclusión Económica y Social (MIES) por provincias, 2012

Provincia	Abuso sexual	Negligencia	Maltrato físico	Maltrato Institucional	Maltrato psicológico	Violencia Intrafamiliar	Total
Azuay	37	817	278	14	370	128	1.644
Bolívar	48	57	122	1	58	3	289
Cañar	1	26	30	-	33	2	92
Carchi	24	257	190	1	307	13	792
Cotopaxi	41	39	38	1	17	11	147
Chimborazo	19	72	44	30	276	4	445
El Oro	91	844	242	43	653	38	1.911
Esmeraldas	33	49	38	6	27	13	166
Guayas	4	127	13	3	36	7	190
Galápagos	402	879	436	42	632	174	2.565
Imbabura	18	202	119	8	91	9	447
Loja	27	621	256	26	338	63	1.331
Los Ríos	62	556	165	9	231	1	1.024
Manabí	190	1.093	391	21	406	125	2.226
Morona Santiago	56	323	104	14	124	102	723
Napo	18	92	70	2	159	12	353
Orellana	6	76	30	-	25	15	152
Pastaza	52	181	44	-	56	66	399
Pichincha	67	337	181	35	242	45	907
Santa Elena	53	104	43	3	68	6	277
St. Domingo Tsáchilas	44	112	79	1	36	9	281
Sucumbíos	12	94	56	7	70	19	258
Tungurahua	12	102	47	11	117	11	300
Zamora Chinchipe	26	259	115	12	23	16	451
País	1.343	7.319	3.131	290	4.395	892	17.370

Fuente: MIES 2012, en Viceministerio de Inclusión Social Ciclo de Vida y Familia, 2013. Elaboración: OSE, 2014.

Note: data from the original source does not indicate if these figures include multiple occasions the same child came into contact with the system.

⁵⁶ Consejo Nacional para la Igualdad Intergeneracional y otros. La niñez y adolescencia en el Ecuador contemporáneo: avances y brechas en el ejercicio de derechos. Observatorio Social del Ecuador. Septiembre 2014. Versión digital. Page 76
⁵⁶ 5º Y 6º (2016) Informe Combinado con Arreglo al Artículo 44 de la Convención sobre los Derechos del Niño, Ecuador, March 2016. Page 19.

According to Government figures in 2015, as reported by the Special Police for Child Protection (DINAPEN) and depicted in Figure 3, recorded cases of child maltreatment are decreasing. Although this contradicts the information obtained through interviews with practitioners in Ecuador gathered for this report.⁵⁷

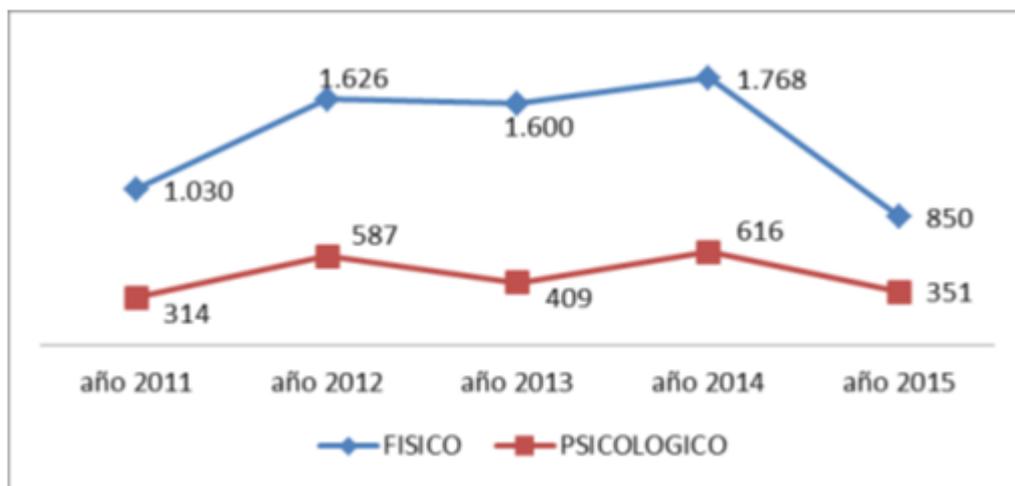


Figure 3 Physical (Fisico) and Psychological (Psicologico) Incidences reported to the Special Police for Child Protection (DINAPEN) 2015⁵⁸

Regarding this data, it is important to note information in the study entitled 'Childhood and Adolescence in Contemporary Ecuador: progress and breaches in the exercise of rights' that states how such information:

is only a partial reflection of what children suffer because 'registered' refers to situations that they asked for help of the State. Without losing sight of this high underreporting, the diversity of forms of violence reported as most striking is negligence. This means that 42% of the reasons of serious violence respond to the fact they are not properly cared for at home. This figure is followed by 25% of children suffering from psychological abuse and 18% of physical abuse. We can't ignore the fact that 7% have suffered sexual abuse.⁵⁹

Physical, emotional and sexual abuse violations as well as neglect are all identified as reasons children are being removed from parental and family care. Such risks to children were described by many key informants as being an inter-familial and inter-generational

⁵⁷ 5º Y 6º (2016) Informe Combinado con Arreglo al Artículo 44 de la Convención sobre los Derechos del Niño, Ecuador, March 2016

⁵⁸ ibid.

⁵⁹ Consejo Nacional para la Igualdad Intergeneracional y otros. (2014) *La niñez y adolescencia en el Ecuador contemporáneo: avances y brechas en el ejercicio de derechos*. Observatorio Social del Ecuador. Septiembre 2014. Page 76.

phenomenon in Ecuador. One key informant noted the complexity when working with families because abusive behaviour 'being transferred from one generation to another and violence becomes the norm.'

And another:

in the cases of sexual abuse we notice it is repeated generation after generation. It could be inter-familial or in other cases like people who are employed as for example cases of young women who were working as domestic workers who suffered sexual abuse.

Many key informants spoke of the significance of a culture of violence in Ecuador⁶⁰. This violence is understood to permeate all sectors of society as indicated during interviews for this study as one informant said, 'the violence is everywhere. It is unbelievable....violence is everywhere here especially Quito and Guayaquil you see very violent societies'. Another spoke of how '44% of children in this country suffer physical violence in their home. And 37% suffer in the schools physical violence from teachers'. Additional comments from informants included:

'but the violence is natural in our society... the situation with macho attitudes and violence against women is so deep.'

'we notice there are more girls coming into the system. There is the issue of gender violence and girls are more affected by gender based violence because of the culture.'

'punishment is the way to discipline - so people do not know alternative ways to raise a child. It is cultural.'

A government report⁶¹ of 2014 recorded how 1 in 6 women (60.6%) over the age of 15 years had suffered one or more forms of gender-based violence in their lifetime. UNICEF reports also observed the 'persistence of social norms and behavioural patterns that contribute to violence, including acceptance of physical punishment as a form of discipline'⁶². In 2014 a study found 56% of children in sixth grade had been victims of violence whilst 27% of pupils between the ages of 6 to 17 years old had reported being physically assaulted by teachers. In addition, 44% of child respondents aged of 5 to 17 years of age reported to have been subject of violence and abuse at home.⁶³ Oviedo reports how in 2012, 'cases of violence affected 17,370 children and adolescents,

⁶⁰ Source: http://www.unicef.org/about/execoboard/files/2014-PL13-Ecuador_CPD-Final_approved-EN.pdf

⁶¹ Secretaria Nacional de Planificación y Desarrollo and Consejo Nacional de la Niñez y Adolescencia (2014) *Agenda Nacional Para La Igualdad Intergeneracional 2013-2017*

⁶² UNICEF (2014) Ecuador : Country programme document 2015-2018 Available at:

http://www.unicef.org/about/execoboard/files/2014-PL13-Ecuador_CPD-Final_approved-EN.pdf

⁶³ *ibid.*

including negligence and psychological abuse being the highest figures, followed by physical abuse and sexual abuse'.⁶⁴ Oviedo also highlights the concern of violence as a 'dominant paradigm in Ecuadorian society'⁶⁵ which she correlates with the high levels of violence against children in schools. This situation she writes:

has not changed, but rather has grown in the last period from 20% to 30% of children aged 5 to 17 years who suffer some kind of abuse or violent punishment. What catches the eye is that this increase in violence towards children and adolescents in educational establishments between 2000 and 2010.⁶⁶

No published data has been found that verifies the prevalence of sexual abuse of children but several key informants, including a number of university researchers, spoke of rates being as high as 30 to 40%. This included information gathered by reputable international agencies (as a result of the emergency response to the recent earthquake) and from other staff of front line service delivery and research. In reference to the number of cases received by a local protection board responsible for receiving referrals and with decision making responsibilities, the respondent told of how 'a huge number' of the cases included those of 'sexual abuse'. Others agreed, including one key informant who explained how 'sexual abuse is a big big issue for institutionalisation because it is a bit big thing here. 30% of children in shelters are abused - sexually abused'.

Overwhelmingly cases of sexual abuse discussed during this study centred on violations occurring within a family setting. Very few key informants referenced violations by non-family members of society.

Three key informants from organisations providing residential care spoke of how once their psychologists and social workers started to work with children they also discovered many cases of sexual abuse, even if this was not the initial reason they had been brought into care. One informant said children that come into care into the casa familia, come here for several reasons. For example, most of them suffered sexual abuse'. Another acknowledged, I think maybe 50% of our children have had sexual abuse at some point in their lives. They don't come in with that knowledge, we don't know that. But while we live here with them we identify like sexual conducts, and we identify it, we see some indicators'. A third informant said, 'sometimes we don't know it. But when we begin the work with the children we discover there is sexual abuse'.

⁶⁴ Oviedo Fierro, S. (2015) *La Actualizacion de la Informacion Respecto del Análisis de La Situación de los Derechos de los Niños, Niñas y Adolescentes que Están en Riesgo O Han Perdido el Cuidado Parental de Sus Padres en El Ecuador.*

⁶⁵ *ibid.* Page 53

⁶⁶ *ibid.* Page 53

A further reason children are removed from family care is the high incidence of drug and alcohol addiction found across Ecuador. A key informant identified that:

there are many alcohol cases... it is a high level of alcoholism in the cases where violations of rights are present. And lately we are facing the new reality of high levels of drug abuse that also has directly affected children and adolescents because they are also taking drugs'. Another spoke of how 'the main problems are poverty and drug dependence or alcohol dependence. They are like the main problems and of course that generates a lot of violence. Just mix poverty and dependence and it is a cocktail... The thing is that the drug and alcohol abuse is very natural in Ecuador because you have it in every single social class.

One key informant noticed how intake of children into their care rose at weekends particular due to 'the abuse of alcohol'.

Domestic violence, family breakdown, and imprisonment, drug and alcohol abuse and mental health issues of parents were all been cited as reasons children are abandoned. However, there is also concern that some children who police identify as abandoned are not children without family care but children the special police for child protection, (DINAPEN) have taken from the street and labelled as abandoned. As one informant noted:

'in other cases we have children that come in because of abandonment but sometimes because DINAPEN doesn't investigate and next day the family of the child come and we have to reunify them. We should not institutionalised a child that has their family.'

Additional reasons for alternative care include: children who have fled with relatives from the conflict in Columbia and then are abandoned in Ecuador, as well as families who migrate both inside and outside of the country for work purposes who leave their children behind. According to data published by the Ministry of Economic and Social Inclusion, migration affects 284,027 children and adolescents in the country⁶⁷. Information regarding impact on children left behind by migrant parents found the detrimental effects included emotional distress, social stigma, and heightened vulnerability to abuse.⁶⁸

Emotional abuse was not a term used by key informants although many recognised the social and emotional impact on children who had suffered other forms of abuse and

⁶⁷ SOS Children's Villages International (2009) *My Opinion Matters: A Study on the Impact of Paternal and Maternal Migration on the Lives of Adolescents and their Families*. SOS Children's Villages International. Innsbruck: Austria

⁶⁸ *ibid.*

neglect, including those who had been witness to family violence. One informant said that 'in these family cases many times we finally conclude that it is not a violation against the child but usually a problem with the adults. But nevertheless the child is inside a conflict situation and emotionally affected.'

Key informants also cited neglect as a reason for children brought into care. When asked how neglect was assessed, many informants mentioned examples of cases considered to be severe neglect, although they also recognised that thresholds of decision makers tended to be very subjective and varied from person to person.

An illustration of neglect was provided by one key informant who spoke of a family of five siblings placed into residential care four years ago. There was work to try and reunify the children with their parents however, their father was 85 years of age and their mother who was 40 years of age was described as having an 'intellectual deterioration illness' rendering her with an intellectual age of a young child. Their house is constructed of plastic sheeting with only one room. When the children were moved into care they had not been in school and there were health and nutrition concerns. The key informant recognised that while there was no violence the children were 'not receiving any adult care'. The informant went on to say that in such cases 'the adult is not conscious of this being bad treatment.'

Another key informant when asked the same question about thresholds referred to children who 'are not well dressed especially the girls' and a second related a case that left her aghast when a judge took neglect into account because the child was wearing odd socks.

All key informants recognised that abuse and neglect occurs in all socio-economic strata of society in Ecuador. One informant explained how 'it can be mixed. We have two cases one from a poor family and one from a high income. But in most cases they are from low economic status families. Another acknowledged that 'obviously it [violence] is in highest social class - they hide it a lot and also the police are not going to react on it'.

They also confirmed however, that children placed in care invariably come from poor households. This is accredited to the fact that poorer families are more likely to come to the attention of the authorities, especially the police. Poorer families have less access to services that could assist with family problems such as social protection, health, employment and housing. In addition, there is very little assistance to address domestic violence, mental health, disability, alcoholism and drug abuse concerns.

One key informant was concerned about the number of children from indigenous communities that come into the care system. This corresponds with a government report

of 2016⁶⁹ illustrating those in care in 2014 comprised 82% of children as of Mestizos origin, 11% Afro-Ecuadorians, 6% Indians and 1% white.

When asked about children with disabilities, key informants confirmed that children with disabilities do not form a significant number of those in formal alternative care. One key informant thought this may be because some organisations, including state providers, are not accepting children with disabilities into their care. However in 2015, reports indicate that 5,603 disabled children were growing up without parental care and that it was 'well known that many couples abandon their children when they discover they have some kind of disability, among other reasons'.⁷⁰ A further report⁷¹ asserts 11% (316) of children in formal alternative care were reported to have 'mental disabilities'.

Information in Figure 4 illustrates it is predominantly older children who are without parental care. This confirms the information given by non-state providers during the field work that it is mainly older children with whom they are working, although no one was able to provide an explanation for this. They said, 'the main group of children are between 11 and 18 years old. I don't know why this age' and another, 'I think we have more adolescents than younger children... from 15 – 17 years'.

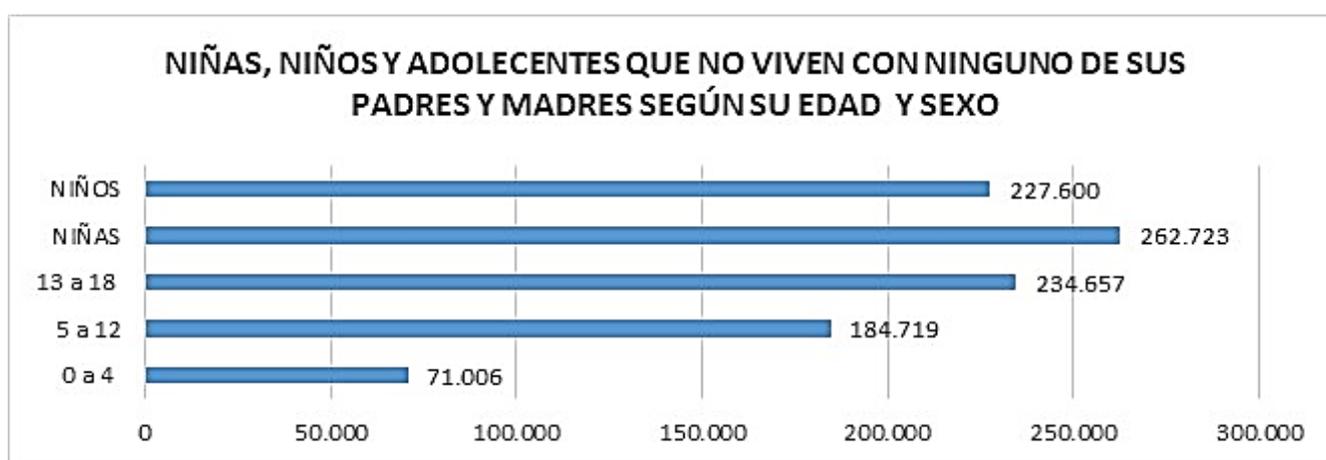


Figure 4 Children without parental care disaggregated by sex and age⁷²

Other child protection concerns in Ecuador include those of child labour and trafficking. In 2015, Oviedo highlighted that 'child labour affects 13% of the population of children and adolescents between 5 and 14 years old.'⁷³ In 2014, approximately 59,000 children and

69 5º Y 6º (2016) Informe Combinado con Arreglo al Artículo 44 de la Convencion sobre los Derechos del Niño , Ecuador, March 2016

70 Oviedo Fierro, S. (2015) La Actualizacion de la Informacion Respecto del Análisis de La Situación de los Derechos de los Niños, Niñas y Adolescentes que Están en Riesgo O Han Perdido el Cuidado Parental de Sus Padres en El Ecuador.. Page.55

71 5º Y 6º (2016) Informe Combinado con Arreglo al Artículo 44 de la Convencion sobre los Derechos del Niño , Ecuador, March 2016

72 ibid.

