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The right to family life of children and adolescentss promoted by the United Nations,
case of SOS Children's Villages in cuenca.

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DEDICATION

I dedicate this work to my parents and sisters, who have been an example of struggle, perseverance and humility.

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ABSTRACT

The United Nations guidelines on alternative care for children (2009) were issued to guide those States parties to the Convention on the Rights of the Child (1989) in fulfilling their obligation to protect the right to family life of children and teenagers who have lost or are at risk of losing their parental care. Through a review of documents and interviews with relevant stakeholders, this document provides an analysis of the regulations, public policies and services provided by the Ecuadorian State and SOS Children's Villages – Cuenca to determine if they comply with these norms. This helps reach the conclusion that although actions have been taken to achieve this goal, the national, institutional and social context does not provide the necessary conditions for its full implementation.

INTRODUCTION

Family life is considered to be of the fundamental rights of every human being, since family, as well as the family environment, are indispensable elements for the social and cultural development and the creation of each person's identity. It is also the entity in charge of satisfying the biological and psycho-emotional needs in the early stages of life. That is why, at the international and national levels, both States and society have recognized their key role in the lives of children and adolescents. This has in turn generated regulatory bodies, public policies and services in order to protect this right.

In this context, at the international level, the United Nations Convention on the Rights of the Child (1989) stands as the first binding instrument recognizing the importance of the family environment for the growth and well-being of children and adolescents. Hence, this has established the obligation of the Member States to provide alternative care in case of separation of children and adolescents from their families (Article 20).

Nevertheless, it was not until November 20, 2009 that the "Guidelines for the Alternative Care of Children" were approved by the General Assembly of the United Nations. The goal was to support the implementation of the convention and to provide Member States with international instruments that offer clear guidance on the measures that had to be taken in order to prevent family separation and ensure quality care in the case of alternative care.

Therefore, there is a need to analyze if the norms and public policies taken by the Ecuadorian State in order to guarantee the rights of children and adolescents to live with their families are in accordance with the United Nations' guidelines on the alternative care of children. In order to achieve this, the first chapter of this thesis identifies the international normative framework that guarantees children and adolescents live with their families. Also, it aims to determine that International States take the necessary actions to fulfill the responsibilities when defending the rights of children and adolescents within their territories.

The second chapter identifies the norms and public policies that the Ecuadorian State has implemented to fulfil its commitment and obligation to provide special protection to children and adolescents who have lost or are at risk of losing their parental care. The chapter also identifies the services and actions that the government entities have generated to institutionalize these policies.

Subsequently, due to the need to have a richer perspective on the government's actions regarding compliance of its public norms and policies, the third chapter identifies rights of children and adolescents to live as a family with respect to cases of alternative parental care. In order to do that, a diachronic analysis will be carried out starting with the implementation of the Convention on the Rights of the Child, in the country until 2015. This will help to determine the foster care situation in the canton of Cuenca.

Finally, in the fourth chapter, the policies of SOS Children's Villages in Cuenca are identified and analyzed in relation to the "Guidelines for the Alternative Care of Children." The chapter will also display these tools as an international cooperation agency that provides attention to children and adolescents deprived of their family surroundings in Ecuador.

CHAPTER I: INTERNATIONAL CONTEXT ON THE RIGHTS OF CHILDREN AND ADOLESCENTS TO FAMILY LIFE

1.1 Historical Background

The twentieth century was a period of profound changes with regard to the approaches and practices implemented for the protection of children and adolescents who lack parental care or who are at risk of losing it. World wars were a decisive factor in changing the attitude towards the protection of this group, especially the havoc generated by World War II (1939-1945). During these historical periods, millions of children remained without a home, which produced the need to build orphanages in order to provide shelter and replace their parents' absence.

During this time, the family was understood as an entity that basically fulfilled the role of protection with respect to basic needs, such as health (food, hygiene, shelter and physical safety risks) and education (moral, religious and learn a trade). The fulfillment of these needs meant that the affective needs children and teens require for their development were not considered basic. This issue caused the perpetuation of a type of "hospital care" in orphanages. The protection of children was managed through separation by sex and geographic and social isolation. From an economic point of view, this type of care only looked after their basic needs in quite a cheap way (Blanca & Berástegui, 2009, 177).

The "hospital care" protection model was undoubtedly negative, and caused disastrous consequences due to children's deprivation of their socio-familial environment and the prioritization of fulfilling basic needs of affection. One of the most important studies to determine the negative effects of this model was about "hospitalism", carried out by René Spitz in 1945. He studied the behavior of 90 children kept in a European orphanage where the staff was very scarce. Here, the lack of contact and affection was practically absolute. This is why Spitz was able to show that these children became depressed, which negatively influenced their development in the short and long term (Blanca & Berástegui, 2009, 177).

As a result of many psychological studies carried out on children and teenagers in an institutional situation, family was considered to be an indispensable element in their lives. That is why it was established that they should not be separated from it and in the case that separation is inevitable, the need to access a family-type alternative care is enshrined. Thus, within the world of child and adolescent protection, this new paradigm established the basis for considering that everyone has the right to a family both for the purpose of protection of basic needs and affective care. It is important to emphasize that attachment theorists do not refer to the need for a particular family structure, but rather to the need for affection by a stable, permanent adult that is provided primarily in family circles (Blanca & Berástegui, 2009, 179).

As a result, alternative care methods were urged to change the mechanism of "hospitality" to one of "familiarity" in which the reproduction of affection conditions is promoted. Consequently, after a long process of research, discussions, and debates, important changes have been generated for the child population. In one way or another, these changes are reflected in the international legislation that promotes the right to live within a family. Throughout history, different approaches and principles have been adopted in order to comply with the Convention on the Rights of the Child, which is the highest reference for the protection of their rights.

1.2 International regulations

Since the beginning of the twentieth century, an increasing trend towards the development and promotion of universal principles for child protection has been determined. The first worldwide expression of this theme was given on September 16, 1924, at the Fifth Assembly of the League of Nations through the adoption of a non-binding international treaty on children's rights called "Declaration of the Rights of the Child," also known as the "Geneva Declaration." This Declaration, with only five articles, determined specific rights for children for the first time, but above all, it made a call for the responsibility that adults have in order to protect their welfare.

With respect to the family protection and alternative care field, this Declaration refers to the protection that the adult population has to give to children who are abandoned by their parents. Thus, in the second article, it determines the need for orphaned and neglected children to be sheltered and helped (article 2). That is why it is evident that this Declaration calls for alternative care, but it does not give guidelines for its praxis. On the other hand, although it is an instrument dedicated to children, it is possible to appreciate the recognition of the adult's obligations with respect to children and adolescents.

Subsequently, on December 10, 1948, at the third General Assembly of the United Nations, the Universal Declaration of Human Rights was adopted. With a total of 30 articles, it recognized and protected the inalienable dignity of all human beings without distinction of any kind. The only specific remark made about children is in Article 25, which states "Motherhood and childhood are entitled to special care and assistance" (art 25). In addition, it is mentioned that all children born in or out of marriage shall enjoy the same social protection (article 25.2). As for the family, it is a natural and fundamental group part of a society, establishing its right to be protected by both the society and the State (article 16.3).

Even though the Declaration does not mention much on childhood, since it only dedicates two articles specifically to this topic, the Universal Declaration of Human Rights is a meaningful international instrument that has an impact on all human beings with respect to equality and dignity. It includes childhood as part of humanity and in spite of its importance and degree of incidence worldwide, it can be shown that this Declaration continues to maintain a tutelary system of care with respect to the child population. Therefore, it perpetuates a condition of children as a subject under protection.

For the first time, with the Universal Declaration of Human Rights, the family was recognized as a fundamental element of society. This can certainly be considered as an important qualitative leap that extends the family's scope of protection. Nevertheless, the declaration itself establishes that men and women have the right to marry and start a family (article 16.1), which evidences the consecration of a family model based on a nuclear structure that is well-established on the union of a father and a mother. This event determined

a right for adult people in which the child's right to family life is not collected. It not only limits the notion of family as the union of a man and woman but also leaves aside social and cultural aspects that this entity may have in the lives of children and teenagers.

Subsequently, convinced that the child's needs and rights should be specifically stated, on November 20, 1959, the General Assembly of the United Nations adopted the Universal Declaration of the Rights of the Child. This last instrument was non-binding one with an indicative character that describes the child's rights along 10 principles. The preamble emphasizes: "mankind owes to the child the best it has to give" (United Nations, 1959). Therefore, it urged parents, men, women, private organizations, local authorities and national governments to recognize the enunciated rights and to fight for their observance with legislative measures and another type of measures. This demonstrates the continuity of the idea of children being subjects under protection, who need to be sheltered by the adult population and the different institutions of a State.

With regard to the family, in the VI Principle of the Declaration, the need for affection, love and understanding were recognized for the first time in the development of a child's personality. In this sense, States are urged to ensure that children grow up under the responsibility of their parents or in some place where the child is surrounded by affection and security both moral and material. If this is not possible, it is established that society and public authorities will have the obligation to take care of children especially without families or that lack adequate means of subsistence (United Nations, 1959).

Concerning the alternative forms of care, the expressed principle represents a significant step ahead in guiding the actions of States and society in these situations. First of all, because the principle calls for efforts to be directed towards safeguarding the attention that parents give to their children, it is also evident the need for attachment to the growth and development of the child. It is equally expressed that society must care for children without a family. However, despite its relevance in the international context, this statement is reduced to manifestoes that, even though they guide towards action, these do not generate responsibilities of compliance with the 78 States of the General Assembly that ratified it.

1.3 Convention on the Rights of the Child

The Universal Declaration of Human Rights and the Declaration of the Rights of the Child are both manifestoes with a moral and ethical intent that suggest rather than obligate States to comply with their statements. However, the Universal Declaration of Human Rights proclaims that children have the right to special care, whereas the Declaration of the Rights of the Child calls for a special attention to be given to this population. In this sense, due to its lack of information regarding childhood, a need was created for an international legal regulation that gave special attention to this population group.

At the commemoration of the International Year of the Child in 1979, a United Nations commission began working on a legally binding instrument in order to create specific rights for children. The result was that on November 20, 1989 at the 44th session of the General Assembly of the United Nations in New York, the "Convention on the Rights of the Child" (CRC), a binding international treaty was adopted. This event strengthened and expanded the focus, principles, and theories on the protection of children and adolescents.

This Convention was presented to the world as the first worldwide legal instrument for the protection of children. One hundred and ninety one countries ratified it and it came into effect on September 2, 1990. Thus, it became the first international law on the rights of children rapidly ratified by the international community, requiring its adaptation within the legislation of the signatory countries.

The Convention established for the first time the age range of the child population, stipulating in its first article that children are human beings under the age of 18 (art.1). For this group, the rights to full physical, mental and social development are consecrated through the proclamation of 54 articles divided into three sections. The first section, with a total of forty-one articles, lists the different rights granted to children. The second section, with 4 articles, determines the procedures that States parties have agreed to safeguard and monitor the fulfillment of these rights. The third section, through 9 articles, determines the formalities that must be taken for ratification, accession, implementation, amendments, reserves and denouncing the treaty.

With regard to the right to family life, the CRC recognizes in its preamble the importance of the family for children, determining that this social entity should receive the necessary protection and assistance in order to fully assume its responsibilities within the community. This is because it is considered a fundamental group of society and a natural environment for the growth and well-being of all its members, particularly boys and girls. Above all, this indicates that for the full and harmonious development of their personality, they must grow within a family and in an atmosphere of happiness, love and understanding.

The Convention also recognizes that at a global level there are children living in exceptionally difficult conditions and therefore need special consideration by the Member States. With regard to the family environment, article 20 states that children temporarily or permanently deprived of their family environment will have the right to special protection and assistance from the State. Thus, this guarantees the child another type of care, such as placement in foster care, adoption or, if necessary, placement in appropriate institutions of protection. Taking into considering these solutions, some particular attention will be given to the desirability in the child's continuous education to his ethnic, religious, cultural and linguistic background (United Nations, 1989).

Consequently, the CRC operates as a relationships organizer relating to children, the State, and the family, where the family's caregiver role is recognized and prioritized. Therefore, the child-family relationship is deeply respected and influences the role of the State for its protection, limiting the State's tutelary intervention to a final instance, in which it assumes that the family's efforts to protect the child and the social programs generated to prevent this situation have failed (Cirello, 1999).

With regard to alternative forms of parental care, it was stipulated for the first time what actions should be taken and the aspects to be considered by States in order to provide special assistance to the children deprived of their family surroundings. At the same time, it mentions that foster care, adoption, and settlement in institutions is an alternative placement modality,

as well as the need to provide solutions according to the needs of the children or adolescents involved.

In spite of the determination on alternative care arrangements, the Convention particularly refers to the adoption modality in article 21. Within the article mentioned before, States that allow or grant adoption shall ensure that the best interest of the child is a special consideration for these cases. It also determines that they must ensure that adoption is authorized only by competent authorities where the adoption is admissible according to the child's legal status in relation to their parents, relatives and legal representatives, according to established laws and procedures (art 21. A).

It is further established that adoption in another country can be considered as another mechanism to provide care for the child when he or she cannot be placed in a foster home or delivered to an adoptive family (art 21. B). This shows the lack of clarity with respect to the other modalities determined by the Convention.

1.3.1 Particular features of the CRC

1.3.1.1 Integral protection of rights and child as subject of law.

The CRC opened a new paradigm of integral protection as it covers all life's basic dimensions for the development of children and adolescents. It covers the rights to survival, development, protection, and participation, which that are recognized and guaranteed. On the other hand, through the CRC, a new definition of child was given, which is understood as a subject of law. The new view represents a qualitative leap of enormous importance due to the change from a protection system based on intervention and child control, which were subjects of protection, to an integrated protection system of the rights of all children and adolescents. This new viewpoint implies an understanding that childhood and adolescence are ways of being a person and that they have equal value like any stage of life (Cirello, 1999).

According to Miguel Cillero (1999), "childhood is conceived as a time of effective and progressive development of personal, social and legal autonomy." Therefore, his or her condition as a person in development must be accepted, and consequently a protection system of rights based on the principle of equal treatment and consideration must be built (Millan & Villaviciencio, 2002, 60).

1.3.1.2 Child's best interests

Since the recognition of children and adolescents' rights has been the result of a gradual process from the earliest stage when they were practically ignored by basically just recognizing the parents' capacities towards them, the children and adolescents' interests remained a private matter by staying outside public regulation. Therefore, as a result of recognizing children and adolescents as rights holders, the notion that they have legally protected interests different from those of their parents was conceived. In this sense, the State becomes the entity responsible for assuming the protection of children and teens in certain cases, letting their interests become part of public affairs, which will later be protected by legislative measures.

With regard to international regulations, the notion of the child's best interests was first evidenced in the Geneva Declaration of 1924, which established the imperative to give children the best through phrases such as "children first" and then expressed in the CRC (Cillero, 2007, page 133). This guiding principle took force because the Convention is a binding instrument for member countries.

Thus, article 3 declares that States' actions should primarily consider "the best interests of the child" in all measures taken by public or private social welfare institutions, courts, administrative authorities or Legislative bodies (Committee on the Rights of the Child, UN, 2013). This translates into the guarantee that childhood and adolescence have a special and integral protection that effectively recognizes them as legal subjects. Hence, it imposes on States the need to ensure that there be no threats or violations in the rights children and teens are entitled to.

According to the Committee on the Rights of the Child, the general comment No. 14 (2013) establishes the right of the child to have his or her best interests taken as a primary consideration. This statement should be considered as a concept with three parts. First, it is a substantive right, which refers to the child's right that his or her best interests are a primary consideration that must be taken into account when pondering different interests. It also provides the guarantee that this right is implemented whenever a decision that affects children has to be made.

On the other hand, this right is understood as a fundamental legal interpretive principle, which means that if a legal provision allows more than one interpretation, the interpretation that most effectively satisfies the best interests of the child will be chosen (Committee on Rights of the Child, 2013).

In addition, this right is also a procedural rule. So, every time a decision that affects a particular child has to be made, the process should include an estimation of the possible negative and positive effects in order to make a decision in regards to the child's welfare. The reason behind the decision must put on the record that the provision has been taken into account. In this sense, States must explain how this right was considered, proving that it was contemplated to be in the child's best interests. They should also explain what criteria the decision was based on and how the interests of the child were pondered against other considerations (Committee on the Rights of the Child, 2013).

The ultimate goal of the "best interests of the child" is to guarantee the fulfillment and enjoyment of all the rights determined by the Convention to allow the child's holistic development. This development is understood as physical, mental, spiritual, moral, psychological and social. For the implementation of this provision, it must be taken into account that there is no hierarchy of rights in the Convention; therefore, all the rights envisaged respond to the child's best interests.

With regard to the right about family environment, the Convention explicitly states that the child's best interests should be taken into account. This can be found in Article 20 concerning deprivation of the family environment and types of alternative care. "A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State" (art. 20).

1.4 Guidelines for the Alternative Care of Children

As stated before, the Convention calls for Member States to protect those children and adolescents who cannot live with their parents or who cannot grow up surrounded by their family environment. However, at the international level, there have been shortcomings in the implementation of the Convention in the case of millions of children in this situation. The Convention does not describe exactly the procedures to be taken or the necessary measures for States to act in these contexts, especially in the case of foster care and institutional fostering. Thus, in 2004 at UNICEF¹ headquarters, the need for the "Guidelines for the Alternative Care of Children" was raised.

After this first call, the Committee on the Rights of the Child notified the Commission on Human Rights of its decision to work towards the development of the guidelines. Also, it consecrated in September 2005 the day of the general discussion about addressing the problem of children and adolescents without parental care. From then on, over a period of five years, a process of debates and negotiations began the creation of the guidelines' text. The United Nations Committee on the Rights of the Child and well as various governments contributed to the formation of these guidelines. Brazil, UNICEF, some experts and academics, as well as representatives of non-governmental organizations and young people specialized in foster care participated in the making of these principles (Posch, 2011, p.5).

¹ The United Nations Children's Fund (UNICEF) is a permanent United Nations body. It was created in 1946 to take care of children victims of World War II. Since then, its mission has been to ensure the fulfillment of the rights of all children, particularly the most vulnerable and unprotected.

The "Guidelines for the Alternative Care of Children" (A/RES/64/142) were formally adopted by the United Nations General Assembly, as it commemorated the twentieth anniversary of the Convention on November 20, 2009. The adopted text consists of a total of 167 guidelines. These are distributed in a logical way through nine chapters that define the guideline's purpose, general principles, and scope. It also includes the required measures for the need of foster care prevention, procedures for determining the most appropriate form of fostering, measures and actions to provide foster care, determination of alternative care for children who are outside their country of residence, as well as emergency situations.

The guidelines are established as an international non-binding instrument for States, but one of its main objectives is to promote the implementation of the Convention on the Rights of the Child and other international instruments related to children and adolescents well-being. In particular, for those children deprived of parental care or in danger of being in that condition. It also defines alternative care modalities with the following purpose:

(A) Support efforts to ensure that the child remains in the custody of his or her own family or reintegrates to it, or Otherwise find another appropriate and permanent solution, such as adoption.

B) To ensure that, while seeking such permanent solutions, the most appropriate modalities of alternative care are defined and adopted under conditions that promote the integral and harmonious development of the child.

(C) To assist and encourage governments to assume more fully their responsibilities and obligations towards this matter.

(D) To guide policies, decisions and activities of all entities involved in social protection and child welfare, both in the public and private sectors, including the civil society (United Nations, 2009, Guideline 2).

In this sense, the Guidelines are basically applied to determine the usage and conditions that formal alternative care should have for all children and teenagers under the age of 18, who have been deprived of their parental care. This type of situation is determined when at night, a child is not at least under the care of one of their parents for any reason or circumstance.

Formal care is when a judicial authority or a competent administrative body has ordered the measure, resulting in the child being taken care in a public or private reception center. These centers may be or not the result of judicial or administrative proceeding measures.

However, the Guidelines can also be applied to informal alternative care, provided that their application method is expressly indicated. The reason is that a competent authority does not determine these modalities but instead these are determined by the child's own will, the parent's will or another person's will. All this is because the important role that the extended family or the community can have in situations of parental care loss is recognized as a complementary modality to attend the needs of the children (United Nations, 2009, Guideline 26-28).

1.4.1 The Responsibility of the State

To enable States to protect children who are temporarily or permanently deprived of their family care, the guidelines suggest that they should direct their efforts to protect children's rights by providing adequate alternative care through competent public entities or by coordinating efforts with organizations of civil society (United Nations, 2009, Guideline 5). Consequently, States are called upon to develop and implement, within the framework of their general human and social development policy, comprehensive protection and well-being policies that reflect the principles set out in the Guidelines (United Nations, 2009, Guideline.7). In order to determine formal and informal foster care measures for all children without parental care, they should be based on reliable information and statistical data to best respond to the country's context.

The Guidelines state that countries should allocate all available financial and human resources to ensure the optimal and progressive application of their indications in the

respective territories. The Guidelines also declare that it is the task of States to facilitate the coordination of efforts between the competent authorities and the various ministries that directly or indirectly carry out activities for the child and the family's well-being (United Nations, 2009, Guideline 23).

On the other hand, States should ensure the establishment of a mechanism to determine which person or entity will take care of the child's alternative fostering, who will be given the right and legal responsibility to make decisions that are in the best interests of the child. To this end, such legal responsibility should be attributed to a competent authority to be supervised directly by the entity itself or through formally accredited entities such as non-governmental organizations (United Nations, 2009, Guideline 100-101-68).

With regard to the fostering modalities, States should take all necessary measures to establish the legal, political and financial conditions for adequate alternative fostering options (United Nations, 2009, Guideline 52). The measures should be compatible with principles established in the Guidelines. It is the responsibility of the State that all natural and legal entities involved in alternative care are duly empowered and qualified to perform this task. These people must be chosen by the competent authorities and must be subject to supervision, review, and control. In order to do so, the elaboration of appropriate criteria should be developed for assessing the professional and ethical qualifications of these actors for their respective accreditation (United Nations, 2009, Guideline 52-53-54). States are therefore called upon to give special attention to the provision of quality services to children with respect to professional skills (United Nations, 2009, Guideline 70).

In order to determine the fostering modality, States should develop and apply adequate criteria to assess both the situation of the child and the family. Afterward, the States should be able to make the decision regarding the removal of child custody. Thus, the decision on alternative care and reintegration into the family environment should be based on this evaluation and should be adopted by qualified professionals trained by a competent entity (United Nations, 2009, Guideline.38-39). There is also a need for a policy framework to

ensure that the child's referral to a foster care environment follows a standard procedure (United Nations, 2009, Guideline.73).

In view of the fostering measures, States should guarantee the child's right to a periodic and meticulous review (recommended every three months) of how appropriate the received care and the given treatment was. They take into account personal development and the possible variations in their needs to assess whether this measure remains suitable and adequate (United Nations, 2009, Guideline 66). Likewise, once the reintegration of the child into the family environment is decided, it should be a gradual and supervised process, followed by a follow-up and support measures to ensure the child's well-being (United Nations, 2009, Guideline 51).

In order to respect the child's right to be informed of their situation, it is considered necessary that in each country the competent authorities draw up a document establishing the children's rights in alternative care. By doing that, kids can understand the rules, regulations, and objectives of the fostering setting, plus their rights and obligations as they are in these alternative care modalities (United Nations, 2009, Guideline 71).

1.4.2 Principles to be followed

The Guidelines set out a number of specific principles that establish certain basic and global approaches and measures that determine the responsible entity for applying the guidelines in different States. Consequently, States are able to fulfil in an optimal way, according to international standards, their obligation to protect children that due to different circumstances have been deprived of their parents care or are in danger of losing their guardianship.

The Guidelines include the following principles:

1.4.2.1 Principle of Necessity

First of all, it is suggested that the alternative form of care is really necessary. That is, its performance must be based on the principle of "necessity" so that States must first prevent situations that cause the loss of parental care. They are therefore called upon to ensure that

families have access to ways of support in their caregiving role (United Nations, 2009, Guideline 3). In this sense, families will strengthen family unity and consider children's reintegration as the first intervention solution (Save the children, 2012). That is, efforts should be directed towards keeping them in their parents' custody or, whenever appropriated, other close relatives.

In this sense, States must develop and implement policies to support families in fulfilling their responsibilities towards children. The policies must be designed to address the root causes of abandonment, custody abandonment and family separation (United Nations, 2009, Guideline 32). In addition, these policies and programs develop families' skills, capacities, and tools that will enable them to provide for the protection, care and development of their children (United Nations, 2009, Guideline 33). To this end, States should provide services for the improvement of the family environment such as parental education programs, employment, opportunities for income generation, social assistance, childcare, mediation and conciliation, drug treatment, financial aid, services for children and parents who suffer some kind of disability, among others.

The governments' and relevant organizations' efforts in this area should be directed towards using various methods and techniques to support families in order to adapt them to the needs that could appear throughout the support process. For example, home visits, group discussions with other families, case discussion and assumption of commitments by the intervened family, etc., with the aim of improving intra-family relationships and family relationships in the community (United Nations, 2009, Guideline 34).

In addition, it is considered the responsibility of States to support children care in families where this capacity is limited by some type of disability, drug addiction or alcoholism. Likewise, governments should also prevent family's suffering as a result of discrimination based on any condition whether of the son or daughter or of the parents, such as poverty, ethnic origin, sexual orientation, mental or physical disability, etc. (United Nations, 2009, Guideline 9).

On the other hand, the principle of necessity foresees that States create mechanisms to prevent children from entering into alternative forms of care. Also, that they are capable of ensuring that kids enter only into the system of alternative care modalities when all possible means of keeping them with their parents or extended family are no longer available (Cantwell, Davidson, Elsley, Milligan, & Quinn, 2012, page 23). In these cases, the chosen measure should always be determined for the shortest possible time, seeking as a priority to keep the child as close to his/her place of residence in order to facilitate contact with the family and to promote reintegration. Thus, the removal of a measure should be analyzed periodically in order to determine its relevance of the type of foster care implemented (United Nations, 2009, Guideline 13).

Moreover, according to the Inter-American Court of Human Rights, this principle relates to the necessity to apply a protection measure due to the seriousness of the conditions in which the child or adolescent is or the urgency of providing a safe environment. In this way, the gravity and urgency factor may require the immediate intervention of the authorities, which does not mean that the measure will be justified in a suitable manner since this decision must be based on technical evaluations carried out by experts. In the context of the evaluation, the child's and family's individual conditions and circumstances should be taken into account in order to justify the child's benefit when separating him from his family, besides showing the causes that incite the fostering measure (Inter-American Commission on Human Rights, 2013).

1.4.2.2 Principle of Suitability

On the other hand, the guidelines set out the principle of "suitability", which emphasizes the importance of analyzing and taking into account the adequate implementation of this measure according to the specific care needs and protection needs of the fostered. The principle basically refers to the quality service that should be given to children who effectively require an alternative modality of care. As a matter of fact, this means that all forms of care must meet general minimum standards to ensure the safety, well-being and the development of the child in alternative care (Cantwell, Davidson, Elsley, Milligan, & Quinn, 2012, 23). Thus,

this is why efforts should be directed towards ensuring a stable household where their basic needs can be met (UN, 2009, Guideline 11). Additionally, within the household environment, they are treated with dignity and respect, where protection is provided against abuse, negligence and all forms of exploitation (United Nations, 2009, Guideline 12). This created a home where children's emotional need can be met.

Individuals or receiving organizations should ensure that children in their care receive adequate and nutritious food according to their eating habits (United Nations, 2009, Guideline 82). They should also promote their health and provide medical assistance if needed. In addition, children should have at all times access to school and out-of-school education in the local community's education settings (United Nations, 2009, Guideline 83-83).

Host parents or organizations should ensure the right to development through playtime, leisure activities, the right to religious and spiritual life, the right to be heard, and the right to privacy, which includes the provision to meet their sanitary and hygiene needs, among others.

On the other hand, the provided housing must comply with health and safety requirements (United Nations, 2009, Guideline 90), some mechanisms must be in place to prevent kidnapping, human trafficking and any form of exploitation. In addition, attention should be given to ensure that the child is not stigmatized by his/her status as a host. Also, it must be ensured that the kid is not identified as a child in this situation. For this, it is necessary to pay attention to the age, the degree of maturity and vulnerability of each one.

At all times, States should take all necessary measures to ensure the prevention of torture, cruel treatment, isolation, any kind of physical or psychological violence endangering the kid's physical or mental health. Finally, children should be given access to certain mechanisms so that they can report their complaints or concerns regarding the treatment they receive in their new homes. In addition, they should have access to a trusted person designated by the competent authorities and with the child's agreement, so that children can confidently talk about their situation (United Nations, 2009, Guideline 96-98).

1.4.2.3 Child's Best Interests

As previously discussed, the "child's best interest" when linked to the conception of children as subjects of law, guarantees the primary consideration of the exercise of their rights. Therefore, any law, policy, or program affecting children as a group must be guided by the "child's best interests" criterion. Countries that adopt this guiding principle in the field of childhood and adolescence should apply it to all its established regulations and programs, according to their abilities to prevent and protect those situations in which children may be deprived of parental care (Committee on the Rights of the Child, UN, 2013, 70).

Taking into account the situation of the underage youth who are about to lose parental care or who have lost it, the "child's best interest" is established as the point of reference for the effective and full assurance of their rights besides the correct and harmonious development of the child in the alternative modality that has been determined for the restitution of their right.

Consequently, when the need to apply a fostering measure is determined as the last resort, the child's best interests should be taken as the primary and fundamental consideration by the legislator, judges, public authorities, and all foster care centers when making a decision to protect the foster child. Thus, this principle must be adequately considered when regulating, applying, monitoring and reviewing the adequacy of means of protection (Inter-American Commission on Human Rights, 2013, page 71).

In the alternative care area, it is clear that this principle must be taken into account and the Guidelines consistently refer to the "child's best interests." Consequently, this criterion is considered as indispensable for determining the most appropriate measures in order to meet the needs of children deprived of parental care or at risk of losing it (United Nations, 2009, Guideline 6).

Therefore, all decisions, initiatives, and solutions must be based on this principle. They must be adopted on a case-by-case basis to ensure safety and protection, taking into account that the child is consulted at all stages in an appropriate manner depending on his or her evolutionary development. Finally, children must be provided with all the necessary information so that they can be aware of their situation and consequently express their opinion (United Nations, 2009, Guideline 56).