73 Oviedo Fierro, S. (2015) La Actualizacion de la Informacion Respecto del Análisis de La Situación de los Derechos de los Niños, Niñas y Adolescentes que Están en Riesgo O Han Perdido el Cuidado Parental de Sus Padres en El Ecuador.. Page 53

were reported to be working, representing 9% of the total of this age group. Of these children, 4% were between 5 and 11 years old, 12% between 12 and 14 years and 16% between 15 and 17 years.⁷⁴

Children in alternative care

It has been difficult to obtain data relating to the number of children without parental care and the statistics of those living in informal care. A report on children in alternative care⁷⁵ acknowledged this gap, indicating the last official figures on children without parental care in Ecuador were those published by the National Institute of Statistics and Censuses in 2006. The data reported the number of children without parental care to be 490,383 (8.5% of the total population aged 0 – 17 years old) of which 53.6% were female and 46.4% male.

Outcomes for children in alternative care

No reports have been found that document outcomes for children as a result of having been in alternative care. Practitioners interviewed for this report acknowledged the emotional impact that abuse, separation from family and placement in care can have on children. They provided information on their programmes that provide necessary support to children through psychologists and social workers with the aim of mitigating such affects.

As support to care leavers is a reasonably new practice only being undertaken by a few NGOs in Ecuador there is no published evidence that maps outcomes for these young people. Children are being reunified with their families but not followed up in a manner that specifically documents short or long term outcomes. One key informant did recognise 'the psychological impact of a child that grows up for many years in an institution is very strong.'

This lack of information particularly highlights the need for more qualitative and longitudinal data necessary to measure the outcomes of children who have experienced alternative care.

Use of informal care

The terms 'informal care' or 'kinship care' were not distinctly used by key informants or in the literature. In most reports, when translated from Spanish to English, the term 'extended family' was most commonly used.

In the absence of any recent official data published on children without parental care, information in this study draws on interviews with key informants and a small number of

74 Consejo Nacional para la Igualdad Intergeneracional y Otros. (2014) *La niñez y adolescencia en el Ecuador contemporáneo: avances y brechas en el ejercicio de derechos*. Observatorio Social del Ecuador. Page 92

75 Oviedo Fierro, S. (2015) *La Actualización de la Información Respecto del Análisis de La Situación de los Derechos de los Niños, Niñas y Adolescentes que Están en Riesgo O Han Perdido el Cuidado Parental de Sus Padres en El Ecuador*. Page.57

research reports. This information indicates how a significant number of children live in informally arranged care by their extended family or in other households across Ecuador. A study undertaken in 2008 of informal care in a northern province of Ecuador found informal care to be a common practice. The predominant factors were 'extreme poverty in their natal home'⁷⁶ or changes in family structure - for example, 'when a parent forms a new conjugal union and the step-parent will not raise the children or when one or both parents die'⁷⁷. It is also a practice that wealthier relatives and friends raise children of poorer relations. One informant said, 'here in Ecuador children are staying for long periods with extended family. Actually I would say there are no orphans in Ecuador. The extended family are always taking care of children'. Another spoke of how, 'within an Ecuadorian family you really take care of the family and you have the extended family.'

Concerns about the protection of children living in informal care have been identified in Walmsley's research.⁷⁸ Walmsley highlights a concern that if such care remains unregulated, it may be open to exploitation and abuse - for example, a 'child's position can easily slip into that of an unpaid empleada (maid)'.⁷⁹

One key informant spoke of how the government used to be more involved with informal carers but this practice, as confirmed by others, has now virtually ceased:

'It is true that danger could be in informal care... We were working with the family to avoid the child going into institutional care... the extended family were monitored and were included in all the process like a foster family with technical and social and economic support... but now it has stopped. It is so sad.'

The placement of children in extended family care is also discussed in further detail below with respect to children moving out of residential facilities.

76 Walmsley, W. (2008) *Journal of Latin American and Caribbean Anthropology*. Vol. 13 (1), pp. 168–195.
77 *ibid.* Page.176
78 *ibid.* Page.177
79 *ibid.* Page.177

Types of formal alternative care

Formal arrangements for children without parental care are mainly in residential facilities. The Code for Children and Adolescents provides as protection measures for children and adolescents without parental care:

- 1 Foster care, regulated in Article 220 as a temporary protective measure which aims to provide the child or adolescent an appropriate family based on their needs and characteristics; and
- 2 Institutional care, regulated in Article 232 as an interim measure of protection for those children or adolescents, where it is not possible foster care.

In both cases, the Code provides for the obligation to preserve bonds with the family of origin and ensure their reunification. However, there is no standardised, government endorsed system of foster care or other forms of family-based care in Ecuador.

Residential Care

In the Government of Ecuador's 'Technical Rules for Special Protection'⁸⁰, published by the MIES, residential care is described as being based on the principle of the best interests of the child above any other interest, and is a protection measure to guarantee their rights and facilitates access to higher levels of welfare, safety and emotional stability. The two forms of residential facilities offered in Ecuador are known as 'Acogimiento Institucional' translated as 'Institutional Foster Care' for a minimum of 30 children and 'Casa Hogar' which means small group homes designed in a manner to replicate a family space. Government technical standards state the latter as being particularly suitable for accommodating 0-2 year olds. Throughout the interviews, key informants referred to residential facilities as 'residences'.

In June 2016, a total of 93 residential facilities were listed as being regulated by the MIES⁸¹. Residential facilities vary in size ranging from a capacity of 10 to 75 children, with a number housing over 100. There are also small group homes set within a local community and SOS Children's Villages. These facilities are largely run by non-state providers and private organisations through agreements issued by the MIES.

The technical standards issued by MIES require residential facilities to:

- Assume the legal representation of children when the resolution of competent authority so determines
- Conduct educational activities with the families of children

⁸⁰ Ministerio de Inclusión Económica y Social (2014) *Norma Técnica de Protección Especial, Servicios de Acogimiento Institucional*. Ecuador: Quito

⁸¹ Unpublished data

- Care for a child in a personalised way through development of educational activities
- Develop individual processes to address the psychological, legal and social development of a child
- Prepare and submit in a timely a 'Global Family Programme' plan, a 'Comprehensive Care Plan' for each child and any other documentation as requested by judges
- Periodically inform judges of any changes in circumstances that initially led to the placement or would, modify or terminate the current protection measure
- Ensure access to education
- Promote all necessary actions to reintegrate children with their family
- Maintain complete and updated records of each as well as a database of the children in care ⁸²

Data in Table 5 illustrates the number of children in formally supported alternative care, including those in residential facilities, between 2009 and 2015.

Table 5 Number of children in formally supported care in Ecuador 2009 – 2015 ⁸³

Year	Total Number of children in supported care with extended family	Total number of children in care in residential facilities	Total number of children in formally supported care*
2009	-	-	3026
2010	-	-	2975
2011	-	-	3015
2012	868	4511	5379
2013	780	4593	5373
2014	768	2585	5353
2015	980	2520	3500

* data for children in formally supported care only disaggregated from 2012 onwards

In 2015, a total of 2,520⁸⁴ children were living in residential facilities. The latest population data in 2010 indicates those aged zero to 17 years totalled 5,567,700, ⁸⁵ which means approximately 0.045% of the total child population in Ecuador comprise those living in residential care. As also illustrated in Table 5, the number of children in care rose substantially between 2012 and 2014, decreasing again in 2015 to numbers similar to those of 2009.

82 Ministerio de Inclusión Económica y Social (2014) *Norma Técnica de Protección Especial, Servicios de Acogimiento Institucional*. Ecuador: Quito

83 5º Y 6º (2016) *Informe Combinado con Arreglo al Artículo 44 de la Convención sobre los Derechos del Niño*, Ecuador, March 2016

84 *ibid.*

85 Source: http://www.unicef.org/infobycountry/ecuador_statistics.html

In 2014 the MIES, carried out a monitoring, verification and updating of information exercise during which they recorded 2,585 children living in government and non-state provided residential facilities. The highest percentage of children were aged between five to 11 years (41%); followed by 12 to 18 year olds (39%) and those between zero to 4 years (17%).⁸⁶

Data published by the MIES in 2015⁸⁷ as shown in Table 6, would suggest that almost half the children in residential facilities have been there between 1 and 4 years, with 20% remaining for 5 years and more. The majority of key informants believed recent changes to regulation,⁸⁸ requiring children to be reunified with families or placed for adoption within 6 months of being taken into care, will start to reduce the length of time children remain in residential facilities. There were also worries regarding the impact these changes may have on hasty reunification processes discussed later in this study.

Table 6 Length of stay in residential facilities in 2015⁸⁹

Length of stay in residential facilities	Percentage
0-11 months	42%
1-4 years	40%
5-9 years	12%
10 years and more	6%

In 2014⁹⁰, MIES identified the main causes children were placed in residential facilities as abuse (23%), maltreatment (23%), and neglect (16%). There are no definitions provided for these categories apart from mention that children include those whose parents have been deprived of liberty and children who have been sexually abused, mistreated and found in the street. Only 3% of children were reported to be orphans and 0.1% recorded as those being taken into care due to household poverty.

All children admitted to formal care must be in receipt of an order issued by a competent a legal or administrative body. In 2015, the MIES reported that the breakdown of legal status of children in residential facilities was 95.71% had a judicial measure to legalise their stay, 3.13% had an administrative measure and 1.15% were awaiting on an order.⁹¹ A member of a residential care facility spoke of how children are:

86 5º Y 6º (2016) *Informe Combinado con Arreglo al Artículo 44 de la Convencion sobre los Derechos del Niño*, Ecuador, March 2016

87 *ibid.*

88 Acuerdo Ministerial 194, del Ministerio de Inclusión Económica y Social, de 21 de marzo de 2013

89 5º Y 6º (2016) *Informe Combinado con Arreglo al Artículo 44 de la Convencion sobre los Derechos del Niño*, Ecuador, March 2016. Page 23

90 5º Y 6º (2016) *Informe Combinado con Arreglo al Artículo 44 de la Convencion sobre los Derechos del Niño*, Ecuador, March 2016

91 *ibid.*

'usually coming with a judicial order but sometimes in exceptional cases they don't have the order so in that case we asking for the order through the public defender. Sometimes a case comes from the school, from a neighbour who is aware of something going on and we have a few cases where the children are coming by themselves. I remember at least two children, one 15 and one 16 years old who came by themselves.'

Key informants indicated that across the country conditions in residential facilities are variable. No one spoke of any facility they rated as particularly bad although one key informant from an international NGO spoke of their visits across the country and how they had noted the lack of a rights based approach to residential care: They spoke of how 'the children don't even have a drawer with their name on it. It is basic. You enter and you can see they don't treat the children as individuals.'

The informant also spoke of some of the non-state providers as not having 'any idea what they are doing. They just give this report of how many children... and that for me is a big big problem.'

Key informants said they believed the poorest conditions were to be found in state run institutions. Of greater concern were reports of maltreatment in some residential facilities, including the regular use of harsh disciplinary action. Although personal opinions, several key informants thought this was particularly the case in some residential homes run by church organisations. This understanding also related to the quality of personal care children are receiving within some church and state run residences. In cases where there is a harsh disciplinary attitude towards children, it is believed this behaviour particularly correlates to a general attitude that children are 'bad' or 'badly behaved.' These attitudes were found in a number of the residential facilities visited by the researchers for this study.

It is understood that there have been gradual improvements in the overall quality of residential care which was noted by one previous employee in the MIES who highlighted: how for the last 15 or 20 years, 'since I have been working we can see an improvement. For example, starting in 2000, a lot of the institutions were lacking technical personnel and they all have a requirement to have them now.'

A concern raised by a number of key informants is the practice in some residential facilities of not retaining bonds between the children and their families. Once again some key informants felt this was particularly relevant in some church run facilities. This is a topic particularly relevant to the information provided during group work with children and young people discussed in further detail in a later section of this report.

During key informant interviews, only 2 of 26 respondents used the term 'deinstitutionalisation'. One informant spoke of how Ecuador is:

'very far away from deinstitutionalising not just because we are adoption orientated but it is the only alternative we have right now. Institutionalisation or adoption. Because we do not have a family care programme'.

And went on to say:

'we need to re-orientate the way institutional care is provided so at least we are sure that institutional care is delivered according to the UN Guidelines and the last resort with adoption. And we need to have alternatives for children that correspond to their best interest and we do not have alternatives.'

Another key informant conveyed her concern at recent government decisions:

'the closure of foster care programmes and the lack of progression with casa familias was, I think, a lack of understanding from authorities and not just this government but progressively and from judges, policemen, public organisations. Whoever they are it is like they are only doing something to avoid children in the streets and lock them in an institution... and the Children's Code provides a lot of measures for children but they are blind and they only see institutional care in large institutions'

Children's experience of living in residential care

Individual interviews and group work was conducted with children and young people. A number of standard activities were used according to age group. Included in each session was an exercise where children drew a flower and in an inner row of petals drew those people who were most important to them, and in a second row of petals the people who were important but not as close. Members of their family and friends in their place of alternative care comprised some of the most important people in their lives.

A confidential activity was also conducted in which children/young people were invited to write on coloured 'post-its' about things that made them happy and things that made them worried. The 'post-its' were then placed in either a 'happy bag' or a 'worry bag'. Children were also asked if they would like to write a letter to another child who might be in the same situation as themselves in future and what advice would they offer.

Information provided by children living in four different residential settings are set out in below.

Experience of children living in a residential facility

This information is from one residential facility housing approximately 40 girls of different ages from 10 years and upward.

What makes me happy

All the children wrote of the importance of mothers, fathers, siblings, grandparents and aunts and uncles and family based care. They wrote of happy moments when they are able to spend time with their families:

'I am happy to see my brother happy to listen to him and to tell him I love him. Also to tell my mother and I want to hear from her that she is missing me'

'What is happy is for to me to stay with my family and they say congratulations when I am doing good things. When I am with my family I can have a good time'

'I like it when my aunt comes to visit me... she brings me toys, chocolate and food.' One girl wrote how she hearing her 'mothers voice even though I cannot see her but I can hear her voice'.

Children wrote of support and solidarity from their friends in the residential facility. One child wrote of how she is happy when the other girls in the residence help her and another how she likes 'to receive love to receive affection' from her friends.'

What makes me worried

Children wrote they were unhappy and depressed. Overwhelmingly they miss their family and their friends and many were unhappy because they are not with them. They particularly worry about what is happening to their family when they are not there. One girl wrote how in her 'sad moment' she is concerned about her brother and another wrote that 'I am worried about my mum and my family are not close to me'. Another wrote of concerns of how staff respond to their families:

'I don't like they are saying bad things to my dad only because he is ill. They are making me feel bad and they are asking questions asking me if I love my dad.'

Others wrote that they are being denied access to their family. They also referred to the general way in which they are treated, how some of their personal items were taken from them. One child wrote 'I am locked in' and another wrote 'no-one understands me'.

Writing about the staff of the residence, one child wrote 'they don't know what love is....I want to be out of here in a while.' Another child wrote of being

'worried to be here because probably I won't see my mother and brothers again and everybody I know. That is why I am always sad. One day they told me I will never see my mother again.'

The children wrote of harsh treatment. They wrote how members of the staff in the residence spoke harshly to them and made them feel insignificant. Some wrote of being beaten 'I don't want to live here because I am beaten'. Many mentioned certain members of staff who regularly insult them and constantly put them down:

'they are damaging us with bad words'.

'they are telling me I am big so don't eat more because that is why I am fat. I am just breathing to avoid crying. This is something that no one needs to have other see this because it is a big pain for me... It is like they don't love me and that makes me feel alone because only my family understand me no one else.'

Children were asked if they would write letters to other children who might be coming into care and what advice they would offer. Children wrote about the manner in which they were being emotionally abused. Extracts from these letters include:

'You are a good person. Be proud of yourself. I know what you will feel because I am feeling the same.'

'I cannot give you a clear advice. The only thing I can say is that you must request that your rights are to be respected if someone has told you that you don't have the right to say that.'

'I will just say some things. Whoever is in silence is saying yes. Trust in others and maybe someone will give you better advice than me.'

'From xx to a very special person. To someone very special. Probably you don't know me but someday we will meet. I just wanted to let you know that in any institution you might be in gain the trust of people around you, have good behaviour, keep everything well organized, wash all your things, study, have good grades, look after yourself. Try it.'

'Don't be sad because sooner or later your family will come. Meanwhile take advantage, have a behaviour and take care of yourself so tomorrow you are going to be a good girl'.

Experience of children living in small group residential facilities

This information is from children living in small group residences run by two different organisations and children in an SOS Children's Village.

What makes me happy

Children wrote of the importance of family. However, it is interesting to note that this was not as significant to some children in the children's village as in other residential facilities. For example, one child wrote:

'I was happy when I saw the other children and when I saw Aunt XX [house mother]. I felt happy because I thought I was with my family'.

One child said they were happy they had been 'brought here' and had 'everything I need'. Another child wrote of how they are now 'used to being here and I am happy with my friends here'. An environment in which they can 'play and share' and the importance of recreation was also something raised by quite a number of children.

Children wrote of support and solidarity from their friends in the residence:

'I was very happy when on the first day I got here they gave me a welcome party with all my house friends. I felt happy because of the kisses they gave us when I got here. The craziness of my friends and sometimes I am. Especially the company and the friendship of all my friends and my house brothers.'