In this regard, the Inter-American Commission on Human Rights observes that the correct determination of the child's best interests in every situation that requires a foster care measure should be made based on an objective verification and evaluation of the child's conditions. The effect they could have in the enjoyment of their rights, their well-being and development should also be taken into account (Inter-American Commission on Human Rights, 2013, 72). Thus, the Committee on the Rights of the Child has stated that the determination of this principle should not be made "in the abstract" or only in a normative way. Hence, the determination of the child's best interests should be reasonably made and justified according to the context and adapted to each of their lives. Finally, it should also be supported in a favorable manner in the procedure with relevant and appropriate documentation.

Consequently, the Guidelines urge States that the decision on the need for alternative care should respond to the child's best interests and should therefore be the result of appropriate and recognized judicial procedure, administrative procedure or another type of procedures with legal guarantees. This procedure should be based on rigorous assessment, planning, and review on a case-by-case basis, using mechanisms and structures established with the intervention of properly qualified specialists. All these efforts should provide the child with a service that considers their individual needs and characteristics to generate immediate solutions, as well as to ensure their long-term care and development. With regard to the development, it should cover the individual characteristics of the child, their ethnic, cultural, linguistic, religious, and historical backgrounds (United Nations, 2009, Guideline.56-57).

2. CHAPTER II: ECUADORIAN INSTITUTIONAL FRAMEWORK WITH REGARD TO THE "GUIDELINES ON ALTERNATIVE CARE OF CHILDREN"

2.1 Country policy context

As a member of the United Nations, the Republic of Ecuador signed the Convention on the Rights of the Child on January 26th, 1990, and ratified its text without any amendment on March 23, 1990. Consequently, in accordance with Article 49 of the Convention, the treaty came into effect in the Ecuadorian territory in September 1990.

The fact that it is a binding instrument means it generates commitments that must be assumed by the State, which is also called upon to adopt "all administrative, legislative and other measures to give effect to the rights recognized in the Convention." (Article 4 CRC). Thus, this section will analyze the child's and adolescents' right to family life, the right to special protection and the State's assistance to those who are deprived of their family environment (art. 20). It will also analyze how all of these plus The United Nations Guidelines on alternative care modalities are reflected in the country's legislation, public policies and in the actions of competent institutions in this area.

The Constitution of 1998 is the Magna Carta adopted by Ecuador eight years after ratifying the Convention. Within its content, the legislative measures were established for the protection of children's rights in accordance with their commitments acquired with the ratification of the CRC. Thus, in the fifth section of the Constitution, both childhood and adolescence are defined as part of "vulnerable groups", who according to article 47 will receive preferential and specialized priority attention. It is also determined that it is the obligation of the State, society and family to promote the integral development of children and adolescents as a top priority and to ensure the full exercising of their rights. For this, the principle of the child's best interest will be applied where his rights will prevail over the others (Const., 1998, art 48).

Article 49 states that children and adolescents shall enjoy the common rights to all in addition to those specific to their age. In the same article, with regard to the family, it is enshrined that

the State will assure them and guarantee the right to have a family and to enjoy family and community coexistence (Const., 1998, article 49).

Moreover, the third section specifically refers to the family. It is declared "the State shall recognize and protect the family as the fundamental cell of society and shall guarantee conditions that fully support the attainment of its ends" (Const., 1998, Article 37). In this sense, marriage, maternity, and family will be protected. In addition, the State will protect mothers, fathers, and household heads in the exercise of their obligations (Const., 1998, Article 40) and will monitor the fulfillment of reciprocal duties and rights between parents and children.

The Constitution of 1998 gives special recognition to the child population and its relationship with the family. According to Farith Simon, this is due to the fact that in 1996 the Movement for the Rights of the Child generated petitions for a constitutional reform with the purpose of ensuring the existence of specific norms for children. Likewise, it made possible to determine children and adolescents as holders of all human rights and others specific rights to their age. In the same way, certain principles and rights were also recognized for this population group as in the case of the "child's best interests" (Simon, 2004, 5).

Even though the author said that important progress was made in the Magna Carta, within the subject of alternative care modalities there is no clear statement that can be identified in this regard. However, priority is given to safeguarding the family's goals by primarily determining the need adults have to fulfill their role of guardianship for their children, which does not directly guarantee the children's right to family life.

2.1.2 Constitution of the Republic of Ecuador 2008

The Constitution of 2008 was formulated by the Constituent Assembly in Montecristi, Manabí and was approved by referendum. This Magna Carta has a total of 444 articles that show a series of important innovations compared to the Constitution of 1998. Among some differences, the new Constitution emphasizes the expansion of the already recognized rights

by the Ecuadorian State and the introduction of new rights. It also strengthens the guarantees that demand compliance with those rights.

Thus, in order to precisely determine the changes that the Ecuadorian legislation has adopted for the children, adolescents and their families, a comparative table will be drawn between the rights recognized in the 1998 Constitution and the 2008 Constitution regarding the analyzed matter.

Table 1 Political comparison Between the 1998 Constitution of the Republic of Ecuador and the 2008 Constitution of the Republic of Ecuador

Constitution of the Republic of Ecuador 1998	Constitution of the Republic of Ecuador 2008
<p>The rights of children and adolescents are found in the fourth chapter of "Economic, social and cultural rights", which establishes that children and adolescents are within the "vulnerable groups" and will receive priority, preferential and specialized attention in the public and private sector (Const., 1998, article 47).</p>	<p>The rights of children and adolescents are included in the third chapter corresponding to the "Rights of individuals and groups of priority attention", which establishes that children and adolescents will receive priority and specialized attention in the public and private sector (Const., 2008, article 35).</p>
<p>It will be a duty of the State, society, and the family to promote, as a top priority, the integral development of children and adolescents and to ensure the full exercising of their rights. In all cases, the principle of the child's best interests will be applied, and their rights will prevail over those of others (Const., 1998, article 48).</p>	<p>The State, society, and the family shall promote, as a priority, the children's integral development and ensure the full exercise of their rights. The child's best interests will be taken care of and their rights will prevail over those of other people (Const., 2008, article 44).</p> <p>It adds:</p> <p>Children and adolescents will have the right to their integral development, which is understood as a process of growth, maturity and deployment of their intellect and their capacities, potentialities, and aspirations, in an affective and secure familiar, school, social and communitarian environment. This</p>

	<p>environment will allow the satisfaction of their social, affective-emotional and cultural needs, supported by national and local intersectoral policies (Const., 2008, article 42.2).</p>
<p>Article 49 recognizes the right to have a family and to enjoy family and community life (Const., 1998, article 49).</p>	<p>Article 45 recognizes the right to have a family and enjoy family and community life. In addition, "the right to receive information about the kid's parents or absent relatives" is recognized, unless it is detrimental to their well-being (Const., 2008, article 45).</p>
	<p>Article 46 mentions that the State will adopt measures to assure children and adolescents "special protection and assistance will be given when one of the child's parent or both are deprived of their liberty" (Const., 2008, art. 46.8).</p>
<p>Article 52.- The State shall organize a decentralized national system of integral protection for children and adolescents. This body will be in charge of ensuring the exercising and guarantee of their rights. Its governing body at the national level will be equally integrated into the State and civil society and will be capable of defining policies. Public and private entities will be part of this system. Sectional governments will formulate local policies and allocate preferential resources for services and programs directed to children and adolescents (Const., 1998, article 52).</p>	<p>Art. 341. The State shall create conditions for the integral protection of its inhabitants throughout their lives, to ensure the rights and principles recognized in the Constitution, in particular, equality in diversity and non-discrimination. Also, it will prioritize their actions towards those groups that require special consideration due to the persistence of inequalities, exclusion, discrimination or violence, or due to their age, health or disability. In accordance with the law, integral protection will operate through specialized systems. Their specific principles and those of the national system of inclusion and social equity will guide the specialized systems. The</p>

	<p>decentralized national system for the integral protection of children and adolescents will be in charge of ensuring the exercising of children's rights. Public, private and community institutions will be part of the system (Const., 2008, article 341).</p> <p>Article 342.- The State shall allocate, in a priority and equitable manner, sufficient, timely and permanent resources for the system's operation and management (Const., Art. 342).</p>
<p>Article 37.- The State shall recognize and protect the family as the fundamental cell of society and shall guarantee conditions that fully promote the attainment of its ends. Moreover, it will be constituted by legal or de facto ties and will be based on equal rights and opportunities of its members. It will protect marriage, maternity and family. It will also support female heads of household. On the other hand, marriage shall be based on the free consent of the spouses and on equal rights, obligations and their legal capacity (Const., 1998, article 37).</p>	<p>Art. 67.- Family is recognized in various ways. The State will protect it as the essential core of society and it will guarantee conditions that fully support the achievement of its goals. These will be constituted by legal or de facto ties and will be based on the equal rights and opportunities of its members. It is established "marriage is the union between man and woman", it shall be based on the parties' free will and on the equality of their rights, obligations, and legal capacity "(Const., 2008, art. 67)</p>
<p>Art. 40. The State shall protect mothers, fathers, and heads of families in carrying out their duties. It will promote paternal and maternal co-responsibility and will monitor the fulfillment of reciprocal duties and rights between parents and children. Without considering filiation or</p>	<p>Article 69 establishes that in order to protect the rights of family members it is necessary to:</p> <p>1. Responsible maternity and paternity will be promoted. Both mother and father will be obliged to take care, nurture, educate, feed, and give integral development and protection to the</p>

adoption records, children will have the same rights (Const., 1998, article 40).

rights of their children, particularly when they are separated from them for any reason.

4. The State shall protect mothers, fathers and heads of families in the implementation of their duties, and shall pay special attention to families who have been separated for any reason (Const., Art. 69).

Source: 1998 Constitution of the Republic of Ecuador and 2008 Constitution of the Republic of Ecuador.

Created by: Daniela Samaniego

As it can be seen, the 2008 Constitution introduced an important qualitative leap in the field of children and adolescents' rights. First of all because it goes through a "irregular situation for children" doctrine that basically conceives of them as objects of protection for their vulnerable condition, to a "integral protection" doctrine where children and adolescents are subjects of law whose stage in life needs special protection and attention in addition to the guarantees and rights that any citizen has. As a result, this event gives way to the universalization of the children's rights, understanding it as a right that protects their life cycle in the country (Oleas, Situation of the institutional child fostering with or without disabilities in the canton of Cuenca - 2011, 2014).

Therefore, it sets the tone for shifting from a system that used violence, poverty, and defenselessness to address and allocate resources aimed basically at the restitution of the child's rights, to a system that intervenes in an integral and specialized way, demanding a maximum investment of efforts and permanent resources to protect them during their life cycle. First, this implies the generation of adequate conditions for appropriate protection, where it is recognized that children and adolescents need to grow up in an affective family environment that allows them not only to satisfy their survival needs but also their affective-emotional, cultural and social needs. On the other hand, the fact that boys and girls have different needs that require special attention according to their gender is recognized.

Moreover, in both constitutions the kid's right to have a family and enjoy family and community life is recognized. Protection is also provided for mothers, fathers, and household heads in the fulfillment of their obligations towards their children. The 2008 Constitution also shows the obligation of care, upbringing, food, education, integral development and protection of the parents' rights for their sons and daughters.

Regarding marriage, it is considered a setback that when comparing the 2008 Constitution and the 1998 Constitution, the first one includes the definition of marriage as the exclusive union of one man and one woman, which qualifies as limitation that the previous Constitution did not contain (Grijalva, 2009).

In reference to special protection, regarding the alternative care that the State must provide to children and adolescents who have lost parental care, the 2008 Constitution explicitly specifies that measures will be taken to protect and assist them in case that their parents are deprived of liberty (Article 46.8). Hence, in one way or another it demonstrates the responsibility assumed by the State to assist children who have lost parental care or are at risk of losing it.

2.1.3 Code on Childhood and Adolescence

The Code emerged as the result of the need to reform the "Juvenile Code" established in 1992, which showed its inadequacy with regards to the principles and contents of the CRC (CRC/C/3/Add.4, page 31). The Code on Childhood and Adolescence, which received the 'organic law' category, was published by Law No. 100 in the 737 Official Record on January 3, 2003, and entered into effect in the Ecuadorian territory after one hundred and eighty days.

The Code states in its first article that "the State, society, and the family must guarantee an integral protection to all children living in Ecuador in order to achieve their integral development and full enjoyment of their rights. This mentioned protection should be within a framework of freedom, dignity, and equity. To this end, it regulates the enjoyment and exercise of the rights, duties, and responsibilities of children and adolescents and the means

to guarantee, protect and make them effective in accordance with the principle of the child's best interests and the doctrine of integral protection" (National Congress of Ecuador, 2003).

The subject about family and its relationship with children is extensively addressed throughout the Code. In the first instance within the title referring to the definitions, it is considered that family is the natural and fundamental space for an integral development (Article 9). Therefore, the State has the primary duty to define and execute policies, plans, and programs that support the family to fulfill its specific responsibilities (Art 10). It is also recognized that the family is part of the child's survival rights, which establishes that this population group has the right to live and develop in their biological family, so that the State, society, and the family should primarily adopt the appropriate measures that allow kids to remain in the family environment. Moreover, the child or teenager must be provided with an affective climate and understanding that allows respect for their rights and their integral development. However, when this is not possible, it is determined that children are entitled to another family, in accordance with the law (Art 22).

In the second book entitled, "The child and the adolescent in their family relationships" it is determined that they have the right to know their parents, that the parents have to take care of them, and they have to maintain permanent, personal and regular relationships. Family is recognized as the essential nucleus of social development and it is the necessary natural environment for an integral development of its members, especially children and adolescents (Article 96).

With regard to the alternative forms of foster care, article 22 states "institutional care, preventive detention, deprivation of liberty or any other solution that distracts them from family environment should be applied as the last and exceptional measure" (Art. 22). For this reason, Title VI establishes the protection measures to provide parental care to children deprived of their family environment, defining that protection measures are understood as "actions taken by the competent authority by judicial or administrative decision for the child or adolescent when an imminent risk of a right violation (family right) exists or has occurred

due to an omission act caused by the State, society, parents the person in charge or even the child or adolescent" (Art 215).

Within the Code there is an organization of administrative and judicial protection measures. The first refers to the efforts to prevent the child's to be subjected to measures that involve their separation from their biological family. The second refers to the measures that involve separation when the efforts to restore the family ties have failed.

Las personas autorizadas para la determinación de estas medidas judiciales son los Jueces de la Niñez y Adolescencia, mientras que las medidas administrativas pueden ser dispuestas indistintamente, por los Jueces de la Niñez y Adolescencia y las Juntas Cantonales de Protección de Derechos

The Judges of the Juvenile Courts are authorized to determine these judicial measures whereas the Cantonal Councils for Rights Protection and Judges of the Juvenile Courts can order administrative measures indistinctly (Art 218). In addition, the monitoring, review, evaluation and recall of the adopted measures shall be the responsibility of the entities that have arranged them, such as the Boards of Rights Protection and the Juvenile Courts. The measures may be replaced, modified or revoked by the authority that imposed them (Art 219).

According to the Code, the following actions are constituted as administrative protection measures:

- A. Educational, therapeutic, psychological actions or supporting material to household towards preserving, strengthening or re-establishing their bonds.
- B. Childcare order in their home.
- C. Family reintegration.
- D. Child's insertion order or of the person committed in the threat or right violation, in any of the protection programs contemplated by the System.
- E. Temporary removal of a person from the place he or she lives with the affected kid. The mentioned person shall have to threaten or violate a right or guarantee.

F. The affected child's emergency custody in another family or fostering entity could be for up to seventy-two hours, at which time the Judge will arrange the corresponding protection measure (Art 217).

On the other hand, the following actions are constituted as judicial measures:

A) Family foster care:

It is a temporary measure that aims to provide a child that has been deprived of their family environment with a suitable family appropriate to their needs, characteristics and conditions. During the implementation of this measure, efforts will be made to preserve, improve or strengthen family ties, prevent abandonment, and seek the child's insertion into their biological family (Article 220).

It is established that the family foster care measure must comply with conditions such as: to be carried out in homes previously approved by a competent authority, to be carried out in homes that allow the child to participate in their community life, to ensure the safety and emotional stability of the child. It is also necessary to ensure that their relationships are developed in a family context and they must be personalized so as to enable their identity construction and the development of their personality (Article 222).

Family fostering ends only when the child is reunited into their biological family, through adoption, legal emancipation, or as a result of a resolution made by the authority that ordered the measure (Article 229).

This modality will be carried out through families registered in an authorized care entity that carries out these programs. The entity must offer a training program for the foster individuals and families (Article 224), which must guarantee the protection and integral development of the child, preferably within their ethnicity, people or culture.

Those entities implementing family foster programs must assume the legal representation of the child and they must submit to the competent authorities an integral project for the foster child and seek its compliance. They should also ensure the strengthening of family ties when overcoming the causes that generated the measure. In addition, they should regularly inform the competent authority of the kid's overall situation, at any time, if the circumstances that caused the measure have changed, so that the authority may ratify, modify or finish the measure (Article 226).

In this case, the measure "prohibits the gain of profits as a result of family fostering" (Article 230). If that is the case, the only person who is entitled to receive a monetary contribution is the child or teenager who is in foster care. The kid will then receive money from their relatives up to the third degree of consanguinity, and in the impossibility of these, he or she will receive it from the State and or the sectional governments (Article 223).

B) Institutional Acceptance

It is a transitional protection measure implemented in cases where foster care is not possible. This measure is the last resort and will be fulfilled only in those entities that are duly authorized. During the execution of this measure, the responsible entity has the obligation to preserve, improve, strengthen or restore family ties, prevent abandonment, seek the child's reintegration into their biological family or seek their adoption (Article 232).

First, institutional fostering ends with the child's reintegration into his family. Second, by the determination of a foster family, adoption or legal emancipation of the ones in foster care. Third, by the resolution of the competent authority (Art 233). For the purposes of applying this measure, the same rules of foster care should be implemented, as well as the duties and obligations of the host, the economic contribution and the profit prohibition (Art 234), which was previously mentioned.

C) Adoption

Although the Code on Childhood and Adolescence enshrines adoption as a measure aimed at restoring the right to family life, this research is not going to analyze it in depth due to the fact that the guidelines on child's alternative care are basically focused on formal and alternative care. On the other hand, this theme is established within the "Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption" in the international framework.

In the national context, the adoption modality is regulated in the Code on Childhood and Adolescence, Second book Chapter VII, entitled "Adoption". Within it, general rules and guiding principles about adoption are largely developed. It elaborately establishes the administrative phase to be taken in these cases and also the judicial phase. Additionally, it stipulates the principles and procedures for international adoption.

There are many innovations introduced by the Code on Childhood and Adolescence, from the use of new concepts such as girls, boys and teenagers instead of just the term "child" that was used to refer to this entire population group, to the development of norms for the consolidation of institutions in charge of promoting and guaranteeing the rights enunciated throughout it. In general, these norms establish a series of institutional, administrative and economic conditions so the previously mentioned norms are materialized through acts. In other words, there are various guarantees aimed at reducing the distance between what has been said versus what has been done through actions. Moreover, this aspect significantly contributes to the possibility of guaranteeing and applying the rights already recognized by previous normative bodies such as the CRC and the Constitution.

On the other hand, the Code is presented as an integral law since it includes in its text the rights, the ones responsible for these rights and their protection and guarantee mechanisms (Simon, 2004, p.12). It is also "integral" because it fully embraces the doctrine of comprehensive protection that is, it grants children and adolescents survival, development, protection and participation rights, for which both the satisfaction of their material and

affective needs are considered. On the other hand, it considers children and adolescents as full subjects of rights. Therefore it seeks to guarantee its development by emphasizing their condition as human beings and not exclusively referring to those children and teenagers who have deficiencies or whose rights have been violated.

With regard to family and alternative care, the Code significantly broadens the approaches and mechanisms that should be used to ensure children's rights to family life as a fundamental mean for their integral development and also the right to be protected in case of not having one. In this case, the aspects that should be considered for the use of fostering measures are introduced for the first time. In particular, these aspects establish responsible entities as suitable for determining these measures in relation to the child's situation. Moreover, the Code establishes what conditions and care measures must be given to the child, the obligations that entities and people involved must fulfill in a foster care, etc.

2.2 Public policies for children and adolescents deprived of the family environment.

2.2.1 Good Living National Plan (Plan del Buen Vivir)- GLNP

The current GLNP (2013-2017) guarantees the rights and principles recognized in the 2008 Constitution and promote equality in diversity and non-discrimination in order to achieve a dignified life. Moreover, children's rights are mainstreamed in objective number two, "Supporting equality, cohesion, inclusion and social and territorial equity in diversity." Within this objective, among other things, it is established that the State must provide protection, attention and care to priority attention groups, including children and teenagers for whom, in a particular way, care and attention and integral systems must be strengthened.

When it comes to public policy instruments, the Good Living National Plan was created in 2007 as a guide for the entire national territory for the planning of the different levels of administrative-political division. It was created by the National Secretariat of Planning And Development (SEMPLADES) and implemented as a road map to which all public policies, programs and projects must be adjusted in order to direct and join efforts to achieve the objectives determined through a contextual analysis of the country. The plans were proposed

in order to not duplicate efforts or waste resources in the fulfillment of the development and social welfare objectives.

It is expected that for the 2013-2017 period, policies for early childhood will be implemented as a priority of the State's public policy in order to achieve integral development. The current challenge is to strengthen the early childhood integral development strategy, both in prenatal care and early development (up to 36 months of age) and in initial education (between 3 and 4 years old), which are the stages that predetermine a person's future development (SENPLADES, 2013, page 119).

Thus, the GLNP considers the following policies and strategic guidelines:

2.6. To ensure lifelong universal, quality special protection for people whose rights are at risk/under threat

Strategies:

A. To develop and strengthen decentralized special protection programs that involve the protection of abandoned people, particularly children, adolescents and the elderly including the eradication of homelessness and child labor.

E. Generate and implement quality standards and care protocols for special protection services provided by public, private and community institutions.

M. Generate mechanisms to guarantee children's rights to belong to a family by speeding up the pre-adoptive, adoptive and post-adoptive processes (SENPLADES, 2013, page 125).

2.8 To guarantee specialized lifelong care for priority people and groups throughout the national territory, with co-responsibility shared among the State, society and families.

Strategies:

- A. Generate and implement quality service standards for priority attention groups provided by public, private and community institutions, with cultural and geographical relevance.
- B. Consolidate participative planning processes to improve the specialized care system according to demographic dynamics and cultural and gender relevance.

- D. Generate mechanisms of social, family and community co-responsibility in the areas of health, education, citizen participation and care to priority groups.
- C. Generate support mechanisms and skills development for family members who are in charge of taking care priority attention groups (SENPLADES, 2013, page 126)

2.9 To guarantee holistic development in early childhood for girls and boys under age five.

Strategies

- C. Design and implement mechanisms that promote the family and society's co-responsibility in integral child development (SENPLADES, 2013, page 127).

According to the GLNP, State's public policies, programs and actions that focus on early childhood (children under 5 years old) will be aimed at forming a comprehensive care system, both in parental care and in education processes. To this end, it is intended to generate support mechanisms and family skills development so that they can give children an integral development. Moreover, these efforts are relevant to the Guidelines because they are aimed at strengthening the family unit in order to prevent the loss of parental care.

On the other hand, it is also established to strengthen special protection programs to generate quality standards in the services provided, which must take into account cultural,

geographical, demographic and gender pertinence. According to the guidelines, those aspects are indispensable for achieving the principle of suitability.

2.2.2 Decennial National Plan for the Integral Protection of Children and Adolescents

Since 2003, with the creation of the Code on Childhood and Adolescence and the establishment of the National Council for Children and Adolescents, the Ecuadorian State has built policies that address children's rights. Thus, in October 2004, the National Council for Children and Adolescents approved the Decennial National Plan for the Integral Protection of Children and Adolescents, constituting the first planning document focusing on children's rights (CRC / C / ECU / 4, page 18).

The Decennial National Plan for the Integral Protection of Children and Adolescents provides a foundation and defines the policies, goals and strategies that will guide public and private action in favor of the implementation of children's rights. It is an indispensable tool for the generation of plans, programs and projects aimed at protecting this population group (National Council of Children and Adolescents, 2004, 3). It is also a guiding instrument for the construction and implementation of the National Decentralization System of Integral Protection.

The Plan determines the major commitments and objectives for the protection of children's rights within 10 years. One of the most important objectives is the establishment of national and local compulsory guidelines for both public and private entities to guarantee compliance with the policies and the action plan (National Council for Children and Adolescents 2004, p.10).

Within its general action goals is the strengthening of the capacities and emotional family ties as a substantial space that fulfills the fundamental role of protection to children (National Council of Children and Adolescents, 2004, page 24). Additionally, this is the reason why within its principles and general guidelines it is anticipated that family protection constitutes a transversal axis in the Plan. According to the Plan, "this means moving from a weak family

recognition that has characterized the institutional children's endeavor and motivates a more notable presence in the definition and application of all comprehensive protection policies" (National Council of the Childhood and Adolescence, 2004, page 18), all this thanks to the recognition of the family space as the fundamental condition for human's integral, emotional and intellectual development.

The 10-Year Plan establishes policies and goals directed to children who are divided into four groups according to their age range and based on their needs and conditions. The division is made in order to determine appropriate and efficient policies according to the context in which each age range develops.

A) Comprehensive protection policies for children under 6 years old

According to the early childhood analysis with regard to alternative care, the Plan mentions that during its creation time, an increasing tendency to give children deprived of their environment in international adoption was identified. Foster family care and restitution to biological families have been a recent measure. It has had little coverage, not enough funding and a lack of adequate standards and technical skills in foster care, which means that much work must be put into it so that they can be effective measures.

Therefore, the generations of guidelines to ensure that children and teenagers enjoy family life are prioritized, also through protection thanks to the following policies, goals and strategies:

Policy 7: Ensure that families have the necessary knowledge and skills to enable them to raise their children by promoting their intellectual, emotional, social and moral capacities to the maximum with equity and inclusion, in an environment of affection and stimulation.

GOALS:

- A) 50% of the families with children under six years old participating in family education programs.

- STRATEGIES:

- a. Coverage expansion in family-oriented training programs by promoting a guiding role of Children's Cantonal Councils and selecting the families that need them most.
- b. Social vigilance to ensure the families that most need these programs participate in them (National Council of Children and Adolescents, 2004).

Policy 8: Guarantee children a home where they can live in secure conditions, freedom from violence, forming their identity with emotional stability as well as with the fundamental conditions of protection.

GOALS:

- A. To increase the percentage by 80% so children who are temporarily deprived of their family environment can have family foster care.

- STRATEGIES:

- A. To promote educational and communication programs that contribute to the dissemination of knowledge displaying the importance of social solidarity and boosting the fostering and national adoption strategies.
- B. To offer training for families and foster care support organizations (foster families and community models).
- C. To establish follow-up mechanisms for childcare processes to ensure children's well-being.
- D. To ensure economic resources through grants for foster care.
- E. To track the fulfillment of the emergent and temporary role in institutional foster care models.
- F. To rehabilitate the family from which the child has been temporarily separated for legal reasons (National Council for Children and Adolescents, 2004).

B) Integral protection policies for children aged 6 to 12 years old

According to the Ten-Year Plan, children between the ages of 6 and 12 need to be protected and valued. For this reason, it is necessary to have the best health conditions, food, good treatment, family support, etc. Thus, integral protection policies for this generational group have a comprehensive role to ensure the protection and promotion of their rights. For example, the importance of the family, which is indispensable in aspects such as school life, food, values formation and the child's personality.

Therefore, the Plan recognizes that ensuring the best socioeconomic conditions for families is a State priority task so the family can fulfill and ensure the protection of their children. In order to achieve this, it is considered essential to promote and sustain various actions that stimulate quality relationships between fathers, mothers and children (National Council of Children and Adolescents, 2004, page 49).

To this end, the following policies have been proposed:

Policy 15: To strengthen the family and community in their fundamental role of protecting children.

GOALS:

- A. To increase the good treatment and the family's social support capacity by one-third.
- B. 100% of educational institutions implement specialized care for children of immigrants.
- C. To increase the levels of family and community engagement in school.

- STRATEGIES:

- A) To encourage family support programs in order to change the conceptions and practices of current family relationships to new practices for the carrying out of rights, affection and development of all its members.

B) To promote support for families among many public sectors, for those living in poverty within the rural and marginal urban areas. This measure will improve their income, security and food sovereignty.

C) To integrate an action line that supports the children of immigrants in schools, health centers and in all 52 public services.

D) To promote the strengthening and institutional expansion of the family's benefits (police stations, housing, mothers' health, special protection, literacy) in the public sectors in charge.

E) To encourage the formation of peer education communities with decision-making capacity in school management (National Council for Children and Adolescents, 2004).

C) Adolescents' integral protection plan (12 to 18 years)

With regard to the right to family life, the Plan establishes the need to strengthen affective bonds within families and improve their socioeconomic conditions. For this purpose, families expect to be served through many public services, not with an assistance approach, but rather looking for their growth and empowerment. In this way, they can offer healthy relationships and conditions for their members and provide social protection to the most impoverished families. This ensures their income generation, housing, health, and education capacities. The following policy is planned to accomplish this:

Policy 21: To strengthen the family's capacity of social support and to strengthen public institutions in order to provide basic services in education, health, housing, recreation.

GOALS

A. Increase the good treatment and the family's capacity of social support by one-third.

STRATEGIES

A) To strengthen family links through good community treatment strategies for local participation, encouraging parent-child communication and vice versa.

B) Direct support to families with low capacities through family education in rights and healthcare and social services.

- C) Development in the housing, health, education, work, and recreation sectors.
- D) The adoption of social protection measures and safe environmental conditions for families.
- E) The implementation of specialized support services for violated families to restore rights and consolidate new environments (National Council for Children and Adolescents, 2004).

One of the main features of the Decennial National Plan for the Integral Protection of Children and Adolescents is the recognition and the need to protect the family and its environment as a transversal axis for integral development in all stages of childhood and adolescence. Therefore, with regard to alternative care modalities, this public policy instrument is established as one of the main mechanisms to prevent children and teenagers from using the alternative care modalities, thus denoting a preventive approach rather than the restitution of rights.

It is also important to emphasize that policies along with their goals and strategies are aimed at expanding and strengthening programs and services for family protection. In fact, this is extremely important because families are expected to have access to ways of support in order to fulfill its caregiving function, prioritizing the child's integration as the first intervention solution. This latter case is ideal with respect to one of the guiding principles in care modalities, the necessity principle.