What makes me worried

Children wrote about their anxiety in being separated from their family, writing about how it upset them 'to be separated from my mother and my brothers and uncles'. In addition they carried many concerns with them about family members left behind:

'I was sad because of my father in case something bad would happen to him whilst I was here.'

'[I am] worried about my father and I didn't know if he was ok or in trouble' and another 'I was sad for my mother'.

Several wrote about how they were scared when they first came to the facility:

'When I came here I was scared because I had no one here but I am not afraid anymore because I am with my [house] mother'.

Attachment to staff and friends and the sadness they feel when they leave is a concern to some children. This is particularly pronounced when it is a sibling that is leaving. One child was worried that their 'brother is leaving for independence'.

Some expressed sadness for children outside the facility who are not receiving the food and care they are receiving.

Not all children found companionship and some wrote of being bothered by other children: 'when I got here I didn't like it some of my friends in the house and other children made me sad.'

Letters

Children in three different residential settings were asked if they would be willing to write letters to other children who might be coming into care and what advice they would offer. Extracts from these letters include:

Residence 1

'To my friend, take care of everything that can happen to you and god bless you and protect you'

'I recommend [name of residence] to you. It is a caring place and they give you food and clothing and a home. If you have brothers or sisters they won't be separated. Take care and if you want I can give you the telephone number and they can come and get you'

'Take care. Protect yourself. May god be with you forever. May they protect you.'

'Take care a lot. Make god be with you always in your life and you don't have any needs.'

Residence 2

'To forget for a while all things and enjoy your friends to play because if you get to your house you are not going to have what you had before'

'To take advantage of what you have and everything you are being paid for because this won't last forever. No matter what don't look back and keep going forward to the present'

'To take advantage of being in (name of residence) or with your parents. If you feel bad don't remember what happened to you before. Feel good'.

Residence 3

'Behave well and don't say bad words'

'Behave well and don't be mischievous and study'

To behave well and to not behave badly and to not fight'

'Don't behave badly and don't say bad words'

Figure 5 contains the drawing of a child depicting their long and difficult pathway into care which had involved many 'stops' along the way.



Figure 5 Drawing of a child's pathway into care

Foster Care

Foster care as a form of alternative care is described in the UN Guidelines for the Alternative Care of Children as:

'Situations whereby children are placed by a competent authority for the purposes of alternative care in the domestic environment of a family, other than children's own family, that has been selected, qualified, approved and supervised for providing such care.'⁹²

The Handbook 'Moving Forward'⁹³, a tool to assist with implementation of the Guidelines, identifies the use of foster care as a form of short or longer term placement depending on suitability and circumstances. In reality, the term 'foster care' is being used in different countries, including Ecuador, to describe a range of formal and sometimes informal care settings in a family environment and residential settings.

The term used for foster care in Ecuador is 'acogimiento familiar'. However, there is no formal foster care provision in Ecuador as described in the UN Guidelines. A pilot programme initiated by Danielle Children's Fund (DCF) with a small number of other non-state providers was suspended by the MIES in January this year. The reason provided by the MIES to one of the principle NGOs working in this field was the lack of cost effectiveness of foster care in comparison to residential care. During the pilot only a small number of children had been placed in care through the programme. For example, two NGOs indicated they had approximately nine children in total either placed or in the process of going into foster care. However, it was also believed this pilot has already provided 'a richness of information and experience.'

The programme instigators had hoped this pilot would provide a model that could eventually be scaled up into a national formal foster care system, especially as the non-state provider leading this initiative had engaged to the best of its ability with the MIES to develop the programme. Because the Country 'lacked a normative technical framework, the technical standards, and the statutory standards for foster care', investment was made by the non-state providers in developing standardised procedures for the recruitment, selection, matching, training and support to foster carers. These processes were developed through a combination of researching what worked in other countries combined with ideas and experience from other national organisations in Ecuador.

⁹² UN General Assembly (2009) *The Guidelines For the Alternative Care of Children* (Article III, 29c.ii).

⁹³ Cantwell, N., Davidson, J., Elsley, S., Milligan, I. & Quinn, N. (2012). *Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children'*. Centre for Excellence for Looked After Children in Scotland, University of Stathclyde. Scotland: Glasgow,

During the field work, a family participating in the pilot foster care programme agreed to be interviewed. Some of information they provided can be found in Figure 6.

A family comprising a mother, father and adolescent son have been fostering a young boy aged 12 years old who had been living in a residential facility.

The family spoke of the importance of foster care, the challenges and the rewards. They felt the experience had been a positive one and they had grown very fond of the child they had fostered. The family praised the support they had received from the organising agency and the rigour applied to the process. This had included addressing some issues that already existed in the family before placing the young boy with them.

The family felt one of the greatest challenges had been their lack of preparedness in caring for a child who had a certain way of behaving due to having lived in a residential facility for many years including the habit of storing food in their clothes and lack of some socialisation skills.

They family would most definitely encourage other families to foster.

Figure 6 The experience of a foster care family

One key informant working in the foster care pilot programme spoke of the important efforts to engage as many stakeholders as possible including the MIES, UNICEF, local (cantonal) protection boards and other national and local civil society organisation in this process:

'it all started at the national level because we were very aware of the fact that if you want to implement foster care programme you have to do it in co-construction with the government.'

There is some scepticism as to the financial reasoning given by the MIES to stop the pilot especially when government staff from national and local levels had been an integral part of every step of the programme development. One theory is the change of personnel in a pivotal government post after which 'the process really started going down because they didn't collaborate'. It is also noted however, that the MIES showed concern regarding the technical standards and to this end a UNICEF sponsored project in conjunction with the MIES and RELAF had commenced. At the time of this research it was also unclear

whether this particular aspect of the work would continue or not. So for now, as one key informant said:

'I think personally until the new elections there will be no foster care. So what are we trying to see now other alternatives. One of the alternatives is to start from the legal point of view a protection action that defends the rights of the NGOs to run foster care programme without the government. That might be an option and that is what we are trying to analyse with other organisations.'

When key informants were asked about the cultural acceptability of foster care, an informant involved in the foster care pilot said, 'yes...we made a public promotion on radio and on television. I met a lot of people who were interested in being foster parents.' Others answered:

'I think it is not going to be easy but I think it is possible'

'Yes totally'

'We would love to have foster care but we don't have foster families'

'Yes I think it is a better response and if the government recognises this kind of service it will be a better response for children. We don't have cultural issues because we have found a lot of will to become a foster family'

It was recognised that those coming forward to foster were being selective in the children they wanted to care for. For instance:

'they want small children, white children. They want children who behave well for example they don't want a child who comes from a family who have drug problems. And the majority of the children who were unable to be placed as groups of four or five brothers and the idea is not to separate them... and because sadly we have sibling groups and others with mental and physical disabilities and adolescents and they we have very little hope that they will be adopted'

'here in Ecuador now everyone accepts foster care. But I have a group of children from Columbia and they are abandoned and they need a foster family. But there it is a lot of resistance in Ecuadorian society... They are not just willing to open the door to this family.'

They need to have an open mind. They need to understand the problems of health, crime of drug abuse. It is difficult for families to participate in foster care. I think families should be well trained and they need to be people with an open mind and have their capacities built. The foster family need to understand they are helping to support a child and not fill an emptiness in their own life.'

Among key informants there was no consensus as to whether foster carers should be paid or not. Some thought that this would be a good idea so that families from all socio-economic backgrounds could consider fostering. Whilst others thought it would take away from the social obligation within Ecuadorian society.

In the 2016 Alternative Report on the Fulfilment of the Convention on Child Rights produced by non-state organisations, the reported stated the concerns about halting foster care programmes:

The civil society has invested funds to create programs as an alternative to institutionalization, such as foster care provided by families. However, these initiatives have not been prioritized by the Ministry of Economic and Social Inclusion, which closed these programs arbitrarily, violating in this way the right of the children to family coexistence. The Government does not show a positive open attitude to the cooperation and participation of the NGOs, with significant initiatives and proposals. They are only open to institutionalization or adoption, and do not prioritize the family support and foster care or the implementation of other forms of care.⁹⁴

⁹⁴ *Alternative Report on the Fulfilment of the Convention on Child Rights and its Facultative Protocols by the Ecuadorian Government.* Prepared by the people and Social Organizations of Ecuador. October, 2016. Page.23

Prevention

Although the Government of Ecuador has various programmes and policies related to delivery of services for children and families, key informants were unanimous in their understanding that specially targeted interventions to prevent family separation are weak and also under threat. Many attributed this situation to recent changes in policy which has moved attention away from a specialised focus on child protection to an inter-generational approach for service providers which incorporates wider responsibility for different constituents of the population including the elderly, the disabled and the family as a broader unit.

In terms of prevention of children being unnecessarily removed from parental and family care, one key informant acknowledged:

‘three years ago we gave Ecuadorian families a lot of elements and tools to be sure they have prevention abilities to avoid losing the child. It is not happening now because the government assumed that type of attention didn’t see enough information to see if it was working well’

Others spoke of the ‘failure in the prevention work’ and ‘the problem that we have here in Ecuador is that children, only when there is something really nasty happening, get into the system of family services. There is no prevention’. In this regard the overall conclusion of key informants was the failure of prevention meant that children enter the protection system once a crisis point is reached, and even then it is ‘by chance then that children come into the system’.

Some key informants spoke of the specific failure of judges who ‘don’t have faith in the prevention process and for them it is easier to put a child in an institution because then their responsibility is over’. They also spoke of the court technical teams having a lack of sufficient knowledge about the importance of prevention.

The weak application of prevention services is also related to a lack of government resources and how:

‘they don’t have prevention work here because they only have one social worker for the whole town.... The MIES do not have any prevention work and the social work is only for residential institutions.... There are two organisations here in this town, us and the university and we are the only ones working on prevention work and these cases come from the judges and not from the MIES. The MIES doesn’t work on prevention cases.’

A lack of focus and policy on prevention was also attributed to the poor coordination for, and low priority placed on, this component of protection work. One informant explained:

'right now despite the fact we get in touch with the municipality and the local child protection council and we present our prevention work programme ,but the council is very disorganised because there is no local law or local level public policy around which the work is organised and the work between the Junta and the local protection board the work is split and they act separately.'

Key informants agreed that prevention work is important and highlighted the need for an inter-sectoral approach to protection. For instance:

'I think that the system should function as a network of protection for children like health centres, schools, children's centre, and additional activities to identify children.'

A number of non-state providers were able to provide information on the programmes they implement even though these were referred to as being 'a drop in the ocean'. For example, one agency described their support programme for families as only reaching 11 families - 4 were cases of secondary prevention and 6 cases in which children were returned home from care. Details of other programmes implemented by non-state providers indicate the majority of interventions are particularly aimed at preventing re-admission into the care system: 'if the child returns to the family we still need to work on prevention mechanisms' rather than initial prevention.

One particularly innovative programme of outreach activities with the primary aim of prevention was described by the staff of an SOS Children's Village in Quito. The programme has multiple elements working with children and young people on ways they can protect themselves and others, direct support for vulnerable families, and engendering community protection mechanisms that build a safer environment for children.

Reintegration, leaving care and adoption

Reintegration

The Code for Children and Adolescents along with other policy and statutory regulations endorse the requirement to support reintegration of children in formal care back with their parents or extended family. In 2014, of a total of 2,585 children in residential care, 796 returned to their families, endorsed by a legal measure approving family reintegration. In 2015, as Table 7 demonstrates, this figure rose to 1,098 children.⁹⁵

Table 7 Number of children leaving residential care 2013 – 2015⁹⁶

Situación legal	2013	2014	2015	Total niños, niñas y adolescentes con procesos judiciales resueltos
Niñas y niños con declaratoria de adoptabilidad	484	151	196	831
Niñas y niños que cuentan declaratoria de reinserción familiar	s/d	796	1.098	1.804
TOTAL	484	947	1.305	2.635

Although regulations have been issued by the Government on the necessity of good preparation and follow up with the child and the family as part of a reintegration process, implementation of such aims are not always being fulfilled. Of particular concern is the lack on investment in the quality of work that would ensure a safe reintegration process. For example, key informants spoke of the irregular provision of support being offered and even of cases where there is 'reunification of families but with no follow up.' A previous employee of the MIES spoke of how some government staff 'are doing a kind of follow up on a regular basis but it is never based upon children's needs. In 2009 we used to have a budget for monitoring and for the technical team that were working with children. Then it was decided it was a budget that was not necessary.'

Cantonal Rights Protection Boards (Juntas) are municipal bodies tasked with the protection of children's rights and the duty to hear and solves cases of violation of rights against children, including mistreatment, neglect, abandonment and abuse, and order administrative measures for protection. The Juntas should follow up all orders they issue for protective measures including those of reintegration. In addition they can only issue temporary stay measures in an alternative care placement which must be sent for consideration by a member of the judiciary. A key informant from this service highlighted the fact that although they do have an employee whose duties include follow up of cases,

95 5º Y 6º (2016) Informe Combinado con Arreglo al Artículo 44 de la Convención sobre los Derechos del Niño , Ecuador, March 2016, Page 24

96 *ibid.*

the workload is totally overwhelming. In addition, there is extreme difficulty in getting a positive response from those service providers - for example, health and education requested an administrative order to provide child and family support and report back on actions.

Reunification programmes are also being undertaken by non-state providers of residential care in Ecuador. Some key informants described the importance they placed on this objective, particularly in recognition that the 'attachment of the children to their biological families is really strong.' Others are of the understanding that some agencies do not work sufficiently towards reunification, related in part to the continuing justification of their organisation through retention of children in their care. The reasons many children are reportedly entering care relate to severe difficulties within families including those of abuse, violence, emotional and health concerns, addiction and dysfunctional relationships. Services to address these concerns are therefore important. However, representatives of those agencies conducting reunification activities spoke of the major challenges they face when helping families access both universal and specialist support services.

If specific efforts are not made, children remaining in residential facilities can lose contact and bonds with their families. The separation from, and lack of contact with, family members as outlined in other sections of this study, is one of the greatest concerns described by children themselves.

Some key informants spoke of how they thought certain residential providers:

'separate the child from bonds with the family and they break the relationship and the opportunities for reunification of the family. She further explained that this was not just because of 'the bad work from the residential institutions, it is also the kind of training that we professionals receive. There is no training to work with families for example.'

A second key informant spoke of how:

'in the old cases because we have children institutionalised for 10 years and we don't know what to do with that because they lost their connection with their families. and also for example, in one case that we got to a reunification, the children didn't get used to the family, the family didn't get used to the children and it was horrible because they were too long here and that is horrible.'

Service providers also identify the complexity and time it takes to ensure the environment the child will return to is safe. As one key informant advised:

'we find reunification very very difficult. Very difficult. It is unbelievable because in some cases, in most of them, there are structural family problems...The first is that the child has to be safe, the family has to be safe. And if we see something that is so wrong we stop and we say let's see what is going on. Yes sometimes these processes are so long but even if they are long and the children stay here they know that they have a family outside and the family is working us.'

Of primary concern is a new regulation issued by the Government requiring care providers to commence with adoption procedures once a child has been in care for 6 months. This new Ministerial Agreement 194 of the Ministry of Economic and Social Inclusion, (March 21, 2013) regulates procedures for clarifying the socio-legal and psychological situation of children in the care of public and private entities. It is coupled with Resolution No. 006-2013 of the Judicial Council, of 12 January 2013, issuing the instruction that regulates the process for clarifying the social, family and legal status for the declaration of adoptability of a child.

Overwhelmingly, key informants spoke of the dismay and fears this new regulation has engendered and how they want to do everything possible so that a child can return home. However, many family situations are highly complex with difficulties that cannot be resolved in 6 months and key informants considered this new aim as 'impossible. Because when there is a background of these families that are dysfunctional and have trauma this cannot be solved within six months.' In addition, very often the situation responsible for separation is not only being experienced by the parents, but is deep rooted in inter-familial and inter-generation problems, meaning in many instances, the agencies cannot even place the child with extended family.

There is a worry this short period of 6 months will mean even more children will 'go back and forth in the system' as one informant said:

'reunification is not as quick as we hope. So you cannot ask a family to be reunited in one year it is too much time for the child but too little time sometimes for the family especially if it is abuse. But most of them we ask for reunification. And in reunifications I think maybe 60% of them are really good and 40% we have to work very very hard maybe the children are going back to different institutions.'

A request must be made of the judge responsible for any initial placement to issue a new order for family reunification. Here there are also challenges as identified by key informants who explained:

'the legal process with the judge is so long and here we have to work with the judge for these kind of things and we spend a lot of time. And sometimes they don't decide the best thing.'

'I wouldn't say the judges don't understand but with cases of substance abuse this is really difficult to work with. Because it is really difficult to accomplish getting parents out of their addiction, something they may have been addicted to for 20 years for example. As staff yes we have tried but we have not accomplished this.'

Just how complex reunification can be is exemplified in the interview with a key informant from SOS Children's Villages who described their procedures:

'After children are reunified with their parents or extended family, they become part of our programme of family support. We follow through the reunification. What happens is we accompany the child and we provide education and psychological therapy it is required, involvement in workshops and also recreation programmes. We make them participate in all the activities that are planned and provided by our organisation. In the legal case, when we ask for reunification, we ask the judge to give us the measure to provide the social support for at least 6 months. The maximum is 6 months... Sometimes it can be extended so organisation can be more involved with the family.... We make family visits and other interviews for example when there are more members of the family. In my case as the social worker through the visits I begin in the family environment and with the child. If we see the commitment and interest we make the Global Family Plan where

there are activities that have to be accomplished by the staff of the organisation and the family. Then we evaluate to see if the child can be reunified with the family. Sometimes it is not enough to do complete the process the first time, sometimes we have to do it two or three times.'

During the field work for this study, the researchers interviewed a mother in the process of being reunified with her daughter who had been in care. Her response is documented below.

A mother has been receiving the support of a non-governmental agency so that she might be reunited with her young daughter who was placed in residential care. The mother has two other daughters from whom she is estranged.

The mother spoke of how important it was to receive the support of empathetic staff that she felt did not judge her or her previous behaviour. She said: 'I now don't feel discriminated against and I don't feel bad about my behaviour with my children.' She described what an emotional journey it has been for her and how she now feels prepared to take care of her daughter.

When the mother was asked what was important to her one of her answers was 'there is no longer the judge in my relationship with my children.'

Leaving care at 18 years of age

Young people are expected to leave their placement in alternative care when they reach their 18th birthday. There is no Government social protection or other schemes that assist with this 'adolescents leave if they are 18. It does not matter if it is their birthday, it is Christmas, they are just in the street with nothing and they do not deal with autonomy so for me the situation of adolescents is tragic, tragic.' A key informant who previously worked with the MIES spoke of government schemes that had existed, but which are 'not happening anymore.'

Although information indicates some providers are doing very little for care leavers, others are specifically raising funds and developing support programmes. Examples provided include one agency that has begun to work with children in their care from the age of 14 to 16 years, preparing them for independent living. This includes the preparation of 'Life Plans' that chart their hopes and aspirations including ambitions for education and employment. This programme also assists young people with the skills they will need in everyday life such as shopping, using public transport, how to use money and budget for things as well as recreation and socialisation projects. Another organisation spoke of their support in helping care leavers find accommodation close to their relatives, offering small amounts of financial assistance and continuing with regular social work visits.

One key informant from a non-state provider of residential care whose specific role is to support young people in the preparation of and follow up when leaving care, spoke of the specific challenge facing care leavers in relation to social security benefits only being available to people who have already been in employment and paid national insurance. Despite the fact the Constitution of Ecuador mandates that social security is universal, and there is the possibility of voluntary affiliation, it is still necessary to make contributions to the Ecuadorian Social Security Institute before you can receive support.

The State does not provide any assistance with those who are homeless. This means there are no financial benefits that young people can apply for upon leaving care. The key informant stressed how important it is that care leavers are helped to find employment immediately when moving into independent living and how this is now a major focus of his work. When asked how this situation would affect the aspirations of a young person wanting to continue their education he replied that studying was not usually an option; not only because of financial reasons, but because of delays in educational attainment many of the children from care settings had.

Although not officially authorised, some organisations are also allowing some young people to remain with them after the age of 18 years if the young person is not ready for independence and wishes to stay in the residence. As one key informant said:

'now we have one girl aged 18 but she is not leaving yet because we can see she needs more support inside the system.'

Young people's experience of leaving alternative care

The following information is taken from an interview with a young person who recently left care.

XX has recently left residential care. He remained in the same residential facility run by a non-state provider from the age of 7 years old. He was there with his older brother, who has a disability, and his younger sister, although they were in different small group homes. His sister is still in care. He was brought to the residence by nuns. His sister was already there as the nuns had taken her from the family before their father died and they were living in very bad circumstances. One day his disabled brother took a rag and some petrol and accidentally burnt down the family home. Their mother beat the boy until his jaw was broken and so the sisters came and took his sister. The nuns then took him and his brother to a residence. They lied to him saying they would only be there for a short while. They told him it was important as they would be fed. In the first days he and his brother cried a lot. They were well treated and they learnt to eat with a knife and fork and take showers and sleep in proper beds. They felt comfortable and decided to stay. They were always worried and sometimes sad because they worried about the rest of their family including their mother and they felt guilty because they were eating properly but his mother wasn't. He was glad to have the opportunity to study whilst he was in care.

He was supported to find work in a restaurant. This is very important to him as it has helped with his independence. He is also happy because he sees a big improvement in his brother and how he has overcome many of the challenges he has because of his learning disabilities. He is very happy about the care and support he received from the workers of the organization running the small group home he lived in. He is concerned that now he is working he cannot visit his sister as frequently but he knows she is receiving good care in the group home and he is happy when he thinks about how he and his brother and sister might soon all be reunited.

Adoption

There is provision in Ecuadorian legislation for adoption as set out in the Code for Children and Adolescents, (Title VII of Book II). There was agreement among the majority of key informants that, if at all possible, efforts to reunify a child with their parents or extended family failed, transfer of parental rights to adoptive parents provides a permanent opportunity to live in a family environment. Adoption is currently a highly debated issue in Ecuador, following a recent Government regulation that mandates the adoption process must start for all children when they have been in care for a period of 6 months.

Adoption as per Article 158 Code for Children and Adolescents (CONA) is facilitated through a process that commences with the care provider initiating an application for the declaration of adoptability through any of the Civil Courts, Multi-competences Courts, Courts of Children and Adolescents and the Judicial Units of the Family, Women, Children and Adolescents. Ecuador's adoption programme is administered by the National Office of Adoptions at the Ministry of Economic and Social Inclusion. In 2013, a total of 6 Technical Units of adoption and 6 Family Allocation Committees were created under the administration of the MIES.⁹⁷

Data obtained from an unpublished Government of Ecuador report of May 2016, shows the number of national adoptions administered by the National Office of Adoptions (NNA) totalled 136 in 2015, with 514 post- adoption cases being followed up. Table 8 provides data extracted from this report, indicating moderate annual increases in adoption between 2014 and 2016. Data from the same report stated a total of 15 children were placed in inter-country adoption and 176 children received a 'deceleration of adoptability' in 2015. In the same period, the Adoptions Unit of the MIES qualified 159 national families and 4 non-Ecuadorian families as 'suitable families to adopt'. This procedure is part of the administrative phase of the adoption process (Article 165 of the CONA) which means that adoptive families are suitable for a particular child.

⁹⁷ Source:

[http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/2DA4B746DA280E5B05257EC20070EEDC/\\$FILE/Ecuador.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/2DA4B746DA280E5B05257EC20070EEDC/$FILE/Ecuador.pdf)
and <http://www.inclusion.gob.ec/la-adopcion-es-vivir-la-experiencia-de-disfrutar-el-tener-un-hijao/>

Table 8 National and International Adoptions* 2014 – May 2016⁹⁸

Año	NNA ADOPTADOS			FAMILIAS IDÓNEAS			ESCLARECIMIENTOS		
	Nacional	Internacional	total	Nacional	Internacional	total	Declaratoria Adoptabilidad	Reinserción Familiar	total
2014	137	26	163	255	24	297	151	796	947
2015	136	15	151	159	4	163	176	1129	1305
2016	23	1		36	1		34	307	

	SEGUIMIENTOS POST ADOPTIVOS NACIONALES	SEGUIMIENTOS POST ADOPTIVOS INTERNACIONALES	TOTAL SEGUIMIENTOS POST ADOPT
2014	419	130	549
2015	514	121	635

*NNA Adoptados: adoptions by the National Office of Adoptions /Familias Idoneas: Suitable Families/Exlarcimientos: Activities

According to Article 159 of the CONA, both single and married individuals over the age of 25 years of age may adopt a child in Ecuador. Married couples must be heterosexual and have been married for three years. An unmarried (single, widowed, or divorced) person may only adopt a child of the same sex. Priority is understood to be given to heterosexual married couples. Those who wish to adopt must prove they 'enjoy physical and mental health adequate to meet parental responsibilities [and] provide necessary financial resources to ensure that adopted the satisfaction of their basic needs.'⁹⁹ Information published on the Government of Ecuador website¹⁰⁰ outlines the process prospective adopters must agree to, including: interviews, participation in training comprising two sessions of 8 hours, psycho-social evaluation and an assessment of their home. It also states there will be a post-adoption follow up process for two years. Reports indicate that adopters are most likely to choose children under the age of 3 years and with pale skin.¹⁰¹ It is difficult to place older children and children with disabilities.

⁹⁸ Unpublished Government report obtained by the International researcher

⁹⁹ Source:

[http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/2DA4B746DA280E5B05257EC20070EEDC/\\$FILE/Ecuador.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/2DA4B746DA280E5B05257EC20070EEDC/$FILE/Ecuador.pdf)

¹⁰⁰ Source: <http://www.inclusion.gob.ec/la-adopcion-es-vivir-la-experiencia-de-disfrutar-el-tener-un-hijao/>

¹⁰¹ Oswald, A. L.E. (2014) *La adopción como mecanismo jurídico para fortalecer el desarrollo integral de los niños niñas y adolescentes*. Universidad Central del Ecuador , Facultad de Jurisprudencia, Ciencias Políticas y Sociales Carrera de Derecho

It is understood that the Government of Ecuador is placing significant emphasis on adoption about which key informants expressed their concerns:

'I think what we see maybe is important to mention as well. I think the whole social care services from the government is also a bit of a highway towards adoption.'

'the government is not really investing in family support and when there is no foster care as an alternative and there are poor processes in institutional care it is so easy in Ecuador to be adopted after 6 months...for me it is really something that I think is against human rights....and I think that is not ethical that is really not ethical it is for me the whole process because we don't do well the first steps this is according to our own laws it is just easy to adopt'.

'I think MIES is focussed on institutional care because they want to achieve their adoption programme.'

In contrast to the Government's recent move to stop foster care pilots, one key informant asked, 'The thing is also that all the sector of MIES special protection is dominated by adoption... How is it possible that adoption has such a strong position within social care?'

Non-state providers of residential care have the responsibility of helping to facilitate the administrative and legal steps of adoption. Key informants spoke of their duty to present all the necessary assessments and other information by which a judge should make an informed decision. They also spoke of the difficult and lengthy procedures of the court process. The first step toward adoption is the removal of parental rights which informants pointed out can be complex in cases where parents in the first instance are not willing to relinquish their child. Care providers find this difficult when parents have continued to show a lack of interest in their child over a considerable period of time and when there is a lack of willingness to change any circumstances in the family home but for whom, a judge following the letter of the law, insists the agency must continue to work with. As one key informant explained:

'if however, the parents have visited even once, and even if they have shown a lack of interest in changes to the home circumstances, the perception is that the judge will favour the parents if they fight the decision to remove their parental rights.'

Only a very few respondents spoke of the actual adoption process beyond the court process. A number of informants that spoke of their concerns regarding the recruitment, matching, training and follow up support procedures and comments included:

'although a family can adopt a child the legal process is complex and this causes resistance... I think there are families in the adoption process but abandon the case after many years.'

'and there are many studies already by law students explaining how many cases of adoption that go wrong. They are missing children and many problems. And there is this charity attitude towards adoption.'

'I know somebody who has recently adopted a child and she got a child and so far she never saw someone from the ministry any more from the adoption centre she has never seen but she is there with the child. Again we talk a lot but we don't have quality processes behind it.'

'I know a lot of cases where adoption failed because the technical work of the adoption team is poor and they don't monitor very well. When the adoption fails the child goes back to the institution'

As mentioned previously, many key informants spoke at length about the new Government Resolution that state children who have been in care for 6 months should be put forward for adoption status. One fear is those agencies currently holding responsibility for the alternative care of children will try and avoid this process, by trying to reunify children as quickly as possible with families that have extremely complex vulnerabilities. Suspicions were also voiced by many of those interviewed regarding this new ruling, making explicit allegations against individuals working in the system as for instance:

'Something is going on in national or international adoption.'

'I am much more concerned about the way they are doing adoption here. The way they approach adoption... So I do believe that the justice system, I mean every single government structure, is adoption oriented. The justice system they have a committee functioning ad hoc to judge the adoption cases in a fast track way. Instead of following the law they are following a Resolution of the National Justice Council. So the Resolution right now is above the law so this is completely illegal. And they follow this and they apply

this and they meet every time they have a case and basically send it for adoption.'

'it is just my opinion' - 'talking about international adoption I think there is a kind of link between this Director with some international agencies to give them the priority to have children.... I heard of a girl declared with an illness because she has a cleft tongue. She was declared disabled to qualify to be sent for international adoption. You can just treat this easily. It is easy to be adopted in Ecuador but some prioritisation is being given for some agencies.'

'one concern that I have that is very big is that I do believe there is an adoption mafia here... I say this and I am not embarrassed to say this because I am concerned about the adoption director. Since I arrived here I have been trying to have discussions with him and he is a very political guy and he has very much political influence because anyone else would leave the special secretariat but he won't. It doesn't matter if there are changes in authority at high level, this guy does not leave and he just does not leave and he is very powerful... and they try in every way to reform the Child Code in a way that people won't see they are trying to facilitate adoption but I see it.... They try every legislation to reform the child code to facilitate adoptions and if you understand you can see this.'

'what we are saying is that if a woman has been 30 years a victim of violence and 30 years lacking everything and with no learning process how to be a mother, how can I ask for change in 6 months. She cannot.'

It has not been possible to verify these serious claims as the researcher was not afforded the opportunity to interview representatives of the MIES.

Inter-country adoptions are permitted in Ecuador and the Republic of Ecuador has ratified the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption. An unpublished Government of Ecuador report (May 2016) describes changes to operating regulations of intermediary agencies for intercountry adoption that will allow the regulation and control of intermediary international adoption agencies to sign agreements with Ecuador to process inter-country adoptions. In addition, the government national adoption agency focus group recently prepared Instructions for the Operating License and Subscription Agreements for entities brokering international adoption in Ecuador in accordance with the Convention of 29 May 1993 on

Protection of Children and Cooperation in Respect of Intercountry Adoption'. No further details are supplied.

One final issue in relation to inter-country adoption is the way 'adverts' can be found on search engines to promote this process. For instance, an organisation named 'Forever His Children' appears on the first page of the Google search engine when using terms such as 'adoption' and 'Ecuador'. The organisation states, 'We strongly believe that every child should grow up in a loving family. While FHC is not an adoption agency and does not process adoptions, we do cooperate with the Ecuadorian Government's national and international adoption programs. Through adoption, the majority of the children at FHC will have 'Forever Families'.¹⁰²

The legal and policy framework that governs alternative care

Ecuador signed and ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1990. The new Constitution of the Republic of Ecuador was approved in 2008. Article 45 of the Constitution provides for children enjoying the common rights of all citizens. The Constitution also recognises children as a specific group of the population and acknowledges the responsibility of family and society toward them. The Constitution has established a system of 'special protection' for children (SNDPINA). Articles in the Constitution determine the principle of the best interest of the child. A range of children's rights, including those of protection and care, are also reflected in numerous other laws and regulations in Ecuador.

The Republic of Ecuador ratified the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption. Articles of the Convention are reflected in the Code for Children and Adolescents.

The 2003 Code for Children and Adolescents (CONA) is the principal law in Ecuador legislating for the protection and care of children. Articles 67 to 79 of the Code include provisions to respond to children at of risk and those whose protection rights have been violated. Article 22 of the Code calls for appropriate measures to be taken enabling a child to remain with their family. In exceptional cases when that is impossible or contrary to their best interests, they are entitled to life in another family. When regulating the 'Decentralized National System of Integral Protection for Children and Adolescents', the Code also establishes additional protective measures, differentiating between administrative measures and judicial measures (Articles 215 to 234).

¹⁰² Source: <http://www.forhischildren-ecuador.org/what-we-do/adoption/>

A detailed examination of the content of the 2003 CONA, including the mandate of different Government bodies responsible for the oversight and implementation of child protection and child care, was commissioned by the Economic Commission for Latin America and the Caribbean and UNICEF in 2013. The content in has been extracted from that research and can be found in Appendix 3.

A recent study on legislation on childhood and adolescence in Ecuador reports that:

In recent years, especially after the adoption of the Constitution of the Republic of 2008, the aforementioned Code (CONA) has undergone significant changes, some favoring the rights of children and adolescents and others who threaten and pointing to the dismantling of the National Decentralized System of Comprehensive Protection of children and adolescents.¹⁰³

The report goes on to explain some of these changes including two significant actions. The first was the abolishment of the Ten-Year National Comprehensive Protection Plan for children, replaced by the agenda for equality containing the public policy proposals of each National Council for Equality (Article 13). The second was the removal of specialised Councils for Children and Adolescents, both nationally and locally as a result of a new more generalised focus on inter-generational and equal protection rights.

The Alternative Report¹⁰⁴ presented by non-state organisations to the Committee on the Rights of the Child in 2016, highlights that beginning with the new Constitution in 2008, the Government of Ecuador has undertaken legal and institutional reforms that dismantled national bodies for children and 'suppressed or weakened the specificity and interdependence of all the rights of children and adolescents as per the recommendations raised by the Committee'. Some of these examples of these actions provided in the report include:

- The elimination of the National Council for Children and Adolescents
- The elimination of more than 200 Cantonal Councils for Children and Adolescents (CCNA) replaced with Cantonal Rights Protection Council (CCPD)
- Elimination of the Courts for Childhood and Adolescence replaced by the Courts for Family, Women, Childhood and Adolescence Issues, implemented by the Organic Code of the Judicial Function (COFJ)
- Elimination of the Institute for Children and family (INFA)

¹⁰³ Calero Terán, P. (2016) *Insumo para el Informe Alternativo de la Sociedad Civil sobre el cumplimiento de la Convención sobre los Derechos del Niño por parte del Estado Ecuatoriano*. Corporación de Estudios Decide. Aldeas Infantiles SOS and UNICEF. Quito: Ecuador Page 9

¹⁰⁴ *Alternative Report on the Fulfilment of the Convention on Child Rights and its Facultative Protocols by the Ecuadorian Government*. Prepared by the people and Social Organizations of Ecuador. October, 2016. Page. 13.