2.2.3 Public Policy on Special Protection

The Ministry of Economic and Social Inclusion (MIES for its acronyms in Spanish), is the entity in charge of defining and implementing policies for priority attention groups. In 2013, it established the special protection public policy that seeks to give attention to people who during their lifetime have had rights' violation. It seeks to restore rights' violations such as abuse, sexual abuse, abandonment, human trafficking and smuggling, homelessness, child labor, deprivation of the family environment, among others.

Regarding the restitution of the right to family life, the following policies are established:

Policy Number 2 Provide special quality protection services for priority attention groups, with emphasis on family empowerment.

-Objective:

- Provide quality public and private services aimed at restoring the rights of people whose rights have been violated.
- To strengthen the co-responsibility of the family and the community in its fundamental role of providing protection and integral development to children, teenagers, young people, the elderly, people with disabilities (MIES-Undersecretary for Special Protection, 2013).

-Instruments:

- Technical standards (attention models, quality standards protocols, tools, and technical data sheets), which regulate and control services regarding the attention of children, young people, the elderly, people with disabilities and families in the direct and indirect attention units.
 - Awareness-raising and training processes directed to people from different roles, who work in special protection services to promote the eradication of institutional practices of violence against children, young people, the elderly, people with disabilities (MIES-Undersecretary Of Special Protection, 2013).

Policy Number 3 Strengthen the family reintegration process of children and adolescents whose rights have been violated.

- Objective:

- To strengthen the permanence of children within their family context (MIES-Undersecretary of Special Protection, 2013).

- Instruments:

- The family reintegration program as a priority axis of direct and indirect attention entities that provide special protection services (MIES- Undersecretary of Special Protection, 2013)

As the Decennial National Integration Protection Plan for Children and Adolescents, the Special Protection Policy emphasizes that strengthening the family role for children and adolescents is a strategic axis for State action, seeking their permanence in familiar means. This situation is in accordance with the necessity principle.

On the other hand, the mentioned policies are aimed at providing quality services, through the implementation of standards and the training of public officials in accordance with the principle of suitability established in the Guidelines.

2.2.4 National Agenda for Intergenerational Equality

The National Agenda for Intergenerational Equality 2013-2017 is the technical instrument that proposes guidelines with an intergenerational approach for the formulation of public policies to achieve the fulfillment of rights, the reduction of social gaps and the transformation of discriminatory patterns throughout a lifetime. The agenda takes children and adolescents as a specific group, and this agenda must be implemented in order to correct structural inequalities and exclusionary practices.

In order to accomplish this, 6 main aspects by group and age are prioritized with their respective strategies. For children and adolescents the proposed actions are:

- Healthy life,
- Education,
- Protection,
- Participation,
- Housing and habitat,
- Work.

Although they deal with issues related to the main problems faced by children, young people and the elderly, the institutional foster care issues are not included in policy formulation and policy guidelines that the National Agenda for Intergenerational Equality proposes.

2.2.5 Integral Protection Plan for Children and Adolescents in Cuenca's Canton 2008-2020

The consolidation of the ordinance of the Integral Protection Plan for Children and Adolescents in the Canton of Cuenca 2020 was achieved by the Municipality and Cuenca's Cantonal Council for Children and Adolescents.

These entities mentioned, which are responsible for protecting and demanding the fulfillment of their citizen's rights, generated 28 policies, grouped into 5 categories that are a set of public guidelines.

- Basic and fundamental policies
- Policies on citizens' participation
- Special protection policies
- Emergency attention policies
- Enforceability policies.

The policy that refers specifically to foster care measures is within the Special Protection Policies which are aimed at restoring the rights of children who have been violated or threatened by abuse, disappearance, sexual exploitation, labor and economic exploitation, trafficking and smuggling, deprivation of the family environment, forced displacement, disabilities, adolescent pregnancy, among others (Cuenca's Cantonal Council of Children and Adolescents, 2008).

Thus, policy 13 is aimed at "Ensuring the temporariness of institutional care and prioritizing the development of alternatives for working with families and community, in order to strengthen their capacity for social containment and the restitution of children's rights" (Cuenca's Cantonal Council of Children and Adolescents, 2008). Within the goals to comply with this policy we have:

- 13.1 In 2010, there is a diagnosis of the situation of institutionalized children.
- 13.2 In 2010 a cantonal fostering program was implemented with procedures and work methodologies, according to the doctrine of integral protection.
- 13.4 In 2015, 100% of special protection entities have validated alternatives and carry out effective work with families and the community.
- 13.5 In 2015, 100% of attention entities had staff teams trained in accordance with their roles and under a human rights approach.
- 13.6 By 2020, five rural parishes with the highest number of children deprived of their family environment will have adequate programs to strengthen family and community capacities for social restraint and restitution of rights (Cantonal Council for Children and Adolescents of Cuenca, 2008).

On the other hand, these goals will be fulfilled with the following strategies:

- To build intervention methodologies with families and the community aimed at restoring children's rights, according to the doctrine of integral protection of rights.
- To develop family fostering programs based on the implementation of a database of suitable families.
- To develop family reintegration programs.
- To offer permanent training to technical teams and staff from service institutions.
- To promote local adoption as a permanent protection measure.
- Skills generation in the Parish Boards for the promotion and defense of children's rights.
- To give support to the implementation of Community Advocacy Organizations.
- To involve the family and community as the main protagonists of the defense of children's rights through the promotion of organization processes, training and dissemination processes, besides other initiatives.
- The development of baselines, diagnoses, and research on institutionalized children (Cantonal Council of Children and Adolescents of Cuenca, 2008).

It can be evidenced that this policy prioritizes family work to strengthen its capacity to support children. It also seeks to improve family shelter programs through training processes, thus, showing that it is related to approaches of suitability and necessity.

Having identified the public policies that guide the actions of different programs and projects aimed at fulfilling the obligations and commitments acquired by the State for the protection of children, there has been a need to determine whether the public policies developed after the issuance of the Guidelines on Alternative Care for Children contain what is specified there. With regard to the policies that States should adopt to prevent fostering care alternatives, these are specified in section VII as well as the general principles and guidelines dealt with in section II, which will be determined in the following table.

Table 2 Public policies and their relationship with the Guidelines for the alternative care of children.

PUBLIC POLICIES	GUIDELINES FOR THE ALTERNATIVE CARE OF CHILDREN
- GLNP (2013-2017)	
<p>2.6. To ensure universal, quality special protection, lifelong, for people whose rights are at risk.</p> <p>Strategies:</p> <p>a. To develop and strengthen decentralized special protection programs that involve protection of abandoned people, particularly children, the elderly, including the eradication of homelessness and child labor.</p> <p>e. To generate and implement quality standards and care protocols for special</p>	<p>-“ Special attention should be paid to the quality of alternative care provision, both in residential and in family-based care, in particular with regard to the professional skills, selection, training and supervision of caregivers. ...” (United Nations, 2009, Guideline. 71)</p> <p>-“ All alternative care provision should be based on a written statement of the provider’s aims and objectives in providing</p>

protection services provided by public, private and community institutions.

m. To generate mechanisms that guarantee children's rights to belong to a family, speeding up the pre-adoptive process, the adoptive process and the post-adoptive process (SENPLADES, 2013, p.125).

2.8. To guarantee specialized lifelong care for priority people and groups, throughout the national territory, with co-responsibility shared among the State, society and families.

Strategies:

a. To generate and implement quality standards for priority attention groups services provided by public, private and community institutions with cultural and geographical relevance.

b. Consolidate participatory planning processes to improve the specialized care system according to demographic dynamics and cultural and gender relevance.

d. To generate social, family and community mechanisms of co-responsibility in the management of health, education, citizen participation and attention to priority groups.

the service and the nature of the provider's responsibilities to the child that reflects the standards set by the Convention on the Rights of the Child" (United Nations, 2009, Guideline. 73).

-“ Cultural and religious practices regarding the provision of alternative care, including those related to gender perspectives, should be respected and promoted to the extent that they can be shown to be consistent with the rights and best interests of children. The process of considering whether such practices should be promoted should be carried out in a broad participatory way, involving the cultural and religious leaders concerned, professionals and those caring for children without parental care, parents and other relevant stakeholders, as well as the children themselves” (United Nations, 2009, Guideline. 75).

<p>e. To generate support mechanisms and skills development for family members in charge of the priority groups' attention (SENPLADES, 2013, page 126).</p> <p>2.9 To guarantee holistic development in early childhood for girls and boys under age five.</p> <p>Strategies</p> <p>c. To design and implement mechanisms that encourage the family and society's co-responsibility in holistic child development (SENPLADES, 2013, p.127).</p>	<p>-“...Efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents...”(United Nations, 2009, Guideline. 3)</p>
<p>Public Policy on Special Protection (MIES 2013)</p>	
<p>Policy Number 2- Provide special quality protection services for priority attention groups, with emphasis on family empowerment.</p> <p>-Objective:</p> <ul style="list-style-type: none"> - Provide quality public and private services aimed at restoring the rights of people whose rights have been violated. - To strengthen the co-responsibility of the family and the community in its fundamental role of providing protection and holistic development to children, teenagers, young people, the elderly, people with disabilities (MIES- 	<p>-“Special attention should be paid to the quality of alternative care provision, both in residential and in family-based care, in particular with regard to the professional skills, selection, training and supervision of carers. ...” (United Nations, 2009, Guideline. 71)</p> <p>-“...Efforts should primarily be directed to enabling the child to remain in or return to</p>

Undersecretary for Special Protection, 2013).

-Instruments:

- Technical standards (attention models, quality standards protocols, tools, and technical data sheets), which regulate and control services regarding the attention of children, young people, the elderly, people with disabilities and families in the direct and indirect attention units.

-Awareness-raising and training processes directed to people that from different roles, work in special protection services to promote the eradication of institutional practices of violence against children, young people, the elderly, people with disabilities (MIES-Undersecretary Of Special Protection, 2013).

Policy Number 3 Strengthen the family reintegration process of children and adolescents whose rights have been violated.

- Objective:

-To strengthen the permanence of children within their family context.

- Instruments:

the care of his/her parents...”(United Nations, 2009, Guideline. 3)

-...“States should establish care standards to ensure the quality and conditions that are conducive to the child’s development, such as individualized and small-group care, and should evaluate existing facilities against these standards...” (United Nations, 2009, Guideline. 23).

-“...Efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents...”(United Nations, 2009, Guideline. 3)

- The family reintegration program as a priority axis of direct and indirect attention entities that provide special protection services (MIES-Undersecretary Of Special Protection, 2013).	
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Source: Good Living National Plan 2013-2017. Public Policy on Special Protection 2013, Guidelines for the Alternative Care of Children 2009.

Created by: Daniela Samaniego

2.3 Institutionalism

The analyzed legislation and public policies, strategies, and goals set forth to guide affirmative actions that demand the fulfillment of children's rights in the country need to be materialized or institutionalized. In order to guarantee their implementation, the State has found the need to establish the Decentralized National System for the Integral Protection of Children and Adolescents (DNSIPCT). According to the constitution, this entity will be in charge of ensuring the fulfillment of children's rights, where public, private and community institutions will also take part of (Constitution, 2008, article 341). For the operation of DNSIPCT, the State will allocate in a priority and equitable manner, the sufficient, suitable and permanent resources for the system's operation and management (Constitution, 2008, article 342).

It is necessary to take into account that since the 1998 Ecuadorian Constitution, the DNSIPCT is enshrined as the system that guarantees and monitors the fulfillment of children's rights in our country. In addition, it is more precisely defined in the Code on Childhood and Adolescence (2003), in the third book entitled "Decentralized National System for the Integral Protection of Children and Adolescents," Here it states states that DNSIPCT is the Governing body for the protection of children's rights, defining it in Article 190 as "an articulated and coordinated set of public and private agencies, entities and services that define, execute, control and evaluate policies, plans, programs and actions, with the purpose

of guaranteeing the integral protection of children and adolescents. It also establish measures, procedures, sanctions and resources, in all areas, to ensure the validity, exercise, enforceability and right's restitution established in this Code, the Constitution and in international legal instruments "(National Congress of Ecuador, 2003).

The System is constituted as the main entity for the protection of children's rights in the country. It is comprised of three of organisms:

- Organizations that establish, plan, control and evaluate policies, which are:
 - -National Council of Children and Adolescents (now National Council for Intergenerational Equality).
 - -Decentralized Autonomous Governments.
 - -Cantonal Councils for Children and Adolescents (now Cantonal Councils for the Protection of Rights).
 - Sectorial Ministries: health, education, labor, and social inclusion.
- Organizations for the protection, defense and enforceability of rights:
 - -Cantonal Boards for the Protection of Rights.
 - -Specialized Justice in childhood and adolescence.
 - -Ombudsman Office.
 - -Specialized Police.
 - -Community Offices.
 - -Traditional social and right's defense organizations.
- Organisms that implement policies, plans, programs and projects:
 - -Public care entities.
 - -Private care entities (NGOs).

Notwithstanding the DNSIPCT is the system by which all protection actions, restitution, and promotion of children's rights in the country are articulated, within its organization, there are entities that act in a differentiated and specific way according to their objectives and mission. Hence, the Ministry of Economic and Social Inclusion has the power to authorize and

regulate care services, starting with those that operate under its direct administration, as well as the private entities that provide these services to society.

2.4 Entities and services

2.4.1 Ministry of Economic and Social Inclusion

The Ministry of Economic and Social Inclusion (MIES) is a public entity that exercises governance and executes policies, regulations, programs and services for attention and social inclusion throughout a person's life cycle. Additionally, MIES seeks to help priority attention groups or the most vulnerable populations. It was created on June 12, 1980, under the name of Ministry of Social Welfare, which had the public power to formulate, manage and implement State policy on social security, child protection, promotion, and social well-being. In 2007, this entity through Executive Decree No. 580 changed its name to "Ministry of Economic and Social Inclusion" in order to actively promote and encourage the population's economic and social inclusion and to promote their holistic care throughout their life cycle (MIES, 2015, page 2).

MIES's mission, according to the ministerial agreement No. 80, which determines the Organic Statute for Organizational Management by Processes, establishes that it is the entity in charge of "defining and executing policies, strategies, plans and quality services for economic and social inclusion. It emphasizes attentiveness to priority attention groups and the poor and vulnerable population, promoting upward social mobility, strengthening the solidary economy and people's development and care during their life cycle" (MIES, 2015, p.5).

MIES, as part of the DNSIPCT, and through the Under-Secretariat for Special Protection, in compliance with articles 44 and 46 of the Constitution the GLNP and the Code on Childhood and Adolescence, is to provide specialized protection for priority attention groups whose rights have been violated (MIES, 2014, page 7). Among its attributions there are:

- 1) To exercise Public Policies in the protection, inclusion and social and economic mobility field for the following: early childhood, youth, the elderly, the disabled, special protection to life cycles, non-contributory insurance, popular solidarity and economy's actors. It also emphasizes the population that is in poverty and vulnerability, as well as priority groups.
- 2) Regulate and control the delivery of basic social services for child development, support for families, special protection, and assistance in disasters and emergencies (MIES, 2015, p. 6-7).

The duties mentioned above are performed by the Vice Ministry of Social Inclusion through the Under-Secretariat on Special Protection, an entity that according to ministerial agreement No. 80, is within the Ministry's substantive processes and therefore carries out the essential activities to provide services and products offered by the Ministry (MIES, 2015, page 4). Thus, the Ministry through this undersecretary, seeks to restore the violated or threatened rights of children who are deprived of their family environment through the following services:

- Institutional Foster care:

Institutional Foster care is an alternative parental care modality that is defined and regulated by a Technical Standard for the provision of services in the Institutional Reception Centers. It was issued by ministerial agreement No. 160 on January 10th 2013, which later was reformed in 2014 through Ministerial Agreement No. 334 in order to guarantee the quality in the institutional fostering services. It also establishes that it is a mandatory rule that has the purpose of regulating and standardizing special protection services, either public or private (MIES, 2014, p.7).

The current Technical Standards establish that institutional foster care is a protection measure to guarantee children's rights and to cover their needs by providing the highest level of well-being, as well as security and emotional stability (MIES, 2014, p.7). Its purpose is to offer children and adolescents who are deprived of their family environment a similar or common home, guaranteeing security and an adequate environment that meets their needs for

protection. Moreover, it allows their integral development through actions that seek to preserve, improve, strengthen or restore family ties, while resolving the situation that led to institutional fostering in the first place (MIES, 2014, p.8).

Thus, it settles that care modality is divided into two types: institutional foster care and household care. The first type is an institutional space in which at least 30 children and teenagers live. On the other hand, the second type is a care unit created for children to conserve their family surroundings. It is conceived as shelters similar to communal houses that offer services with social workers and psychology professionals. In the household modality, a maximum group of eight children and teenagers who require temporary foster care are housed (MIES, 2014, page 7).

Children will go under Institutional foster care if their rights have been violated, if they have been deprived of their family environment and as a result have received a legal measure issued by the competent authority. Foster kids' ages range from age 0 to 17 years old. On the other hand, users under the household fostering modality will take care of children between 0 and 2 years old, since they need a space similar to a home.

The institutional fostering modality works through three types:

1. Direct services.
2. Services under agreement: with Decentralized Autonomous Governments, religious organizations and civil society organizations.
3. Private services, without agreement with MIES.

The technical standards, besides defining the objectives, the target population and its modalities, also establish 55 quality standards that are divided into 6 basic components that must be applied in all entities that provide this type of service to the children. The quality standards' structure is developed through the following components:

1. Family, community and social networks: It is established that the institutional fostering unit must carry out a holistic care plan for children and teenagers. Additionally, it must ensure

that children are part of the educational system according to their age and school years passed. It is also established that the fostering care unit must develop and implement an integral family project which consists of planning the child's degree of participation in the family, supporting the family through a technical team and establishing agreements to encourage the family to undertake the necessary changes to ensure the return of the child to his or her family environment. Finally, it should work on favorable actions for the family to eliminate risky factors that could threaten the child.

With regard to adolescents, the fostering care unit must develop a life plan for their future in order to encourage their autonomy from age 15. The plan will be possible through the management of productive projects supported by the opportunities system offered by MIES.

2. Psycho-social process: The institutional fostering unit carries out a permanent psycho-social process in psychology, social work, educational support and legal care according to the child's individual needs (MIES, 2014, p.11). In order to do so, a continuous follow-up process is required in which complete and updated records of each child and teenager should be kept. The purpose for this is to periodically inform the competent judges on the changes that motivated the foster care to be modified or ratified.

3. Health and nutrition: It is established that the fostering care unit must provide adequate food in accordance with the regulations of the Ministry of Public Health. In order to provide healthy food, the diet has follow the kid's nutrition and growth needs. In addition, it is established that it is the responsibility of the host entity to generate annual nutritional training programs for the personnel responsible for acquiring, planning, and preparing the food. On the other hand, it establishes that sanitation plans must be carried out every six months to ensure adequate sanitation conditions. In addition, the fostering care unit must ensure the kid's health when they are under their care, during which time they must perform semiannual medical examinations. Kids must receive the necessary medicines according to their needs and the center should have a first aid kit in case of emergencies. It is the responsibility of the entity to coordinate actions and services with the Ministry of Public Health (MIES, 2014, p. 14-17).

4. Human talent: The fostering care unit must have enough skillful staff according to their professional role and to respond to the hosted children's needs.

5. Infrastructure, educational and protective environments: Fostering care units must have spaces to provide direct attention to children and teenagers. They should also have accommodation facilities according to the kid's age and gender. It must also have spaces designated for technical and administrative work, a kitchen and storage area. It is also essential to have green spaces for recreation. On the other hand, the host entity must have a risk management plan that allows response and action mechanisms to be taken in the event of natural disasters or some other type of accident (MIES, 2014, p. 24-26).

6. Administration and management: The fostering unit must have a permit that allows it to operate. The permit is issued by MIES, which must provide follow-up services in the execution and operation of this modality through district and zonal technicians. The fostering institution must have an annual plan and its technical team must carry out monthly and weekly planning, which will be evaluated by the institution's coordinator (MIES, 2014, p. 26-28).

-Household care

Household foster care is standardized and defined within the technical standards under "Household Fostering Services". It is a foster care modality through an extended family, which was issued by MIES in 2014 through ministerial agreement No 334 that abolished the previous technical standard on foster care issued in 2013.

The current technical norm establishes that this protective measure and rights restitution is made through the participation of the child's extended family. The mentioned family should be properly selected according to the needs and the kid's situation. Additionally, this modality enables better well-being, security, stability and affectivity. Also, in order to guarantee the right to family life in a better way, an important aspect is that during the

execution of this measure, there is improvement and strengthening of family ties to ensure the child's reintegration into his or her biological family (MIES, 2014, p.9).

This modality implies the participation of three fundamental actors:

- The girl, boy or adolescent deprived of their family environment and who requires care in a fostering care facility.
- The extended and qualified family who must fulfill the responsibility of ensuring care and protection for the child.
- The biological family, who for different reasons, has not been able to adequately meet the basic needs of its children (MIES, 2014, p. 9).

For the execution of this modality, the extended family must be previously assessed. An extended family is understood as those family members, who are located in the first, second or third degree of consanguinity and who, by doing a solidary act, accept to receive the child in their home.

The Household modality is operated through two types:

- Assistance under agreements with Decentralized Autonomous Governments, religious organizations and / or civil society organizations.
- Private entities without agreement that are registered in MIES (MIES, 2014, p. 10).

In any of these two cases, the 45 standards established in the technical standards must be fulfilled and like institutional care, are divided into 6 components:

1. Family, community and social networks: The collaborating entity must strengthen the bond with the biological family. For this, it is necessary to promote monthly meetings with the participants of this modality. The collaborating entity must also work with both the host family and the biological family as reintegration co-operators. In addition, it must prepare a road map for the preparation and follow-up of the family's reintegration process (MIES, 2014, pp. 11-13).

2. Psycho-social process: The cooperating entity must provide personalized attention and development of educational activities once a month between the girl, boy or adolescent and the host family. In addition, it has the obligation to address the child's psychological, legal and social situation, for which complete and updated files must be available so competent judges can determine whether or not the child should still be in household fostering care or not (MIES, 2014, p. 13-14).

3. Health and nutrition: The cooperating entity has the responsibility of delivering a monthly economic contribution to the host family, which intended to cover the basic needs of the child or adolescents. It has also the responsibility of coordinating periodic medical exams with the Ministry of Public Health (MIES, 2014, p.15).

4. Human talent: The cooperating entity must have a suitable team for the attention of the child or teenager. The staff should have knowledge in childhood public policies and other national and international instruments besides having the needed skills to work with this population group (MIES, 2014).

5. Infrastructure, educational and protective environments: The cooperating entity must ensure that the host families have sufficient and adequate space to receive the child or adolescent. The host family must also have at least one bed and some space to let the kid perform his or her activities and to store their clothes. Finally, it must have water, electricity, and access to public transportation.

6. Administration and management: The cooperating entity must receive technical assistance and follow-up services in the execution and operation of this modality by MIES. Annual planning must be carried out, which must be evaluated monthly to verify compliance with the activities (MIES, 2014).

MIES's technical standards can be considered as the instrument that, within public policy and the DNSIPCT, are the most related to the UN Guidelines for the alternative care of children and adolescents. It is therefore necessary to carry out an analysis of its consistency

with the Guidelines and national laws, such as the code on Childhood and Adolescence (2003). It is important to take into account that these technical standards were issued after the Guidelines.

In the first instance, both the guidelines and the special protection system in the country are identified to have different nominations and conceptualizations on alternative forms of parental care.

Table 3 Comparative analysis of nominations and conceptualizations of alternative forms of parental care.

Code on Childhood and Adolescence	Technical Standards	Guidelines for the alternative care of children
Institutional Foster Care	Institutional Foster Care	Residential Care
<p>Art. 232.- Concept and purpose: Institutional fostering is a transitional protective measure provided by the judicial authority when household fostering is not possible. This measure is available for those children or adolescents who are deprived of their family environment. This measure is also the last resort and will be fulfilled only in those entities that are duly authorized (National Congress of Ecuador, 2003).</p>	<p>Current Technical Standards establish that institutional fostering is a protective measure to guarantee their rights and to cover their needs by providing greater well-being, security, and emotional stability (MIES, 2014, p.7). It seeks to give children and adolescents deprived of their family environment, a similar environment common to a communal home, guaranteeing security and an adequate environment that meets their needs for</p>	<p>“Residential care: care provided in any non-family-based group setting, such as places of safety for emergency care, transit centers in emergency situations, and all other short- and long-term residential care facilities, including group homes” (United Nations, 2009, Guideline.29).</p>

	<p>protection. Additionally, it allows their integral development through actions that seek to preserve, improve, and strengthen or restoring family ties, while resolving the situation that led to institutional fostering in the first place (MIES, 2014, p.8).</p>	
Family Fostering		Foster Care
<p>Art. 220.- Concept and purpose.- Family fostering is a temporary protective measure provided by the judicial authority. Its purpose is to provide a child or adolescent who has been deprived of his family environment, with a suitable family according to his or her needs, characteristics, and conditions.</p> <p>During the execution of this measure, it will seek to preserve, improve or strengthen family ties, prevent abandonment and seek the child's insertion into</p>		<p>“Foster care: situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children’s own family that has been selected, assessed, approved and supervised for providing such care”</p> <p>(United Nations, Guideline .29).</p>

their biological family, involving parents and relatives.		
	Family Fostering	Kinship care
	This measure happens with the involvement of the child's extended family. This family should be suitably selected depending on the kid's needs and situation. During its execution, it will be sought to preserve, improve or strengthen family ties in order to ensure the child's reintegration into his or her biological family (MIES, 2014, p.9)	“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” (United Nations, Guideline .29).

Source: Code on Childhood and Adolescence, Technical Standards on Special Protection, Fostering Care Services, Family Care Services, Guidelines for the Alternative Care of Children 2009.

Created by: Daniela Samaniego

This comparison shows the lack of consensus at the conceptual level of both the Guidelines and the Ecuadorian system of special protection, as well as with Ecuador's current national rules. For example, the management of the transitory and temporary protective measure in the case of the Code on Childhood and Adolescence and the Technical Standard for Institutional Care.

On the other hand, the technical norms have a great agreement with respect to the quality service that should be provided in shelters. For example, the implementation of quality standards that allow effective protection in aspects such as food, education, health, safety, technical equipment, specialized care, care provision planning and working with the family, etc. The technical standards do not include aspects such as the need to inform the child or teenager about their rights nor the norms and objectives concerning their foster status (United Nations, 2009, Guideline.71). Additionally, they do not specify the mechanisms for children to be able to report their complaints concerning the treatment and conditions provided to them (United Nations, 2009, Guideline.98). The treatment and conditions are generally related to the kid's awareness of their situation and to be able to participate in its implementation, taking into account their age and evolutionary development. Consequently, it leads us to the perpetuation of a system that considers the child's irregular situation as an object of protection instead of focusing on the rights they have that are capable of intervening in their situation.

Moreover, the technical norms are basically structured to regulate the actions that intervene within the care institutions that are deficient in providing guidelines to work on prevention processes or to work with families after the child's reinsertion. Therefore, in one way or another, it perpetuates a system that invests a greater amount of efforts and resources in the fostering process and not so much in the prevention of it.

CHAPTER III: STATUS OF THE EXERCISE OF CHILDREN AND ADOLESCENTS' RIGHTS TO FAMILY LIFE WITH REGARD TO ALTERNATIVE PARENTAL CARE IN CUENCA.

In order to determine the children's situation regarding their right to family life in alternative parental care, it is important to carry out a diachronic analysis of what has been done in the country. As an illustration, the country's situations will be a reference to display the one in Cuenca. The objective is to demonstrate the possible implementation of the United Nations Guidelines for the Alternative Care of Children and Adolescents. In addition, the evolution and the generated improvements for protecting and restoring the kid's right to family life will be observed.

3.1 Fostering 1996-2015

According to CRC article 44, States Parties submit periodic reports to the Committee on the Rights of the Child² on the measures they have adopted which give effect to the rights recognized in the Convention. In addition, they will submit the progress made on the enjoyment of those rights in their territories (Article 44). Thus, in 1996, Ecuador presented its first report, which shows the situation of alternative care in the country.

In the report, under the section on Comprehensive Care Policies, there is an analysis of article 9 from the Convention concerning child separation from their parents. It is mentioned that there has been a high number of children protected under institutional fostering because of the family's economic situation or because of "risky families". In this case, poverty was attributed as the main cause of abandonment and subsequent child fostering (CRC/C / 3/Add.4, page 31).

With respect to children deprived of a family environment, article 20 of the Convention states that while at that time the Juvenile Code guaranteed protection and assistance through the application of different measures to ensure that fostering care happens within a family

² The Committee on the Rights of the Child is a UN agency responsible for monitoring the implementation of the 'Convention on the Rights of the Child' by its States Parties.

environment, institutional fostering was the most used. At the same time, it was the least suitable measure to guarantee the child's emotional and psychological well-being (CRC / C / 3 / Add.4, page 32).

It is also mentioned that there was an increasing tendency to leave institutionalization as the main fostering care measure. However, some judgments and opinions on indiscriminate deprivation of liberty prevailed in both public and private institutions. These institutions had the idea that what they did had accordance with the number of children they had under their protection (CRC / C / 3 / Add.4, page 32). As a result, the selection of institutional alternative measures was minimal.

With regard to this first report, the Committee on the Rights of the Child spoke out in October 1998. About the situation presented above, no precise recommendations on alternative care were made. However, the Committee pointed out the lack of an adequate, systematic, and disaggregated data collection mechanism in all areas of the Convention, in particular, for the most vulnerable groups such as foster children, among others. The Committee also recommended the establishment of a comprehensive data collection system as a foundation for both, assessing the progress made in the effective implementation of children's rights and to consider it as a necessary mechanism for the design of appropriate policies that seek to implement the Convention (CRC / C / 15 / Add.93, page 3).

The Committee further recommended generating more efforts to disseminate the CRC principles and provisions. It also suggested that training courses on the Convention should be conducted for groups of professionals dealing with this issue such as judges, lawyers, law enforcement officials, members of the armed force, public servants, teachers, institutions personnel, health service personnel - including psychologists- and social workers (CRC / C / 15 / Add.93, page 3).

Subsequently, in 2003, two reports were made by the Ecuadorian State. Within them, the actions and decisions made by the country are presented in first place in order to deal with

the recommendations obtained in the first report and subsequently the progress and actions to comply with the Convention.

When responding to the first recommendations, one of the most relevant aspects of these measures was the consolidation of a computer system called Social Indicators System for Children and Adolescents (SINIÑEZ in Spanish), which allowed the collection, organization, and dissemination of quantitative information about the kid's conditions in the country.