- Proposals for change of the National Direction of Specialized Police for Childhood and adolescence (DINAPEN)
- The conversion of agendas for rights holders to 'thematic' agendas

Key informants spoke of the apprehension now being felt by child protection and care practitioners as a result of such reforms. The fear is that changes to legislation undertaken by the government that came to power in 2007, is not only resulting in the amalgamation of government bodies that held different responsibilities for a range of social protection issues, but that this will detract from the specificity of child protection now assimilated into a broader social services approach encompassing an inter-generational theme of family. One informant spoke of how:

'They established a child protection system here with the Child Code and it is also recognised in the Constitution...The new Constitution came in in 2008 and it does recognise this specialised system however with the new government development plan they defined five key priority groups for the government and they wanted to change the child protection system to respond to these five groups that does include children but it is not exclusively and it does not have the specificity or the specialisation on children... We proposed an alternative law to the child protection parliamentarian group but this project has been stopped. It has been stuck there.'

In an alternative report¹⁰⁵ presented by non-state organisations to the Committee on the Rights of the Child in 2016, the authors were keen to highlight how there had been a 'systematic process of dismantling the system... [based on] a new concept focused on the life cycle and on intergenerational issues'.¹⁰⁶ Due to the manner in which the Government has presented these changes, they also note how the official report to the CRC 'says absolutely nothing about this conceptual, political and institutional orientation, hiding from the Committee the consequences that this approach is having on the rights of children and adolescents.'¹⁰⁷ The alternative report goes on to highlight how these unwelcome changes have been 'caused precisely by new conceptions defined by the political power, ignoring international and national rules'.¹⁰⁸ This is considered as an action to hide 'this very serious process of dismantling the system and its legal basis and the policy from the Committee, is an awkward position that is unworthy of our

¹⁰⁵ *ibid.* 13.

¹⁰⁶ *ibid.* Pages 13-15.

¹⁰⁷ *ibid.*

¹⁰⁸ *ibid.*

seriousness as a country.¹⁰⁹ The authors of the alternative report conclude that, as a result of these changes, there is no longer any policy for special protection of children:

The national agendas for equality, including the agenda for intergenerational equality, which include all groups of population in their different ages, end with the specificity and specialization, which prevents the creation of policies for children and adolescents and the monitoring and reporting of the status of their application.¹¹⁰

A further misgiving is the ability of government bodies to enforce the law. For example, those involved in issuing judicial and administrative orders spoke of their inability to compel service providers to respond to the actions required of them, including those of health, education and social services. One key informant even spoke of a woman who killed her children and committed suicide because the legal order they had issued in response to her plea for help was ignored by other service providers. Another key informant, although positive about the law, highlighted the difficulties they also have in delivery of services. She said:

'The law is complete and the law has a benefit. It is based also in the constitution and always we use the UNCRC when we are resolving some cases. When we are resolving cases and taking into consideration the UNCRC. We have some difficulty because the law is not giving us legal responsibility to enforce an order. Sometimes the people are not doing what we order in most of the cases. So maybe nothing happens.'

In addition to laws and policy, the Government has also issued a set of technical standards. For instance in the 'Norma Técnica'¹¹¹ for specialised residential care services, there are instructions and standards that include administrative procedures, necessary documentation, delivery of services such as health and education, environmental conditions, and numbers and qualifications of staff.

The comments of key informants regarding the efficacy of the statutory technical guidance is discussed later in this study however, one interviewee did speak of how they thought some professionals interpreted and used policy in a manner they likened to a 'charity' and rescue approach, especially those employed in State run agencies.

¹⁰⁹ *ibid.*

¹¹⁰ *ibid.*

¹¹¹ Ministerio de Inclusión Económica y Social (2014) *Norma Técnica de Protección Especial, Servicios de Acogimiento Institucional*. Ecuador: Quito

The structures responsible for governing and delivering alternative care

The role of State departments

Article 192 of the 2003 Code for Children and Adolescents (CONA) established the 'Decentralized National System for the Comprehensive Protection of Children and Adolescents' (SNDPINA) to be implemented through three levels of organisation:

- The National Council on Children and Adolescents, and the Cantonal Councils on Children and Adolescents responsible for drafting, planning, monitoring and evaluation of policies on children.
- Cantonal Rights Protection Boards, Administration of Specialized Justice for Children and Adolescents, and the Community Defenders of Children and Adolescents responsible for the protection, defence and enforceability of rights.
- Public and private organisations responsible for implementing policies, plans, programmes and projects.

While articles in the CONA have not been directly repealed or amended, they have been superseded by more recent legislation which is now raising concerns of some child protection and child care experts in the Country. For example the recent Organic Law of the National Councils for Equality means changes to SNDPINA including:

- The derogation of Articles that created the National Council for Childhood and Adolescence and its particular function.
- Replacement and derogation of the role of National Council for Children and Adolescents, replaced with some functions for the MIES in defining, evaluating and implementing the national policy of comprehensive protection, policy formulation for adoption, the establishment of family allowance for adoption and those relevant to functioning of international bodies.
- All rules concerning the creation, organization and operation of Cantonal Councils for Children and Adolescents have been repealed.

Consequently the structure of the SNDPINA has undergone substantial change with a primary concern being, no one agency inside the MIES now holds the sole remit for child protection due to the merging of children's safeguarding within broader themes of welfare for different sectors of the community. This, in the opinion of many key informants, weakens the case and support for child protection.

The National Council for Intergenerational Equality is responsible for ensuring the rights of children, adolescents, the young and the elderly. The Council's objectives include formulation, mainstreaming, monitoring and enforcement of public policy for equality and non-discrimination.

The MIES holds responsibility for the child protection and child care system of Ecuador. Article 2 of Ministerial Agreement No.000080 (2015) provides the MIES with a mandate to:

Define and implement policies, strategies, plans, programs, projects and services of quality and warmth, for economic and social inclusion, with emphasis on groups needing priority attention and the population living in poverty and vulnerability by promoting the development and care for the life cycle, upward social mobility and strengthening the economy for popular and solidarity.¹¹²

The Article also defines the structure and governing processes of the MIES as well substantive processes for the protection, inclusion and social and economic mobility of the population. This remit includes special protection with an emphasis on girls, children, youth, senior citizens, people with disabilities, people living in poverty and other vulnerabilities.¹¹³ In 2015, the total budget of the MIES was \$211 million and \$30,690,000 was for the protection of children.¹¹⁴ In 2016, this budget was substantially reduced to \$11, 520,000.¹¹⁵

In respect of further recent government reforms and a refocusing on broader family concerns within an intergenerational approach, the policy of the MIES Sub-Secretariat for Special Protection¹¹⁶ is aimed at the prevention, protection and restitution of the rights of citizens throughout their life cycle with an emphasis on girls, children, older people and people with disabilities. Because of these changes, key informants of this study highlighted concerns about the responsibility of the MIES to encompass all these sectors of society, and how the specificity required of a national child protection system has been lost. Key informants were particularly concerned about implications for service provision.

The Cantonal Rights Protection Councils (Consejos Cantonales de Protección de Derechos- CCPD) have replaced the more specific roles of previous Cantonal Councils on Protection of Children and Adolescents. Their responsibilities include establishing links between the state and civil society and influencing decisions and management of public policies of municipality. The Councils have to coordinate with the five National Councils on Equality: Gender, Disability, Intergenerational, Intercultural and Human Mobility.

¹¹² 2005 Acuerdo Ministerial No.000080 (Art 2), Ministry of Economic and Social Inclusion, Quito: Ecuador

¹¹³ *ibid.*

¹¹⁴ *Alternative Report on the Fulfilment of the Convention on Child Rights and its Facultative Protocols by the Ecuadorian Government*, Prepared by the people and Social Organizations of Ecuador. October, 2016. Page.16.

¹¹⁵ *ibid.*

¹¹⁶ 2015 Acuerdo Ministerial AM No.000080, Ministry of Economic and Social Inclusion. Quito: Ecuador Page. 34.

The National Consultative Council of Children and Adolescents is comprised of provincial representatives with the directive this should include representation of children between the ages of 8 to 17 years¹¹⁷. In addition, there are 133 local Cantonal Advisory Councils of Children and Adolescents.

The 2003 CONA established the Office of the Ombudsman, and the Specialized Police for Children and Adolescents (DINAPEN) (Dirección Nacional de Policía Especializada para niños, niñas y adolescentes).

The Administration of Specialized Justice for Children and Adolescents is comprised of the Children's and Adolescents' Courts whose actions and resolutions must adhere strictly to the principles, rights, duties and responsibilities established in the CONA. Although the CONA states there should be special courts for children, in practice, the system of administration of justice has ignored this and established judges with jurisdiction over matters relating to:

- 1 The institution of marriage and de facto unions;
- 2 All issues related to family; and
- 3 All matters relating to the rights of children covered by international conventions, the Code on Children and Adolescents and other provisions can now consider issues of child protection and alternative care.¹¹⁸

The Code of Childhood and Adolescence also provides for technical offices to support the courts. These offices are made up of physicians, psychologists, social workers and professionals specialized in working with children.

Canton Boards for the Protection of Children's Rights (Junta Cantonal de Proteccion)

A very important component of the system responsible for child protection and decisions related to children's care is the work of the Boards for the Protection of Rights known as Juntas. These are administrative bodies with a mandate to operationalise the system of child protection (SNDPINA). They have administrative and functional autonomy in decision making. Juntas must be situated within and, organised by, each municipality. They are composed of three members with necessary technical training to meet the responsibilities of the office which includes 'the protection of individual and collective rights of children and adolescents in the respective canton' (Article 205 CONA). In practice, Juntas have been established in most cantons and staffed with three lawyers

¹¹⁷ Resolución 1 del Consejo Nacional para la Igualdad Intergeneracional. RO. 732 de 13 de abril de 2016. Art. 4.

¹¹⁸ Calero Terán, P. (2016) Insumo para el Informe Alternativo de la Sociedad Civil sobre el cumplimiento de la Convención sobre los Derechos del Niño por parte del Estado Ecuatoriano. Corporación de Estudios Decide, Aldeas Infantiles SOS & UNICEF. Page 16

and auxiliary social work staff to whom cases of suspected protection violations are being reported.

The responsibility of the teams are to accept referrals, assess information provided and request additional reports, convene meetings with family and children, and/or those involved in the situation of the violation of rights under consideration as well as defining protective measures. A key informant explaining the work of the Junta explained how they:

'call for a hearing. With the person who placed the complaint, with the person or persons who have been accused and also to the child or adolescent that may be the victim of rights violations. During the hearing we listen to both sides to understand the two versions and have a whole picture of the case. Then in a reserved time we listen to the boy or girl and then we arrive to a conclusion about the case. And we decide if we are able at this time to come to a resolution. If that is not possible we call for a new hearing when both sides give evidence that helps us to have improved knowledge to solve the case. In the second hearing we repeat the process and listen to both sides and then we have a final resolution. This resolution could revoke the original measure of protection or ratify the first order. Also we can give new measures.'

Juntas are tasked with the authority to issue administrative protection orders in cases that are not severe enough to warrant consideration of prosecution and/or a judicial order for the child. Juntas can also issue sanctions which researchers were told 'is usually a fee of \$100 to \$500. Also we can give a warning to the person who violated the right.' Administrative orders can include support to a child in the care or their own family or with extended family. Junta can request the services of the MIES social work teams as well as those of health, education etc.

Information provided during the field work for this study identified the high caseloads of these offices and the weakness in initial information they are often provided with when a case is referred to them. One office of the Junta in Quito, for example, is understood to receive an average of 1,300 cases per year. Key informants spoke of the inability to enforce some of the decisions they make when cases have been referred to other government service providers including one who acknowledged:

'we have some difficulty because the law is not giving us legal responsibility to enforce an order. Sometimes the people are not doing what we order in most of the cases. So maybe nothing happens.'

One key informant noted how Juntas and the agencies of the MIES are acting as 'two independent institutions with not very good relations'. Key informants from non-state agencies spoke of how access to members of Junta teams is easier with fewer obstacles to overcome than dealing with the judiciary, as well as being a cheaper and quicker option to resolve a case. They also spoke of the overlap of responsibilities with the judiciary and the need for clarification in this matter.

Professional Capacity of the MIES

Unfortunately no representatives of the MIES were available to participate in this study, despite several requests to meet with government staff members. Information on professional capacity of teams within the MIES can therefore only be taken from information gathered from other sources.

Key informants spoke of concerns regarding the lack of technical capacity within MIES and the Sub-Secretariat of Special Protection to coordinate and provide front line services, as well as their ability to regulate, support and guide non-state: . One informant spoke about how:

'the thing with MIES is that they do not understand what special protection means. They do not. If you ask the Secretariat what does special protection mean they cannot translate that for you. And they change authorities every 6 months every 9 months so that is a big issue.'

Some key informants did say they have a positive relationship with counterparts in the MIES teams although it had taken considerable investment in terms of time and effort to achieve. One key informant stated:

'some of the persons who are in the MIES they understand the problems and actually you can talk to them' although they did go on to say' but some of them have no idea so really it is a wheel of fortune.'

A further interviewee responsible for a residential facility for young children spoke of how they 'have almost no contact with social workers from MIES.'

Mention was also made of the manner in which appointments in the MIES are 'political' and how this, coupled with high turnover of staff, is impacting on opportunities to build and maintain good working relationships as well as changes to decisions regarding policy direction and programme development. One informant spoke about how:

'The problem in Ecuador is it depends on the person who is at that moment in that position. That is what I feel. And then there are many changes I don't know how many sub-secretaries and

directors I have seen. It is always someone else so all the time you start again from scratch.'

Key informants also spoke about the 'poor relationship between MIES and non-state organisations' and how they felt that the MIES takes on a role of regulation and inspection, rather than partnership working and leading on improvements to quality assurance protection and care services. 'People feel threatened' said one key informant and 'even within the government there are processes of resistance.' Another spoke of their good relationship with the local government teams but also of how they 'would like to receive more training from MIES but they don't give us that sort of support.'

There is a wealth of knowledge and experience within the non-state sector but it is understood this is not effectively capitalised on particularly in terms of participation in development of Government policy and standards. One key informant said:

'the NGOs are tired of fighting with each Director and each public officer who do not understand the projects. I think it is like 10 steps forward and then 9 steps backward and they are back and forth all the time.'

When key informants were asked specifically about the front line service provision offered by the MIES staff, replies were mixed. There was acknowledgement that there are staff who do care, do a good job and have the right attitude and approach. Others spoke of poor standards of work as for example:

'They are not however working directly with the families. They just write reports. Taking documents for the Junta or the judge' and 'MIES are not doing any prevention work and the evidence is that the families are still asking for support.'

This situation was also attributed in part to the challenges the workers themselves are facing inside the MIES protection services. These include insufficient staffing, poor access to ongoing training, a hierarchical management system that is often unsupportive, and copious paperwork. Staff working in the technical teams in the MIES reported to have high caseloads, with one key informant noting how one social worker was working with 50 or 60 families at a time.

In relation to the capacity of the technical teams in the MIES, it is understood that, as one informant acknowledges, policy and practices are:

'imposed and people are not part of the process and they are lost. They only hear words because someone says go and do this. That is really what I feel about MIES, they decide above what they have to do and then they say do it and then nobody knows how because

they were not part of the construction process...They are swimming and they don't know how... I feel that quite a lot of people are frustrated.'

Accreditation and inspection of non-state alternative child care service providers

It is the responsibility of teams within the MIES to carry out the accreditation and inspection of non-state child care providers. The accreditation process involves an assessment of the services provided including observation and discussions with staff and children in residential facilities. Technical Guidance, Norma Técnica¹¹⁹, has been issued by the Government for specialised residential care services. These include instructions and standards for the delivery of residential care against which providers are assessed.

According to a number of the interviewees, inspection of residential facilities should be carried out by staff of the MIES every three months and providers are given a percentage rating. Non-state providers recognise the importance of inspection and regulation and feel obligated to meet conditions that are paid to deliver by the MIES. However, there are some observations relating to the quantitative aspects of monitoring residential facilities and the lack of attention to the qualitative aspects of care being delivered. One informant spoke about how 'personally I think MIES asks for a lot of paperwork. They don't see the children's reality. The children have a lot of needs but they don't see it.'

The regulatory provisions of the MIES do not actually establish how often government inspection of alternative care services must be performed. The Technical Standards (Norma Técnica) for instance, only indicate that residential facilities must have all technical and administrative documents available at the time required by the MIES for assessment or monitoring. Coupled with accreditation and regulation is the core funding provided by the MIES to non-state providers of residential facilities based on per capita allowances. In this respect, there is a general feeling that the standards expected, and the conditions on which providers are assessed, are not adequately matched by the funds allocated for the delivery of protection and care services.

Information received during the research revealed how a 2010 MIES inspection of residential provision across the country found a small number of 'illegal institutions'. One key informant spoke about how these inspections had revealed the lack of information available as to why and how the children had come into care. They said, 'how those children arrived, who they were, no one knew. We also did an assessment about the

¹¹⁹ Ministerio de Inclusión Económica y Social (2014) Norma Técnica de Protección Especial, Servicios de Acogimiento Institucional. Ecuador: Quito.

legal operation of care to know about the legal status of each child. They didn't have any.'

A further factor revealed during this inspection was how children had remained in residential care for very long periods due to their initial order having been incorrectly issued by an administrative body, and due to this illegality the authorities were unwilling to revisit their original decision. This meant, 'in some institutions the children were like 9 years inside the institutions with the same Junta resolution and the Junta was not willing to give the authorisation to go home because they didn't want to recognise the illegal resolution they originally took.' As a result the Ministry issued an order to all residential facilities that they must have the legal status of all children to be determined by a judge.

The role of the judiciary

Members of the judiciary play a significant role in gatekeeping due to their responsibilities in terms of placement of children in alternative care, deprivation of parental right and conferring adoption status.

In May 2011, the Judicial Council of Transition was legally constituted and provided with powers to initiate the restructuring of the judiciary. This was followed by changes in the responsibilities of Courts for Children and Adolescents and the Judicial Units of the Family, Women, Children and Adolescents Function. These changes have resulted in judicial responsibilities toward child protection and care now being held not only with Judicial Units of the Family, Women, Children and Adolescents but now cases can be brought to civil, multi-competency or criminal judges.

On 17 September 2012, the MIES and the Judicial Council signed a cooperation agreement that established modalities for cooperation and the areas of competence each institution is expected to deliver, in terms of responsibility for adoption and provision of alternative child care.¹²⁰

Cases that come to court may be referred directly through lawyers and through Juntas. For children who are already in residential care, it is the social worker and others in the service organisations that play an important role in preparing the cases for court.

As with other elements of delivery of child protection, decision making can be impacted by not only technical knowledge but also subjective attitudes and understanding. It is recognised that there are some judges in Ecuador who are passionate about making the most suitable decision that is in the best interest of each child and are working hard to achieve a legal resolution that will provide the best outcomes for children. There are others identified as not having such an aptitude or understanding as one key informant signified:

¹²⁰ Resolución No. 006-2013 del Consejo de la Judicatura, de 12 de enero de 2013

'I think they confuse the rights of children with the rights of the family. We consider the child's right to have a family. Judges consider the right of the parents... Also when we have a hearing with the judge, what mostly counts is the point of view of the judge towards the father or mother. I remember a case in which the mother did not express any emotion. She didn't show any affection in her face so the judge told her she was unemotional and just for this reason the child wasn't returned to his mother - just for this reason.'

In addition, delays in court procedures are resulting in children remaining in care perhaps longer than necessary due to poor initial decision making and the time it takes for other such procedures as adoption and reunification. One informant spoke of how we have a similar case in which the child was placed under a judicial order and it has been four months that the child has been unable to go back to their family. We are asking for a missing report and that is stopping them going back to the family.'

In part, these concerns of time delays are attributed to the high workloads of the court service leading to long periods before cases to come to court and then for decisions to be reached. This is especially the case if the judge requires additional assessments to be made, or paperwork or basic information is missing:

'The courts have too many cases. Most of the judicial teams have a lot of work. They have a lot of cases and processes that is why children and institutional care is not a priority.'

In addition, it is understood the training of judges lacks sufficient specialism in child rights and child protection. Informants said:

'judges receive training but not in the specificity that is needed. It is training about legal processes and the law but not on child rights and child protection. I also think that it helps if an organisation like ours can work and show judges how we can work in this matter and how to understand families.... Families don't have enough power as they are discarded from the system by the abuse of MIES teams and also the judges annul them from the system and that is also why children remain in the system.'

'I think it depends on the length of time they have been judges, the training they have received and their experience. I think that being a judge is an extremely complex work and they do their work from

their own point of view, their own convictions and how they think.
It is not an exact science.'

There is also some evidence of good relationships being built between care staff and judges. For example, a lawyer working a residential facility spoke of the three judges she works with 'that care about children rights' however, she also noted the barriers when trying to directly communicate with these judges. She told us:

'when we want to talk to them it is impossible. It is impossible. There are no members of the technical team in the court that allow us to talk to the judge. Even one judge, only one judge asked, us for our phone number... There are judges we would like to talk to because there are complex cases but we are not allowed'.

The lawyer also recognised that her position is unique in that she is based full time in an organisation providing residential care whereas others must hire in the use of legal support which can also entail delays and high costs.

Overall it is recognised that 'the standard of law implementation and the view of the judges have to improve. Because we do accomplish the legal processes but decisions are mostly just the view of the judge. On the other hand the necessary investigation according to regulations [are not supported with] guidance or standards that could provide us with guidance on what to do.'

The role of the police

There is a specialist unit with the police force created in 1997 with responsibility for investigations involving child protection concerns, the National Directorate of Specialized Police for Children and Adolescents (DINAPEN). DINAPEN units are operational in 24 localities containing 644 specialised police.¹²¹ The police play a significant role in children being taken into care often being initial identifiers of children they consider require protection. Police in this unit are also tasked with investigations and assessments as a result of requests from other bodies such as the judiciary or teams within municipal Junta.

The DINAPEN website reports that this year the unit was involved in 3,897 cases of missing children found on the streets, considered abandoned and children who ran away from home. They claim to have 88.1% effectiveness in resolving cases of 'lost' children.¹²² DINAPEN also visit schools and community groups to give talks and raise awareness of child protection issues.¹²³

¹²¹ Source: <http://www.policiaecuador.gob.ec/dinapen/>

¹²² *ibid.*

¹²³ Further information relating to the work of DINAPEN can be found in a presentation by the Director of the service at: <http://www.ministeriointerior.gob.ec/dinapen-fortalece-su-gestion-en-la-proteccion-a-ninos-ninas-y-adolescentes/>

When staff of DINAPEN remove children from family homes or take children from the streets, their website¹²⁴ states they take children to places of protection including 17 shelters run by the MIES. A number of non-state providers of residential facilities also said that members of DINAPEN approach them directly to take children until other government authorities can be involved, especially in cases of emergency over a weekend period.

When key informants were asked if they thought the teams in DINAPEN were making correct assessments regarding children's circumstances before they took them into care, there were mixed responses. Some believe the police react too quickly when they find children on the street providing examples of parents who are then frantically searching for their child not knowing what has happened to them: 'sometimes because DINAPEN doesn't investigate and next day the family of the child come and we have to reunify them. It is suggested this is particularly relevant in cases of children from indigenous families whose carers are working on the streets.

Others understand that many of the children brought into their care as a result of DINAPEN intervention are those taken from violent situations at home. However, there are also concerns that 'the police are not really efficient... in my opinion, I think they don't know the things that they need in order to work with this kind of service' or that sometimes,' their conclusions or the recommendation of their reports are very poor.'

The role of non-state providers

As indicated throughout much of this report, non-state providers of residential care work to prevent family separation and support for reintegration is highly significant. Many of the foundations and other organisations providing such services are church based. Some are reportedly less willing to change some of their traditional practices while others are looking for innovative ways to develop their services, moving away from large residential facilities to smaller care homes and outreach work.

The quality of work of non-state providers is understood to be variable, but many of the organisations visited during the field work provided evidence of practitioners who were passionate about developing and implementing new ideas that would create improved physical and emotional quality of care for children.

The services provided by non-state organisations is seen by some as essential to maintaining protection and care provision in the country as a member of a local authority service indicated how 'the State has no capacity to cover all the needs. The number of cases is too high.'

¹²⁴ Source: <http://www.ministeriointerior.gob.ec/dinapen-fortalece-su-gestion-en-la-proteccion-a-ninos-ninas-y-adolescentes/>

Of note is the very small number of international organisations working in Ecuador, meaning almost all provision of child protection programmes that is not direct state provision is the work of national non-state organisations.

Although not raised as an issue during the field work in Ecuador, many agencies advertising for volunteers to work with children including those in 'orphanages' can be found on the web. An extract from one site for example, calling for volunteers to work in 'orphanages' in Quito explains:

'You don't require any specific set of skills to volunteer in the project. We will prefer volunteers who can speak a little bit of Spanish as they will be able to communicate better with the children and the staff at the orphanage. You should also come with energy and drive, and care and love the children. We also expect volunteers to be flexible and adaptive as working condition and the mentality of the people are very different from people back home. Volunteers will assist orphaned children in various ways and help the orphanage run their programs smoothly. You can teach them English and/or Spanish, organize games and create programs such as plays, music, dances, and even recreational activities. You may also take the children on day trips, educational visits and teach them about personal hygiene.'¹²⁵

Methods and processes used within the alternative care system

Referral and assessment procedures

Children understood to be at risk of, or subject to abuse and neglect, can be referred to the Juntas. Referrals can also be made directly to court through applications lodged by lawyers. Referrals can be made by children themselves, families, professionals from services including education, health and police, as well as member of the public. A team member of a municipal Junta told us 'there are many references from organisation, usually health organisations, education institutions and in a lot of case the complaints are coming from the special department for children in the police. But also in many cases adolescents and children are coming to place a complaint.' Referrals of a suspected violation to Juntas can be made in different ways including 'someone coming to explain verbally' the details of the concern and through a written notification from a lawyer.

¹²⁵ Source: http://www.rcdpinternationalvolunteer.org/volunteer_ecuador/orphanage_work_ecuador.php

The Code of Children and Adolescents regulates the Administrative Procedure for the protection of children's rights through the offices of the Juntas. The Code requires:

- Information relating to a referral must meet certain requirements including about the child, the person or institution providing the referral and the facts of the reported violation.
- The Junta must gather information about the case and set a date and time for a hearing with relevant persons.
- At the hearing all relevant parties are to be heard. The child should be provided the opportunity to be confidentially listened to.
- The Junta should seek reconciliation whenever possible.
- The Junta can order a protective measure.
- In all cases, the Junta must order mechanisms for evaluation and monitoring of the measure they order.
- Resolutions of the Junta may be appealed to a judge and if the Junta fails to fulfil its functions it can be denounced before the judge, who may impose sanctions.
- All administrative procedures should take no more 30 working days.

When the Junta issues a protection measure for 'emergency custody' and the child is placed in residential care, a judge has to confirm or modify this order within 72 hours.

Any case that is received by a court and processed by a judge will require an assessment (known as an investigation) to be undertaken. This investigation must record information about the complainant, the alleged facts, information about the child and their family, when possible, as well as any other persons involved. Once the referral has been accepted by the judge, both the prosecution and the DINAPEN should proceed to search for the family and undertake corresponding investigations. The Prosecutor's office must participate in the investigation to ascertain whether there is any evidence of a criminal offence. With the report of the Prosecutor and the DINAPEN, the judge will issue a decision which may be one to order adoption, alternative care or family reintegration. The decision is then passed to the MIES for compliance.

Technical Guidance has also been published in relation to the procedures to be followed once a child has been admitted into residential care as outlined in Appendix 4.

Although there is guidance relating to the process of referral, assessment and decisions made regarding a child's protection and care, it is understood that this guidance is not accompanied by sufficient detail or any training that would provide a base on which all assessors would systematically gather and analyse the same information in the same manner. The process is therefore left to individual assessors from different agencies to carry out and collate information based on their own experience, competencies and attitudes. This calls into account the different levels of subjectivity being applied to this process depending on who is undertaking the assessment and analysis process, with no standardisation that would help ensure the most suitable decisions are being taken.

One key informant holding considerable responsibility for deciding on the care status of children explained the information they initially required included only the name of the referrer, addresses of people related to the case and details of the 'complaint'. Assessments were then requested from social workers in the MIES. They also ask for reports if necessary from the health and education services if they need additional information. If there are difficulties then they also ask DINAPEN. However, the key informant also acknowledged that very often sufficient information was not forthcoming from these different bodies.

Other information from residential care providers regarding how poor initial assessments often are included:

'sometimes we do not receive any written documents, someone phones or the police say the child was in the street and a victim of bad treatment and that it is. In the best case we have two different reports, a social and psychological report and maybe a third document which is the police report. But in other cases we only have the police report.'

'they are not doing enough assessment there is not enough adequate research in advance. The police are bringing the children here just because they found them in the streets or someone told them that the family are punishing them or doing bad treatment but maybe the family is not aware they are coming here.'

What is important to note is even though there is lack information gathered and a lack of training and guidance on how to do assessments, it is understood that the vast majority of children who are placed in residential care are in need of protection:

'Yes I think that the children are here are here because of a correct decision. The children that are here now have had the correct decision.'

'from my experience working here for 6 years, the cases we have are risk cases'

In addition, there is evidence that some providers of residential facilities are making great efforts to gather additional detailed information on the children in their care in order to develop the best solutions and care for them. Improvements in the system of referral and assessment and formal decision making have also been identified as for example as one key informant explained, 'when I came here four years ago, we had 96 children and 56 of them didn't have a legal measure to be here. They were brought by the police so it took us a little more than two years to get the legal measures' and how in

the past a high percentage of children who didn't need institutionalisation` which they believe is no longer the case.

Children's experience of their pathway into care

Interviews with children and young people were conducted as group activities. In each session, children were invited to draw a building that represented their place of formal alternative care. They then drew a pathway leading up to the building and were asked if they would like to describe some of the people who were involved in that journey.

Figure 7 contains some of the information children provided from different care settings about their journey into care and Figure 8 is three drawings children produced to illustrate this experience.

Many children drew complex and long paths from their original home into the place of alternative care. Some had roads comprising rocks and stones, some had made many stops along the way. One child arrived in a police vehicle and another in a taxi. Some pathways involved a lot of different people including family, police, social workers and staff of the residential facilities. One child described how she had made the journey by herself and another didn't remember how she arrived but she liked being taken there.

Figure 7 Experiences of children's journeys into alternative care

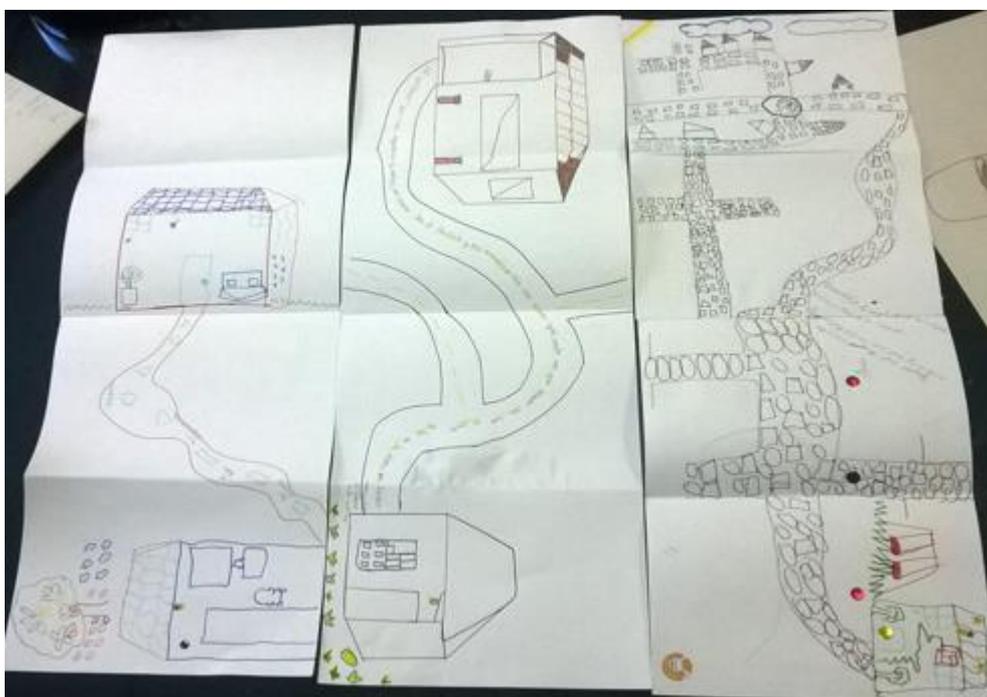


Figure 8 Drawings depicting the experiences of children's entry into alternative care

Care planning and review procedures

Regulations issued by the MIES state children placed in formal care should have individual care plans. It is also stipulated children should participate in the development of these plans. In addition, if work is being undertaken with the child's family, a Global Family Plan should be developed. Before these plans are made however, often due to inadequate information in initial assessments, it is often the case that residential care providers must first undertake additional work to ascertain the background information about the child and their family context.

The Code of Children and Adolescents (CONA), establishes the obligation of both the Board and judges to follow up protective measures they have ordered. They must review the implementation of the order and periodically evaluate its effectiveness in relation to the initial aims for which they were ordered. On this basis, both the Juntas and judges have the power to replace, modify or revoke the measures (Article 219). Despite this legal provision, in practice, as has been seen throughout this study, assessments by the responsible authorities are not always fully executed. In addition, the Technical Standards for Special Protection Services Institutional Care approved by the MIES required all providers of residential alternative care services to offer follow-up and support to children and families. However these standards fail to provide any specific guidance as to what this process should entail and how to implement such services.

Poor planning and follow up are of deep concern to professionals in Ecuador who believe some children are returning to families when the situation is still not safe or appropriate with negligible follow-up depending on the agency tasked with that responsibility. Members of the team of Junta for example, lack time and staff to do this even when they know the orders are not being delivered on. One informant explained how:

'the number of cases with follow up is too small and almost only representative of all the cases as for example there are many alcohol cases due to the high number of cases. At this point we have around 8000 cases that someone must follow up but it is impossible. We are just doing follow up when one of the organisations ask something or there is a complaint so the case is reopened.'