Concerning the rights to family life, to enjoy family coexistence and to receive another kind of alternative care when the biological family is absent, the report states that the National Institute for Children and Family (INNFA in Spanish), through its Civil Action for Tenderness Program will provide technical and financial support to organizations. In this case, support will be given to those organizations that develop programs to strengthen families bonds, reintegrate the child into their biological family and extended family, and provide fostering care through the 'foster families' modality, families houses and family support.

Thus, \$15,000 financial support was provided in 2000 for child support scholarships of 404 children as well as for teachers' payments and the monitoring and technical support. The scholarships' monthly cost for each modality and the number of helped children and teenagers are presented in the following table.

Table 4 Civil Action for Tenderness Program, Financial support- 2000

Modality	Scholarship's monthly cost	Number of children
Host families	25 dollars per child	84 children
Family Houses	34 dollars per child	187 children
Family Support	45 dollars per child	133 children

Source: CRC/C/65/Add.28, page. 46-47

Created by: Daniela Samaniego

In 2001, financial support was increased to \$ 30,000, which was invested in child maintenance grants for 717 children. The scholarships' monthly cost in each modality and the number aided children and teenagers are presented in the following table.

Table 5 Civil Action for Tenderness Program, Financial support- 2000

Modality	Scholarship's monthly cost	Number of children
Host families	50 dollars per kid	86 children
Family Houses	35 dollars per kid	259 children
Family Support	35 dollars per kid	372 children

Source: CRC/C/65/Add.28, page. 46-47

Created by: Daniela Samaniego

INNFA's support was provided in ten cantons: Quito, Santo Domingo de los Colorados, Guayaquil, Cuenca, Ambato, Ibarra, Nueva Loja, Quevedo, Santa Elena and Machala, where the helped population during those two years was 90% in the urban area, people between 0 and 16 years old (CRC / C / 65 / Add.28, page 48).

With regard to these data, in 2005 the Committee issued its observations on the second report. It therefore showed concern about the increasing number of children and teenagers deprived of their family environment due to poverty, unemployment or migration. Consequently, it recommended that the State should take measures to strengthen family groups by providing to deprived children sufficient and consolidated economic resources. The Committee also recommended to regularly review the fostering circumstances and it highlighted the need to use institutionalization as the last resort.

After three years, the Ecuadorian State presented their fourth report on March 20, 2008. Within it, institutional care was the most discussed measure because at that time this modality continued to receive a greater amount of children and teenagers, as opposed to other measures that did not involve institutionalism such as foster families.

According to the National Agency of Integral Care for Children and Adolescents, the number of foster children in all different modalities was 10,943 in 2007. An investigation carried out the same year by the National Council of Children and Adolescents with financial support from the Belgian Technical Cooperation CTB-BTC said that the majority of girls and boys in foster was for 56% females and 36% males. Also, there is an 8% of unavailable data because of the lack of records and files in some institutions. Concerning institutional care, 54.08% were females while 45.92%, were males, with 1.19% unavailable information. (CRC / C / ECU / 4, page 73)

According to the aforementioned research, until 2007, a significant percentage of household fostering care and foster families did not form part of a duly authorized and registered program. Thus, this incident evidenced a deficient foster care system. On the other hand, after the Code on Childhood and Adolescence entered into effect in 2003, the courts for children and adolescents continued to provide institutional care as the main measure, even in situations where the requirements were not met by the law.

As a result, only 48.66% of the children deprived of the family environment had a case file legalizing their family or institutional care. Therefore, 51.34% of the children and teenagers did not have their fostering situation legalized (CRC / C / ECU / 4, page 74).

Therefore, on January 29, 2010, the Committee on the Rights of the Child made the following observations regarding the data and facts previously evidenced. First of all, it was worrying that the majority of children and adolescents deprived of their family environment are hosted in institutions. Also, there was a lack of information on inspections and periodic evaluations of these institutions and the child's situation. For this reason, the Committee recommended that the State take all necessary measures to ensure that institutionalized children return to their families as soon as possible. It also recommended prioritizing family-type care, leaving Institutionalize foster care as a last resort.

It also recommended carrying out a study to evaluate the situation of foster kids, particularly their living conditions and the services provided to them. It is important to take into account

that the reports presented by the country did not mention the monitoring and inspection of institutional care centers. Additionally, it also recommended that clear rules should be established for the functioning institutions and that an integral periodic review mechanism will be established for children placed in all alternative modalities (CRC / C / ECU / C O / 4, page 12).

Finally, Ecuador's reports number 5 and 6, concerning its progress implementing the CRC from 2009 to 2015 were submitted on March 15, 2016. With regard to the protection of children that got separated from their parents between 2012-2013, the National Diagnosis of Fostering Entities, MIES - INFA was carried out specifically for public and private institutions. In that year, 4511 children and teenagers received services through 100 institutional fostering entities (Management of Knowledge Coordination- MIES, 2013).

According to the investigation's data, among the main causes for children and teenagers to enter this type of institutions is abandonment with 20.1%, followed by abuse with 13.6%, indicated in the following table:

Table 6 Causes for the fostering of children and adolescents 2012-2013.

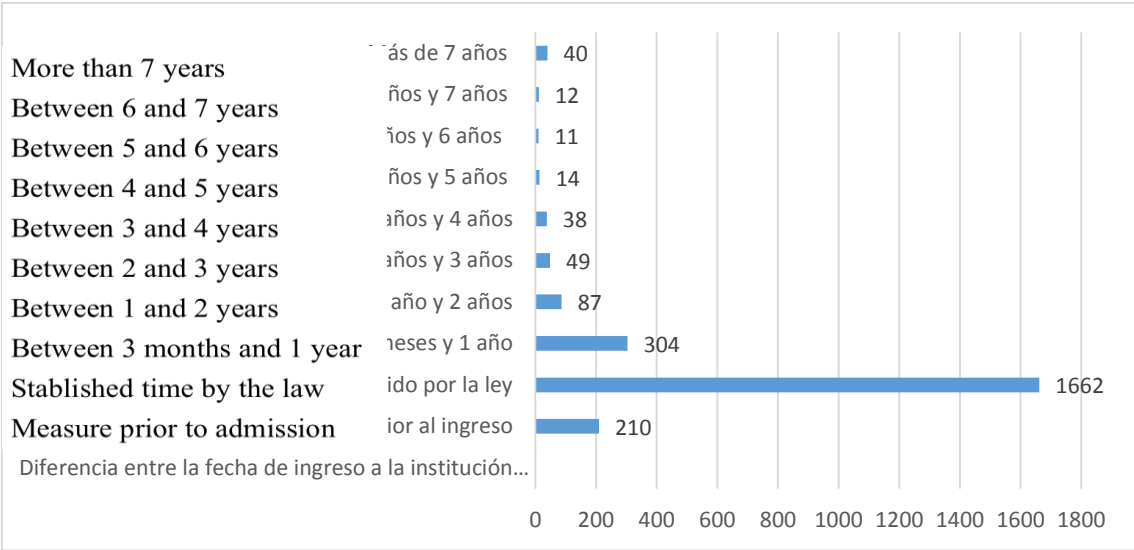
Causes for the fostering of children and adolescents		Percentage
Abandonment		20.1%
Abuse		13.6%
Parents who are deprived of liberty		10.9%
Human Traffic and smuggling		0.8%
Orphan hood		3.5%
Lost kid/Teen		0.8%
Teenage pregnancy		0.2%
Unanswered		17.2%
Other		32.9%
TOTAL		100.0%

Source: The National Diagnosis of Fostering Entities, MIES – INFA 2012

Created by: Daniela Samaniego.

One relevant aspect that the investigation showed is that in many cases the date kids entered into one of the fostering modalities is very distant to the date of the judicial measure that determines their permanence. In the sampled population, 68% obtained their judicial measure in regimented time. However, it is alarming that in some cases children waited more than 5 years for a resolution (Management of Knowledge Coordination- MIES, 2013, page 27). Likewise, it is alarming that one third of the sampled population spent 2 years to 37 years in an institutional fostering place as it is shown in the following graphs:

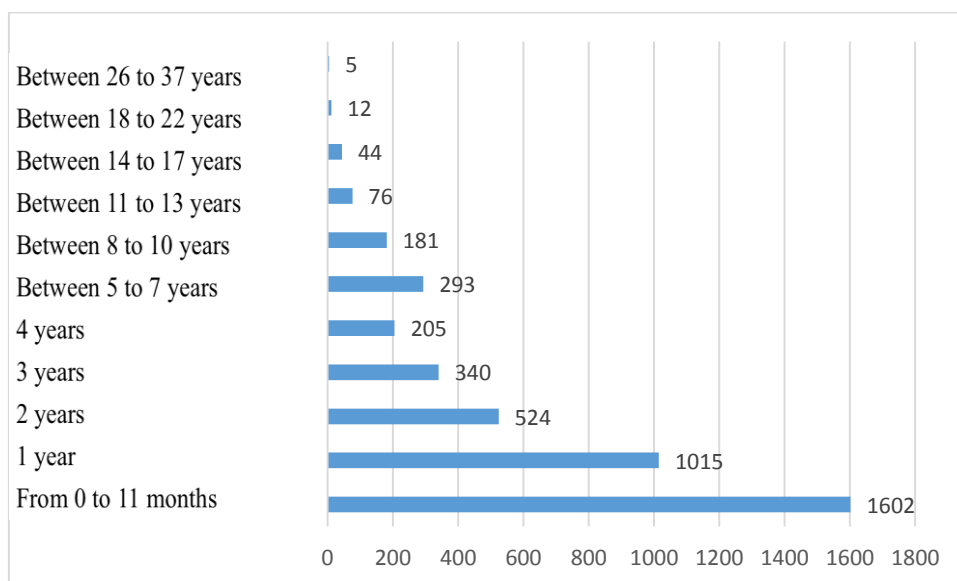
Figure 1 Differences between the date of admission to the institution and date of the judicial measure



Source: The National Diagnosis of Fostering Entities, MIES – INFA 2012

Created by: Daniela Samaniego.

Figure 2 Time that children and adolescents spent in foster care



Source: The National Diagnosis of Fostering Entities, MIES – INFA 2012

Created by: Daniela Samaniego.

Based on this diagnosis, the legal situation of 1680 foster children was clarified, where 322 obtained an adoption declaratory, 440 left the entities thanks to an autonomous process, 1383 children returned with their families and finally 686 cases did not have a defined process. Therefore a special tracking process was carried out (CRC / ECU / 5-6, page 22).

Subsequently, in 2014 and 2015, MIES carried out a monitoring, verification, and updating process of the information in public and private institutions in charge of institutional care. Thus, in 2014, there were 2585 children deprived of parental care, of whom 41% were boys and girls between the ages of 5 and 11, 39% were teenagers between 12 and 18 years of age and 17% between 0 and 4 years old. From this last group, 43% remained in foster care for around 0 to 11 months, 39% from 1 to 4 years, 14% from 5 to 9 years, and 4% from 10 years or more (CRC / ECU / 5-6, p.22).

This investigation determined that 96% of children had a judicial measure issued by competent judges, 2% had an administrative measure issued by the Rights Protection Boards and 2% had no recent measures because they just entered a fostering institution (CRC / ECU / 5-6, page 23).

From the same follow-up process carried out in 2015, a total of 3,500 foster children and teenagers were identified. Regarding their permanence, it was established that 42.89% were in institutional care from 0 to 11 months, 40.87% from 1 to 4 years, 12.57% from 5 to 9 years, and 3.65% 10 years or more. Regarding their legal situation, it was established that 95.71% had a judicial measure that legalized their permanence and 3.13% an administrative measure, resulting in 1.15% of helped children that did not count with a judicial measure that justifies their acceptance (CRC / ECU / 5-6, p.23).

The report shows the evolution of fostering service coverage in the period 2009-2015, which briefly explains that during the years 2009-2011 the State had not generated adequate measures to correctly quantify the cases of institutionalized children and teenagers. It also did not have a correct monitoring of the intuitions that provide this service. This situation changed after the investigation carried out by MIES in 2002, which is the reason to solve a considerable number of foster care cases. This fact lead to a substantial reduction of cases for the years 2014-2015, as can be seen in the following table.

Table 7 Foster Care Coverage in extended and institutional families

Year	Total number of children in extended families	Total number of children in institutional care	Total number of foster children
2009	n/d	n/d	3,026*
2010	n/d	n/d	2,975*
2011	n/d	n/d	3,015*
2012	868	4,511	5,379
2013	780	4,593	5,373
2014	768	2,585**	3,353
2015	980	2,520***	3,500
TOTAL	3,396	14,209	26,621

Source: Management of Emblematic Projects MIES - 2015 / SIIMIES, December 2015.

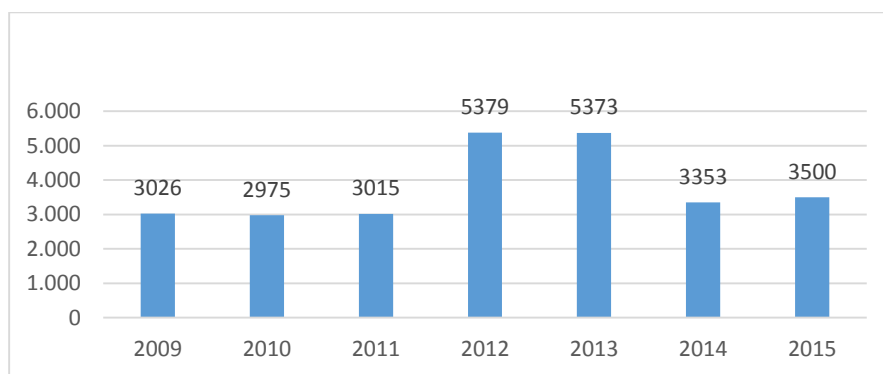
Table made by: Protection Services Dictatorate – 2015

* The coverage in 2009, 2010 and 2011 did not change between the two types of care modalities: family and institutional. The differentiation is made from the year 2012.

** This population includes public and private care entities of direct attention.

*** This population includes public and private care entities of direct attention.

Figure 3 Total number of children and adolescents received in the period 2009-2015



Source: CRC/ECU/5-6

Created by: Daniela Samaniego

On the other hand, as a result of the investigation between the years 2013-2015, 2635 cases of foster children were solved where 831 children were declared ‘adoptable’. Moreover, for 1,804 a measure of family reintegration was issued, showing that in the last year within the country there has been a generation of important processes to achieve deinstitutionalization.

Table 8 Resolved Judicial proceedings 2013-2015

Legal situation	2013	2014	2015	Total number of children and adolescents with solved lawsuits
Girls and boys with an adoption declaration	484	151	196	831

Girls and boys who had a declaration for family reintegration	n/d	796	1,098	1,804
TOTAL	484	947	1,305	2,635

Source: MIES Adoption Project closure report. Annual management reports of the Adoption and Legal Clarification Division, 2014 and 2015.

With regard to the reports submitted by Ecuador as part of its commitment to the international community, it has been shown that considerable progress was made in early years implementing the Convention in the country. Particularly in the children's data log through SINIÑEZ, evidencing the State's growing need for indicators and information that can account for the fulfillment of rights. In addition, this also showed in a certain way how the protection system of rights within the country has been implemented.

Regarding the alternative modalities of care, it is evident that during the first 12 years of application of the Convention and prior to the Guidelines on alternative care for children, institutional care was positioned as the most used measure in the country. This shows that the alternative modalities to internment have had little development and importance as a measure of restitution of the right to family life. This is due to a lack of coordination that has been evidenced in terms of control, registration and functioning of the host families and not a lack of knowledge on the part of the competent authorities to prioritize the modalities of foster families as measures that better guarantee the right to grow in a family environment.