Although annual Government reports on child protection does not indicate how many children re-enter the care system, it is understood that some children do 'go back and forth in the system' as a result for instance of reunification with families where there is 'no follow up'.

In contrast however, there are examples of practices where through rigorous care planning, regular review of plans and in-depth monitoring, technical teams are working closely with children and families. For example one informant explained:

'what happens is we support the child and we provide education, psychological therapy it is required, involving i workshops and also recreation. We make them participate in all the activities that are planned and provided by our foundation. In legal cases, when we ask for reunification, we ask the judge to give us the measure to provide the social support for at least 6 months. The maximum is 6 months. There is no minimum. Sometimes it can be extended so the foundation can be more involved with the family...First the work is with the family. We make family visits and social interviews for example ... through the visits we begin in the family environment and with the child. If we see the commitment and interest we make the Global Family Plan where there are activities that have to be accomplished by the staff of the foundation and the family. Then we evaluate.'

Participation of children and young people

Information issued by the Government of Ecuador highlights efforts being made to take the views of children and families into account as a principle of the way government functions.¹²⁶ Children have the right to be heard in judicial or administrative proceedings including those considering their protection and care as outlined in Article 314 of the Code for Children and Adolescents.

In relation to participation in decision making when their care and protection is being considered, key informants confirmed how this process does happen and 'children can tell the judge what they want.' Interviews also confirmed that it is regular practice that those responsible for making decisions for administrative orders also speak directly with the children involved. However, the process of such participation could be improved in a number of ways. One key informant confirmed however that, 'there is no special room where parents and children can be separated when they speak to the judge in the courts. We enter into the same door and we wait in the same room' although another lawyer did say that in their experience 'when the judge speaks to the child we go outside and jut the child and the judge speak.'

There is an issue regarding individual capacity and subjectivity of those listening to children, especially regarding the degree to which children's views are actually being considered. For example, said one informant, 'there are cases where the judges listen to the children but it depends very much on the judge and it depends very much on his

¹²⁶ 5º Y 6º Informe Combinado Con Arreglo al Artículo 44 de la Convención, Ecuador Marzo 15/2016

style. Some are far more inclined than other judges who will take independent decisions so it depends very much on the person.'

As previously referred to in this report, there are some care team members who do their best to try and facilitate meaningful participation of children in for instance their residential care plans and plans for leaving care. There is also recognition for a need to improve the experience of children when included in decision making processes. For instance, one agency when preparing a case for court understood that 'it depends very much on the institution, because the institution writes the information and there if there is an approach that can be very paternalistic. We know, we are the professionals and often the voice of the child is maybe listened theoretically but not really what they say,'

Although there is recognition as to the importance of participation of children it is also realised that professional judgement must take all factors into consideration not just the views of the child. For example, informants explained how it understood when:

'children who are institutionalised, they make an idolisation of their families. So when we ask the children do you want to go to your parents they say of course. Of course they are always going to say yes. That is sometimes a problem with the judges because they don't have the methodology. You are putting the case that the father is crazy and the mother is drinking a lot. And the children say oh I want to go with my parents and the judge says oh my god the children wants to go with their parents. So it is difficult to manage that with the judges.'

Despite the above, the Ecuador Alternative Report of Civil Society to the Committee on Children Rights, states:

The boys, girls and adolescents that face a legal process for the protection of their rights and, in this case, of their right to family and community coexistence, do not have an active participation and their opinions are not effectively taken into account, as only the opinion of the technicians is considered in several cases. In addition, the active participation and the opinion of their families in the process is mostly excluded within the technical processes. The Justice members do not have the necessary training to ensure this right because, they do not know about the Guidelines of the Nations United for Alternative Care of Children. The technical teams keep a "judgmental" and diagnostic view of the reality of children and their families, leaving aside the existence of personal resources and individual and family development that would help to improve their

situation, thus sabotaging the process and promoting judicial decisions that are not coherent with the reality of the families, generating unnecessary separations in many cases.¹²⁷

Workforce development

Key informants acknowledged how the professionalism and capacity of the workforce not just in terms of numbers but also of abilities and attitudes is highly relevant to the quality of care children receive. During the field work, it was noted how there are many passionate, knowledgeable and experienced people working in child care. However, key informants identified serious shortcomings in the overall capacity of the workforce and the need to improve skills, knowledge and understanding of child rights and best practice for child care.

Many key informants thought such training was particularly important for those working within the state social services system. One informant told of how they 'used to work in a public institution run by the MIES, a big institution. The people working there don't have capacity, no previous experience in child protection. They don't have training and they are neglectful of the children.'

In relation to such comments it is important to also recognise how social workers and other care personnel, especially those working within the Government sector, are struggling with high caseloads, insufficient resources, lack of inter sectoral cooperation and few opportunities to update knowledge and skills. In addition, working within a highly bureaucratic system can stifle innovation and motivation especially if supervisors are unwilling to, or unskilled in, supporting their teams.

In terms of academic education, there are several universities providing higher degree social work courses. Key informants believed the general standards of these courses are high although lacking sufficient specialisation in subjects specifically related to child protection. Non-state providers are understood to be the sponsors of much more in-house training than government bodies. However, even staff within non-governmental organisations agreed there is still a need for further capacity building on an on-going and regular basis. As one key informant said:

'for me the training for social workers is insufficient. When I am together with other colleagues we can see we have a great lack of information and knowledge that we don't have.'

Some key informants spoke about the university social work education they had received and how they realised that they needed to update their knowledge and skills. They said:

¹²⁷ *Alternative Report on the Fulfillment of the Convention on Child Rights and its Facultative Protocols by the Ecuadorian Government, Prepared by the people and Social Organizations of Ecuador.* October, 2016. Page.23.

'I am older but I am trying to keep updated with information because the reality is changing every day.'

'I finished my under graduate studies in 2002 and I have only a general view. But I hope today they have are given deeper content.'

Some key informants spoke of how they felt the MIES should be a provider of training that enhances practical skills, especially in the understanding and use of government issued technical standards and tools. Sufficient financial investment in training was a theme reiterated many times.

Although there is some inclusion of child rights and child protection during the general training of judges, key informants think this is insufficient. As the judiciary are principal gatekeepers it was agreed the content and breadth of this training must be increased. Such a programme would also assist in helping to raise awareness and change attitudes of those judges that still favour alternative care and adoption over support to families.

Data and information management systems

Unfortunately the researchers for the study despite numerous requests were not able to meet with any representatives of any departments within the MIES or any other ministry from whom they could request information on government data management systems. In addition, requests for government data through the auspices of national colleagues were not responded to.

Key informants, including those from major international agencies, spoke of their lack of access to published data: 'the problem is the statistics here are not very strong so that is also of course I think we don't have an idea what is really going on.' In addition there may even be a specific moratorium on the sharing of some government data as during the week of the field visit, key informants alleged that a member of management within a department of the MIES was dismissed because someone in their department had released some data.

The statistics referred to in this report have either been sourced directly from government websites or obtained through third parties.

Non-state providers of residential care and other services send regular statistics to the MIES. In addition, the MIES conduct regular inspections of residential facilities and it is assumed quantitative and qualitative reports are written as the organisations are given a rating. During the field work no one spoke of how this information is analysed or utilised. One key informant previously employed in the MIES, when asked about government data systems regarding children in residential care said:

'it was a system for that kind of data because we had the mandatory duty to send monthly reports of how many children are coming or coming out. After that it wasn't a mandatory responsibility of anyone and the centre that was gathering information is no longer working. This stopped in 2008.'

The lack of willingness to share data not only means professionals working in the child protection and alternative care sector are not able to verify results of their work, but also are unable to contribute to evidence informed advocacy that builds on successes and seeks to address challenges.

Funding

The principle source of funding for child protection and alternative child care provision is the Government of Ecuador. In an annual report issued by the Ministry of Social and Economic Inclusion, it was declared that for the budgetary year of 2016, a total of \$7,726,334 was allocated by the MIES for the running of residential facilities. In comparison, \$2,299,474 was allocated for support to children in extended family care, \$2,971,706 for 'special protection' and only \$57,345 for prevention. A total of \$383,007 has been allocated for adoption. This means residential care receives almost 135 times more funding in comparison to prevention.¹²⁸

Coupled with accreditation of non-state providers is the core funding provided by the MIES to non-state providers of residential facilities, based on per capita allowances. Costings are calculated for different aspects of care including salaries of some staff, food, educational materials and hygiene. However, all non-state providers interviewed for this study explained how they must raise additional funds as these payments do not cover even the basic costs or the additional services that children who have been through traumatic experiences require. We were told for instance that:

'MIES is paying for the salaries of the social workers, the psychologist and the educators. Sadly they don't pay the other salaries for other staff that are really important in the organisation. If we were working just based on the salaries that MIES pays then there are not enough social workers, psychologist and educators so we need more... So the situation is really bad because what they pay is really a small part of what the children need.'

'the State does not understand the situation and the last statutory resolution was because of the economic crisis, the amount they

¹²⁸ Unpublished government report. May 2016.

give to us is just for food, educational material, and hygiene. They are not thinking recreation, health or mobilisation or clothes. Because the public services are not giving medication and for some children they need specialised services. If they have disabilities they don't have access to specialised services. They don't care if the children are attaining academic achievements or not. For some educational activities the children are excluded because we need to have additional money for the fees schools are asking for.'

Government funds allocated for child protection and child care includes monies granted to non-state providers managing residential facilities and outreach services for children and families. Non-state providers also have to raise additional funds. They claim this is necessary to supplement government grants, even for the basic provision of services, as well as additional support that children require that is not covered by official funding, as for example psycho-social and specialist health and education support. A study of 23 residential facilities in different regions of the Country found some providers having to raise an additional 65% of the funds needed.¹²⁹

When non-state providers were asked about the source of additional funds, they unanimously replied that their fundraising efforts were concentrated within Ecuador, with almost negligible support coming from international organisations. Some support is also provided by commercial businesses including help in kind with material supplies.

Cultural attitudes and norms affecting the care of children

An excellent understanding of and empathy for child protection and best practices for child care can be found amongst professions working in child protection and care. It is also understood that paternalistic attitudes largely prevail within the public and some professionals across Ecuador. This is coupled with what some key informants identified as a culture of blame engendered by a number of professionals in relation to families who are not coping. As one key informant noted, 'If I had the power to change one thing I would want to change the attitudes of the teams as they always think the families are bad and not strong.'

Many key informants spoke of the significance of a culture of violence and how this violence permeates all sectors of society. Examples of their comments include:

'the violence is everywhere. It is unbelievable.'

¹²⁹ Oviedo, F, S. (2015) *La Actualización de la Información Respecto del Análisis de la Situación de los Derechos de los Niños, Niñas y Adolescentes que están en Riesgo o Han Perdido el Cuidado Parental de Sus Padres en el Ecuador*. Page 66

'the violence is natural in our society.

'girls are more affected by gender based violence because of the culture.'

'punishment is the way to discipline.'

'I think that the main argument for the families is that it happens in all families. I haven't found any case in which the lawyer recognises that the family has a problem. But there was a case where a child was beaten so bad that he was incapacitated for three days. This is seen as normal. So we cannot get them to understand the violence and they do not understand the psychological violence because children are ok as long as they are with their families.'

A recent study conducted in Ecuador has shown concerning data regarding inter-generational transfer of violence¹³⁰. For example, 18% of the parents included in the research witnessed their mothers and fathers being ill-treated and 39% of children living in households where parents or caregivers were victims of violence are now themselves subject to abuse. This inter-generational violence within families has been identified by key informants as a major challenge, especially in the reintegration of children initially removed from family care for reasons of protection.

Lessons learned, challenges and opportunities of child care reforms

This section of the report describes key lessons learned in relation to what is working and what is not, and the challenges and opportunities to move forward. The six key lessons that have been identified include:

- 1 Delivery of a child protection and alternative child care system requires political commitment
- 2 The need to address insufficient investment in human resources is imperative to strengthening of a child protection system
- 3 The necessity of a range of effective services and a continuum of care
- 4 The necessity of Gatekeeping mechanisms to prevent unnecessary care placement and ensure the most suitable forms of care are selected
- 5 Improved use of data and evidence necessary as a driver of change
- 6 Focus of funding decisions perpetuates the use of residential care

¹³⁰ CARE Ecuador, Consejo Nacional para la Igualdad Intergeneracional, Fundación Observatorio Social del Ecuador, Plan Internacional, Save the Children Ecuador, UNICEF and World Vision Ecuador (2016). *Niñez y Adolescencia desde la intergeneracionalidad. Ecuador 2016*. Observatorio Social del Ecuador. Quito. Pages. 92 – 93.

Delivery of a child protection and alternative care system is complex and requires political commitment

The process of developing, delivering and continuing to increase effectiveness of a child protection system is complex. It requires political will and commitment as well as sufficient investment in terms of finances, human resources as well as the dedication and time of a range of stakeholders.

Over the past 25 years, investment in child protection and alternative care has been made and achievements realised. Investment in legislation contributed to a foundation for an alternative care system that now largely responds to protection concerns for children and not just a reaction to poverty. It is understood however, that recent changes to law and policy, coupled with restructuring of responsible governmental bodies, now threatens the delivery of a national child protection system that is able to respond effectively to children affected by abuse and neglect.

In part, this concern is attributed to new government policy mandating a broader inter-generational approach to delivery of social and other services, and the role of previously specialised government bodies, such as those of the MIES, now taking responsibility for vulnerabilities of a wider section of the population. It is feared, particularly in times of overextended resource, that not only will services now lack specificity, but these changes will mean an end to specialised response to child protection. These concerns are further compounded by the already overextended government child protection and alternative child care services.

There are examples of good practice in provision of alternative care, particularly through the investment of a number of non-state providers in terms of knowledge enhancement, piloting, enhancing service delivery, positive shifts in attitudes and a desire to improve the care experience and outcomes for children. There is however, a disconnect between the State bodies holding overall responsibility for the development, monitoring and delivery of a national child protection system and many of those in non-state organisations promoting new and innovative practices.

This lack of engagement in constructive dialogue is most concerning in light of the fact as almost all residential care, and increasing prevention and reunification services, are being provided by non-state organisations. One reflection of key informants from non-state providers has been how the MIES undertakes the role of commissioner, regulator and inspector of services rather than partners for alternative care development. In addition, key informants spoke of the hierarchical and bureaucratic style of management inside government bodies and the manner in which this stifles initiative of its staff. They further outlined how managerial appointments are political in nature and dominate what many consider to be poor policy decisions.

Changing this situation will first require the Government of Ecuador to acknowledge these concerns and political will and intervention from the highest level to rectify them.

In particular, this political will should address the current lack of national dialogue between state and non-state providers and find ways to engender future possibilities for shared strategic visioning, building on evidence of the positive current practices for child protection and alternative care. In addition, a strategic plan that maps all steps to be taken toward achieving reforms to a specific national child protection system, developed with full participation of all relevant stakeholders including children, should consider all aspects of the following components:

- An appropriate and specific legal and regulatory framework for child protection and alternative care
- Well-managed oversight and coordination of child protection policy and services
- Adequate structures and mechanisms for delivery of child protection services
- Service provision and access to alternative family-based care
 - Services that support the prevention of family separation
 - Provision of alternative forms of family-based care
 - Services that support reunification of children from alternative care back with parents and family
- Adoption
- Data management and accountability mechanisms
- Promoting positive social attitudes and practices

The need to address insufficient investment in human resources is imperative to strengthening the national child protection system

'I think that more than a qualification, children who work with children in the system should have a social conviction. I believe to work in special protection you need to have a vocation. It is love, sacrifice and interest for a child's well-being.'

A competent workforce including professional social workers, are essential to the effective delivery of child protection services and suitable alternative care. There are passionate, knowledgeable and experienced people working in different care settings and protection agencies across Ecuador. However, there are also reports as to the lack of skills and capacities of some members of the child protection and alternative care workforce.

Non-state providers have expressed a particular concern about the competencies of staff within child protection and alternative care agencies under the responsibility of the MIES. In addition, it is important to note the principal gatekeeping role of the judiciary and their technical teams. It is also understood that members of the judiciary and court teams are lacking the necessary skills and training in relation to child rights and child protection.

In addition, provisions within law and policy that give primacy to family care, and family-based alternatives when necessary, are not necessarily reflected in the attitudes of some professionals, or indeed in members of the general public. In this manner, concerns relate to the paternalistic attitudes of some care workers, especially when coupled with the lack of gatekeeping tools and mechanisms that might counter some of the individual subjectivity impacting on decision making processes around children and their families.

However, it is also important to acknowledge the challenges facing employees of State bodies in particular. These include: a shortage of staff; high workloads and staff turnover; low morale, especially of those caring professionals who see recent changes they believe to be detrimental to child protection; poor cooperation from other sector colleagues; little access to training and skill development; and a bureaucratic style of management that limits motivation and innovation. In this respect, there is not only a need for the Government of Ecuador to invest in skills and capacities, but also to address other systematic deficiencies such as numbers of social workers and other relevant staff, increase supervisory capabilities and, improve inter-sectoral approaches to, and cooperation in, service delivery. In respect of the latter concern, it is important the Government and non-state service providers strengthen the capacity of not just social workers but all those with responsibility for child protection including judges, lawyers, residential care workers, police, psycho-social specialists, trainers, policy makers and managers.

Although there are several universities in Ecuador recognised for their professionalism and endeavours to raise the quality of social work training, nevertheless significantly more efforts are needed to scale up different forms of training that will enhance the care and protection of children. Raising awareness through training and increased knowledge will also contribute to changing any entrenched poor attitudes professionals have toward vulnerable children and families.

The necessity of a range of effective services and a continuum of care

To ensure the most suitable forms of alternative care are founded on rigorous case-by-case decision making, it is necessary to have a continuum of care options. There are serious limitations due to placement in residential facilities being the only formal alternative care option for children not able to remain with their own family. Although investment had been made in piloting foster care within a small number of non-state agencies in partnership with the MIES, earlier this year these efforts were stopped by the Government. This means there are no short or long term family-based alternatives care options for children in Ecuador.

Within law policy, there is a mandate for all decisions to be made in the best interest of the child, a right to live in a family environment and, provision of a range of alternative care options. For instance, supported care within extended family is recognised in policy

as being a preferred option when children are unable to live with parents. However, the policy is not being realised because of factors such as the greater amounts of government funding spent on residential care in contrast to prevention, reintegration and support in extended family care, as well as the reported lack of services available to facilitate and support such care options.

In terms of quality of current residential care options, there are noted differences being offered by different providers across the country. This includes variation in terms of the physical environment, size of facilities, range and capacity of staff as well as the individualised quality of care being offered a child. It is acknowledged that some forms of small and high quality residential care facilities may be most suitable for certain of children. However, it is also recognised that for the vast majority, there should be options of family-based care in preference to residential placements.

The Government of Ecuador should reiterate throughout national law and policy and strategic plans, a specific focus and support for children whose protection rights are violated. It should further provide all necessary investment in services that prevent and respond to these violations and ensure provision of a range of high quality alternative care services, primarily focussing on family-based options that comply with the principles of the UNCRC and the UN Guidelines for the Alternative Care of Children. In addition, additional efforts should be made to ensure those children already in alternative care are afforded every opportunity to quickly and safely return to their families when possible.

The necessity of Gatekeeping mechanisms to prevent unnecessary care placement and ensure the most suitable forms of care are selected

The establishment of gatekeeping mechanisms is significant and instrumental in preventing unnecessary family separation, and ensuring the most suitable alternative care for each individual child is provided when necessary. A fundamental requirement to meet these principles is not only a work force skilled in the implementation of all aspects of gatekeeping and sufficient financial investment in service provision, but also the development and effective implementation of case management tools, procedures and mechanisms.

A principal weakness in provision of child protection and child care is the lack of methodology and systematic application of all aspects of case management, especially those related to assessments and informed decision making in the best interest of the child, coupled with suitable care planning. In addition, the participation of children and their families in these processes is understood to be particularly weak. This situation is leading to decision making processes in which a high degree of subjectivity is being applied, especially by those lacking experience, competencies and positive attitudes that help guarantee the most suitable and necessary decisions for each child. A further

concern is how weak referral, assessment and decision making may be resulting in the lack of identification and support of many children who are in need of protection services.

The effective dissemination and understanding of national technical standards for protection is also essential to realising proficient delivery, regulation and monitoring of the quality of alternative care. While some key regulations and national technical standards and regulations for protection processes and care services are in place, further investment is necessary for the improvement of such statutory guidance and its effective implementation.

Children's care and protection is the responsibility of multiple actors including parents, relatives, teachers, health workers, doctors, social workers, lawyers, police and other professionals. Multi-sectoral efforts are needed to ensure all those with responsibility are trained and work together to apply the same standards, methodologies and case management procedures.

In summary, it is recognised how additional attention to and investment in all aspects of statutory guidance, technical procedures, operational standards and quality assurance mechanisms are needed to guarantee improved decision making that prevents unnecessary entry into alternative care, and provides the most suitable responses for children in need of protection and support.

Improved use of data and evidence necessary as a driver of change

There are mandatory reporting systems required of those organisations in Ecuador funded by the Government to deliver alternative care services. It is also understood that the Government of Ecuador uses data to produce statistical and other reports on child protection and alternative care. However, information gathered for this study suggests the Government do not readily share data on child protection amongst child protection professionals or the general public. For example, during the period of the field work for this study, the research team were confidentially informed that allegedly a member of management in a government agency was dismissed because data had been inadvertently released by someone within their department. It was also very difficult for the international researcher to obtain government reports that provide statistical evidence of child protection and child care practices in Ecuador. In addition, key informants from non-state providers of residential facilities spoke of the lack of qualitative information about the children under their care both as part of the official inspection process and within the data they must give state authorities.

The use of data and evidence of what works are essential to informing effective, efficient and relevant legislation, policy, strategic planning and service provision. The current lack of dissemination of information and data analysis in Ecuador raises the questions as to how effectively it is being used to inform national and local policy and planning. To address this issue, not only are improvements required in the range and methods of data

collection, particularly to incorporate additional qualitative information, but it will be important to share data and analysis among the protection and alternative care profession to inform improved planning and practice.

The focus of funding decisions perpetuates the use of residential care

As indicated in this study, the use of residential care receives substantially more government funding than prevention, reintegration and other family support services. In addition, non-state providers of residential facilities have identified how the funds they receive do not permit the provision of the standard of care as required by Government of Ecuador Technical Standards. As a result, they place efforts in raising additional funds.

The manner in which government funds are provided on a per capita basis has also been identified as a possible motivation for providers of residential facilities to have an interest in keeping as many children as possible in their care.

The allocation of funding and control and regulation of expenditure for child care provision is a political decision. If there are to be further reductions in the number of children placed in residential facilities, increased provision of suitable family-based alternative care, improved quality in the services that prevent unnecessary separation and support family reintegration, the Government must address the manner in which funds are allocated, and increase financial resources for services that bring to an end the domination of residential care.

Recommendations

- 1 All efforts should be made to invest in reforms and multi-sector efforts to strengthen all components of the child protection system in Ecuador.
- 2 The Government of Ecuador, in partnership with non-state providers, should increase investment in high quality family-based alternative care, prevention of family separation and reintegration services.
- 3 The Government of Ecuador should develop a time bound strategic plan for deinstitutionalisation.
- 4 Collaborative efforts by government, non-government, associations and schools of social work should continue to strengthen and scale up training, supervision and accreditation for social workers and all other professionals, including the judiciary, involved in child protection and alternative care.
- 5 The Government of Ecuador should improve and standardise the use of inter-sectoral case management tools and mechanisms that safeguard gatekeeping processes including those of referral, assessment and care planning, monitoring and review.
- 6 The Government of Ecuador should increase the rigour and range of data collected to inform evidence based policy and planning including the triangulation and analysis of qualitative, quantitative and longitudinal data by which indicators for change can be developed and outcomes for children measured.

- 7 Increasing efforts should be made by all professionals to consult and involve children, parents and caregivers in decisions affecting them, and to ensure decision making in the best interests of the child.

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Appendix 1: Research instruments used with key informants

Participant Information Sheet

Dr. Chrissie Gale
University of Strathclyde
Lord Hope Building
141 St James Road
Glasgow
Scotland

My name is Dr Chrissie Gale and I have been asked by the European Commission and SOS Children's Villages International to conduct a study on alternative child care in Ecuador.

I would like to invite you to participate in this research. So that you can make an informed decision about participation, this information sheet will provide you with more details.

Please do not hesitate to ask me any questions or, to request any additional information you might need before deciding whether or not to participate.

What is this study about?

This aim of this study is to gain an understanding of the alternative child care system in Ecuador.

Why have you been contacted?

You have been contacted because of your professional knowledge, interest and understanding of child care reform in your own country

What would my participation include?

We are requesting your participation in an interview. The interview will be about alternative child care in your country. The interview should last no more than one hour in total.

We are particularly interested in understanding the situation of children in alternative care, where they are and the reasons a decision was made to place them there. We are also interested in understanding the services available to help prevent children being separated from parental care. In addition we would like to understand the child care reforms that have taken place in your country over the past 5 years and what you think were the successes and challenges of the programme and policies.

How do I inform you of my decision to participate or not to participate?

Before the interview you will be provided with a form to read with questions about your

willingness to participate. If you are happy to go ahead with the interview, we will ask you to kindly sign the form. If you give your consent to participate you can also choose whether or not to answer particular questions during the interview.

Confidentiality

If you do not want your name mentioned in the research report you can indicate this on the consent form.

If you provide your consent we would like to digitally record the interview.

Copies of the interview will not be available to anyone other than the researchers.

Thank you

Consent Form for Professionals and Carers

Alternative Child Care Study in Ecuador

Please answer the following questions to the best of your knowledge

I confirm that:	YES	NO
I have understood what my participation involves and how the information I provide will be used		
I understand that my participation is completely voluntary and I am free to withdraw as a participant at any time		
I agree that the information I provide can be used in a research report		
I agree my name can be used in the research report if an additional request is made		
I agree to the recording of this interview		

<p>I hereby fully and freely consent to my participation in this study</p> <p>Participant's signature: _____ Date: _____</p> <p>Name in BLOCK Letters: _____</p>
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To be returned to: Chrissie Gale, University of Strathclyde, Glasgow, Scotland

Appendix 2: Research instruments used with children and young people

Text of the Decision-Making Information Leaflet for Children

What is this leaflet for?

This leaflet is to help you understand what our 'research' is about, and why we are interested in listening to what you have to say.

What is research?

Research is about finding out more about something - it is like exploring.

What is this research about?

This research is about children and decisions that are made about them. It is especially about decisions that are made when you are looked after away from home.

Who makes the decisions about where you live? what you do?

How much say do you have?

It is especially about children aged 10-17.

Why are we doing this research?

We think it is important to listen to children. We would like to hear about your experience

Who are we?

My name is Chrissie Gale I have worked with children before. I have a job working with social workers in a University in Scotland, UK.

What will we be doing?

We want to meet about 45 children to listen to their views. All the children are aged between 10 to 17 years and most are looked after away from their home. We hope to meet girls and boys.

Will you be one of them?

We hope you would like to meet us. We will be asking the person who looks after you to ask you if you are willing to meet us.

What will the meetings be like?

We hope that the meetings will be interesting and fun. We have different activities which may help you to think about your experience of where you live, who has made decisions about you live, and what you think about this..

If you meet us will you be with other children?

Yes we would like to invite you to come to be with a group of about 10 other children. All these children will be about the same age as you and will have had some similar experience to you.

We think that some children may find it easier to say what they think with other children. Also, it should be fun and interesting.

Who will be told about what you say?

Everything that you tell us in our meetings will be confidential. This means that we will not tell anyone else what you say.

However, if you agree we would like to tape record our meetings. This will make it easier for us to remember what you tell us. We won't let anyone else listen to the tapes.

How will we tell other people what children think?

Other people are really interested in knowing what children think. So, we will write some reports about what children say is important to them, but we won't name anyone's names.

Also, we hope that you may like to make something that adults can listen to or read about, to let them know what children think.

What will happen next?

If you are willing to meet us we will make arrangements with you, and your carer.

Do you have to agree to meet us?

No, it is your choice whether you take part. It will always be your choice to meet us.

Why should you agree to meet us?

- It is a chance to say what you think
- Your views will be seriously listened to
- We hope the meetings will be interesting and fun

My participation

Who am I?

My name is Chrissie and I work at the University of Strathclyde in a country called Scotland. I'm visiting Ecuador to make an assessment of child care in your country...



←--- This is me!

WHAT WOULD WE LIKE TO TALK TO YOU ABOUT?

Today I would like get to know a bit about you. You might want to ask me some questions too. But you don't have to talk about anything private if you don't want to. You can decide what you want to talk about or not. Here are some of my ideas for what we might talk about....

Who is important to you?

E.g. who are the people who are important in your life and if you have any worries who do you go to

What kind of things or people do you think can help you and other children and young people?



WHO WILL KNOW WHAT I'VE SAID?

If it's okay, we will be writing some things down. These are just for me to remember what we did together. I won't use your real name.

OK I WANT TO DO IT! If you are happy to talk to me today I would ask you to just put your name on the form below.

My Consent form

My name is and I am happy
for you to meet me and for me to tell you more about myself.

My signature.....

Date.....

Thank you! 😊

Appendix 3: Contents of the Republic of Ecuador's 2003 Code for Children and Adolescents

Extract from The Code for Children and Adolescents (2003): ¹³¹

On January 3, 2003, the National Congress adopted the Code for Children and Adolescents, which, in its first article, establishes, as its general purpose, the comprehensive protection that the State, society and the Family must guarantee to all children and adolescents living in Ecuador, in order to achieve their complete development and the full enjoyment of their rights. In consequence, the Code regulates the exercise of rights, duties and responsibilities of children and adolescents and the means for making them effective, guaranteeing and protecting them in accordance with the Principle of the Best Interests of the Child and the doctrine of comprehensive protection.

Article 12 of the Code for Children and Adolescents establishes the absolute priority of children and adolescents in the formulation and implementation of public policies and the provision of resources, ensuring their preferential access to public services and to any kind of attention they might need. It also establishes clearly that children and adolescents are subjects of rights, and that the rights of children and adolescents are matters of public policy, interdependent, indivisible, inalienable, and non-negotiable (Arts. 15 and 16).

The Code for Children and Adolescents reflects the CRC adequately, in recognizing the principles of best interests, participation, progressive exercise of rights according to the degree of development and maturity, and survival and development. Also, Section III (Book I), on rights, duties and guarantees, is divided into chapters on rights related to survival, rights related to development, rights to protection and rights to participation.

The Code for Children and Adolescents establishes five types of comprehensive protection policy: (1) Basic, fundamental social policy referring to the universal conditions and services to which all children and adolescents have a right; (2) Policies on emergency care with respect to services for children and adolescents in extreme poverty, severe socioeconomic crisis, or affected by natural disaster; (3) Policies for special protection, aimed at preserving and restoring rights in situations of threat of maltreatment, abuse and/or sexual exploitation; (4) Policies for the defence, protection and enforceability of the rights of children and adolescents; and (5) Policies on participation, oriented towards the construction of citizenship.

¹³¹ Morlachetti, A. (2013) *Comprehensive Child Protection Systems: Legal basis and current practice in Latin America and the Caribbean*. Economic Commission for Latin America and the Caribbean. Economic Commission for Latin America and the Caribbean (ECLAC) & UNICEF.

The Code for Children and Adolescents establishes the Decentralized National System for the Comprehensive Protection of Children and Adolescents, which it defines as a harmonized and coordinated set of organizations, entities, and public and private services that define, implement, control and evaluate policies, plans, programmes and actions with the intention of guaranteeing the comprehensive protection of children and adolescents.

The Code for Children and Adolescents establishes the three levels of organisations responsible for the implementation of child protection including the National Council on Children and Adolescents (although this Council no longer exists: it has now been replaced by the National Council of Intergenerational Equality), and the Cantonal Councils on Children and Adolescents (although these Councils have now been replaced by Cantonal Councils for Rights Protection and are no longer specialising in issues of childhood and adolescence¹³²), Canton Protection Boards, Administration of Specialized Justice for Children and Adolescents and Community Defenders of Children and Adolescents. It also allows for implementation by non-state providers.

The public and private care-provision entities in the National Protection System —defined as organizations for the implementation of policies, plans, programmes and projects—are in charge of implementing policies, plans, programmes, projects, actions, and protective and punitive measures, in accordance with the policies and plans defined by the competent organizations and the instructions of the authority that legalized their functioning (Arts. 212 and 213).

Articles 298 and 304 give detailed explanations of the origin of the budgetary resources for financing the State institutions of the National Protection System created by the Code for Children¹³². The budget of the National Council for Children and Adolescents shall be financed with resources from the State's National Budget, and it is explicitly established that the State must provide the funding for the operation of the National Council. At the level of the Cantonal Council, the financing must come from the Municipality.

¹³² These articles however, have now been denigrated due to different provisions in the Organic Law for the National Equality Councils - LOCI.

Appendix 4: Extracts from the Technical Guidance Issued by the Government of Ecuador on procedures for children's entry into residential care¹³³

Action	Time Frame
If the child entering care does not have the measure of judicial protection, a preliminary social work report should be attached to an application by the legal representative and addressed to the competent authority to issue the protective measure	72 hours
If the child or adolescent enters the residential facility under an administrative protection measure for "emergency custody" the legal representative shall inform the competent authority, attaching the preliminary social report and other supporting documents with which the child entered so that the corresponding protection measure can be resolved	72 hours
Development and implementation of the Comprehensive Care Plan should be developed for each child in conjunction with the child and respecting the principle of best interests.	Within 15 days of entry
Extended social research should follow that arrival of the child into the care institution; an initial psychological diagnosis should complement the preliminary data so as to inform the competent authority of the social situation of the child	During the first 30 days
If the researcher is not able to locate or identify the father or mother or extended family, this should be communicated to the competent authority so as to continue with the process of clarification of the legal status of the child	During the first 30 days
Ongoing comprehensive monitoring and evaluation of the Care Plan of the child for the psychosocial and legal intervention of process until the exit of the child or adolescent.	At time of last measurement relating to placement.
Joint development between the family and the technical staff to develop a Global Family Plan.	Starting with 45 days.
Implementation, monitoring and evaluation of the Global Family Plan by the family and the care workers (Worker / a Social Psychologist / Educator)	For a maximum of 120 days

¹³³ Source: Ministerio de Inclusión Económica y Social (2014) Norma Técnica de Protección Especial, Servicios de Acogimiento Institucional. Ecuador: Quito page 12