On the other hand, during the first years of application of the Convention, there was a lack of control over the measure of institutional care, taking as a starting point the fact that the institutions that offered this service had the conception that they were created to receive the greatest number of children and adolescents as possible. This shows that family reintegration was not prioritized as a measure of restitution of rights, which in many cases was due to a budget reduction for the foster care center.

A relevant aspect shows that the set of reports is a deficiency in the system of institutional care due to the lack of records on the children and adolescents received and, in some cases, the lack of legality of the measure, especially in the early years. In one way or another, this made institutional care a provision that led to a new violation of rights. This is due to the lack of procedures consistent with norms and laws, taking into account that institutionalization is a measure of last resort more than the lack of follow-up to the causes of internment, lack of control and inspection of the type of life and services received by institutionalized children and adolescents, etc.

According to the results and conclusions obtained in the various studies carried out after 2009 and based on the statistical data of the alternative methods of parental care in the country, it was observed that after the issuance of the United Nations Guidelines, the use of institutional care as the main measure of alternative care was prioritized by the public and private sector. This occurred despite the fact that this modality at the normative level and according to the guidelines, is considered a last resort. Even the abuse of this measure by institutions involved in the protection of the rights of children and adolescents has come to be determined. Some factors have been determined that make this modality the most applied in the country. Among them is the weakness of resources and efforts aimed at preventing the causes that cause a child to be deprived of their family environment, especially the weakness of research and prior intervention actions that can be performed in family settings. On the other hand, there are cases of children in which their particular situation would not justify the need for shelter, but due to the lack of options and timely information, they are taken to shelters as the only protection measure (General Management Coordination Of Knowledge - MIES, 2013, p. 93). This is also due to a lack of knowledge and training by the competent authorities that determine the measure.

One of the factors that determines the modality of institutional care as the main measure is the lack of a system that generates the facilities to make effective the prioritization of foster care over institutional care. This is mainly the result of the absence of an administrative technical structure.

An important conclusion of the research carried out by MIES in 2013 is that despite the existence of regulations and the technical norms that regulate and seek to guide the adoption of different means of care, in practice there is evidence of a lack of consensus on the issue between institutions and officials involved in the different levels of the process of determination and implementation of the measure. It states that "many of the actions are carried out based on the discretion of the people involved, who's decisions, even if they proceed at best from a professional perspective, are seriously influenced by imaginaries and convictions" (General Coordination Of Knowledge Management - MIES, 2013, page 95).

Likewise, there are other types of divergence with respect to the responsibilities of the different entities that intervene in the fostering processes. For example, the law establishes that judges are responsible for finalizing foster care or determining the reintegration of the child or adolescent to their families. However, in practice, there are institutions that believe they have the authority over these types of decisions (General Management of Knowledge Management - MIES, 2013, page 96).

The reintegration into the family environment as a form of restitution of children's rights is the objective of alternative care measures since they are a temporary measure. However, there are cases in which the reintegration or adoption cannot be carried out, especially in the case of adolescents, for whom the generation of processes of emancipation and autonomy is foreseen, nevertheless a failure is shown to achieve this task. There is a lack of strategies and methodological tools that help complete a successful emancipation or autonomy. This is due to the lack of concrete options that help them access higher education services, scholarships, grants, labor inclusion alternatives, housing, etc., as well as the condition of fostering naturalization in the life of adolescents by remaining in the hands of alternative care for long periods of time.

On the other hand, the time that the children and adolescents stay in foster care is longer than the appropriate times and norms, which makes even the special protection system a an abuser of these rights. In these cases, there is a multiplicity of difficulties for the restitution of rights, at the administrative, operational and legal levels. In relation to the administrative area, the

care institutions have complications in the provision of material and human resources, which are considered insufficient by the entities to meet the real needs of children and adolescents.

The legal area recognizes that there are delays in procedures and complications at the legal-bureaucratic level. However, the most troubling concern is the lack of lawyers specialized in this area within the foster care institution team, especially direct administration entities, which generate irregularities in the follow-up of cases. It also causes delays when the processes of the children and adolescents in care are finalized (General Management of Knowledge Management - MIES, 2013, page 101).

Thus, certain conclusions can be made by taking into account the reports issued by the country, the observations made by the Committee on the Rights of the Child and the various investigations carried out by governmental entities responsible for carrying out procedures to ensuring compliance with article 20 of the Convention. It can be determined that in the country, in practice, the application of the guidelines, the technical standard of care and the different norms and laws that regulate foster care have been deficient, although actions have been taken with regard to alternative measures of parental care,. This is because it has not been possible to construct a comprehensive system to deal with all the provisions, procedures, evaluations, follow-ups, conditions, etc., that alternative care requires.

Yet, it is important to consider that there are factors that in one way or another discourage a proper functioning of the special protection system. These include the lack of resources to comply with all provisions, the lack of a control body that establishes sanctions or inspections on the institutions responsible for foster care, and the lack of guidelines or guides that allow care institutions to prioritize preventive action.

3.2 Foster care situation in the canton of Cuenca.

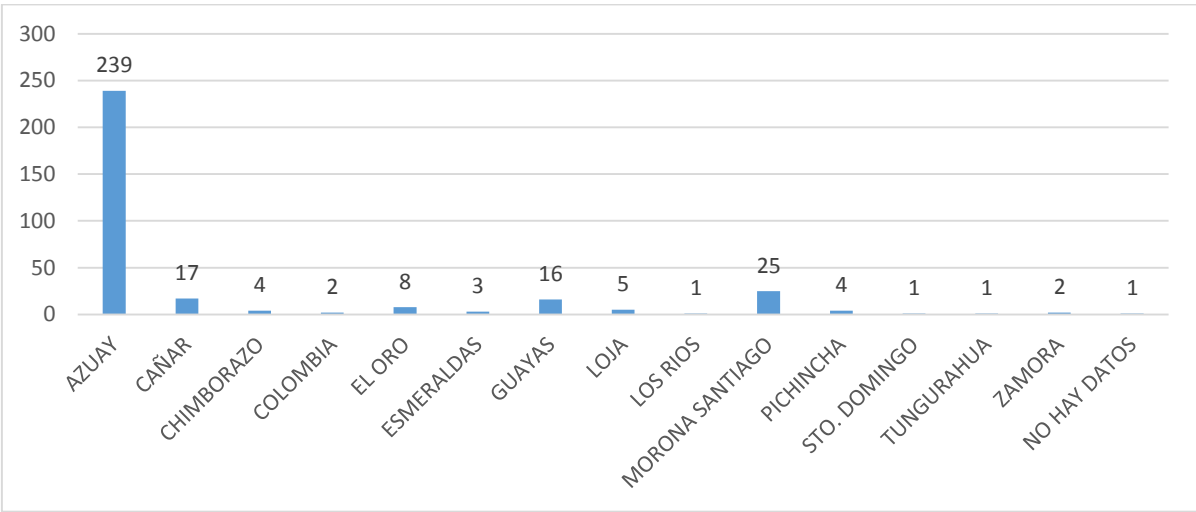
Cuenca is located in the south of Ecuador in the province of Azuay. According to data of the population census of 2010, the canton has a population of 505,585 inhabitants of which 52.63% are women and 47.37% are men. According to the census, there is a population of 176,888 children and adolescents between 0 and 17 years of age, of which 50.51% are boys and 49.48% are girls.

With regard to alternative care for children and adolescents, both the Municipal DAG (Decentralized Autonomous Government) from the Canton Cuenca and the Ministry of Economic and Social Inclusion provide and coordinate, through cooperation agreements, specialized attention to children and adolescents whose rights have been violated. They do so under the modalities of institutional care, foster families, and eradication of child labor and begging. According to the diagnosis of the Situation of Institutional Accompaniment of Cuenca in 2012, the entities that offered these services as part of the special protection system in the city of Cuenca were:

- Home Foundation of Ecuador
- Intergration Foundation
- Jefferson Pérez Foundation
- El Arenal Foundation
- Alliance in Development Foundation
- Salesiana PACES Foundation
- Antonio Valdivieso Children's Home
- Aurora Social Development Center
- El Buen Pastor Congregation
- Jardín del Cajas Foundation
- María Amor Foundation
- Miguel de León Home
- First reception room for victims of MSP violence
- CEMISOL, GAD Municipal service
- Proyecto Esperanza/ Project Hope
- OSSO Foundation
- Mensajeros de la Paz/ Peace Messengers
- SOS Children's Villages
- San Vicente de Paúl Conference - Children's Home Tadeo Torres

Out of these, 10 entities in 2012 have provided shelter to 329 children and adolescents from the canton of Cuenca and other cantons of the province, such as Sigsig, Santa Isabel and Gualaceo. In some cases, they have also helped children or adolescents from other provinces of the country, such as 25 from Morona Santiago, 17 from Cañar, 16 from the province of Guayas, 8 from El Oro, among other provinces. These entities have even registered the placement of two children from Colombia, which makes the canton of Cuenca, to some extent, a center for the protection of the rights of children and adolescents in the southern part of the country.

Figure 4 Institutional shelter coverage of Cuenca, 2012

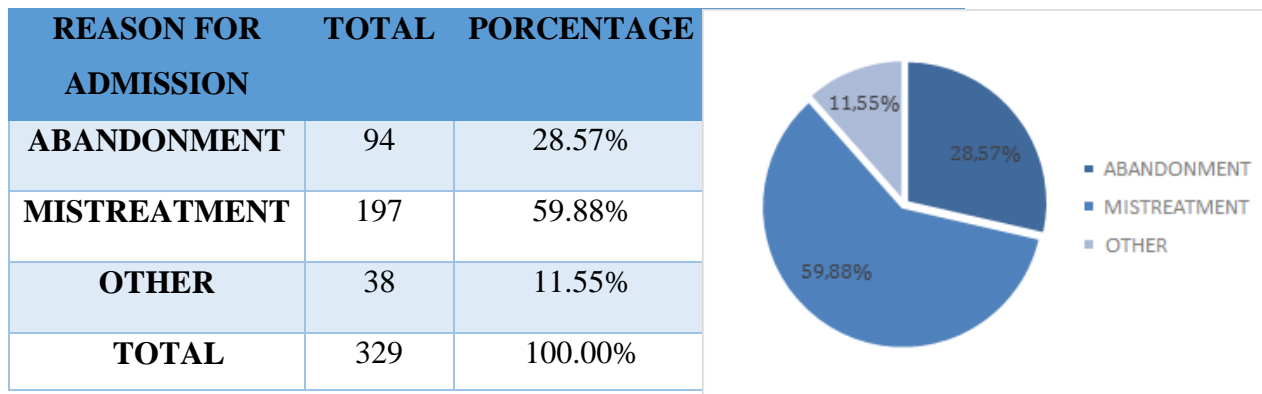


Source: Diagnosis of the Situation of Institutional Accession of Cuenca in 2012

Created by: Daniela Samaniego

Among the main reasons or causes for which children and adolescents have been received in the different institutions are abuse and neglect, which represent 59.88% and 28.57%, respectively.

Figure 5 Reasons for foster care.

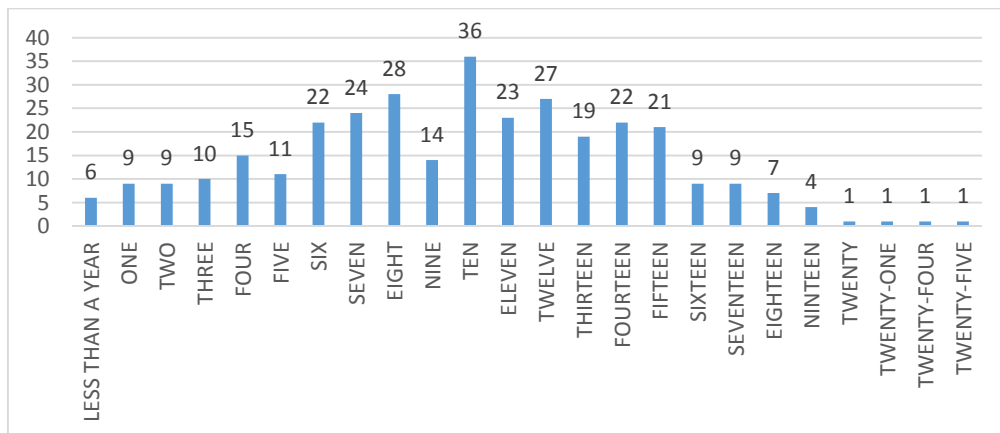


Source: Diagnosis of the Situation of Institutions of Institutional Accession of Cuenca in the year 2012

Created by: Daniela Samaniego

The population cared for in the different institutions of foster care were children between the age of less than one year and up to 25 years of age. The average age is 14 years-old, the most frequent age is 10 years-old, representing 10, 49% of the population analyzed. With respect to the sex of the children and adolescents admitted, 50.46% of the population is male and 49.54 are female.

Figure 6 Ages of children and adolescents in foster care.

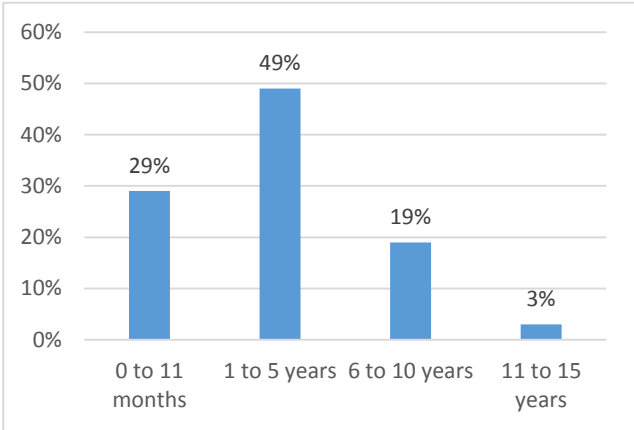


Source: Diagnosis of the Situation of Institutions of Institutional Accession of Cuenca in the year 2012

Created by: Daniela Samaniego

In reference to the time in foster care, a large percentage of children and adolescents have been institutionalized for less than one year, corresponding to 29% of the population served. A total of 49% of these are children who have been institutionalized for 1 to 5 years, 19% have remained in foster care between 6 and 10 years and 3% are institutionalized between 11 to 15 years. This demonstrates that the greatest number of children and adolescents remained institutionalized from 1 to 5 years, contradicting the notion of temporality that the measures of foster care and the laws are intended to guarantee. In addition, there were 14 cases of children or adolescents who did not have a legalized foster care measure applied.

Figure 7 Period of time that children and adolescents remained in foster care

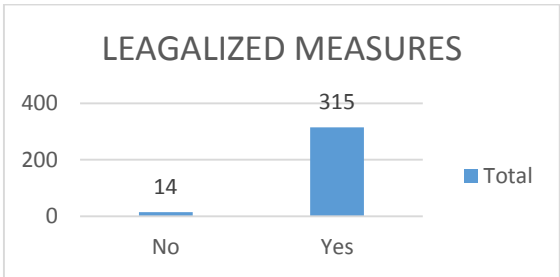


Time is Foster Care	Number of children and adolescents	Percentage
0 to 11 months	97	29%
1 to 5 years	160	49%
6 to 10 years	63	19%
11 to 15 years	9	3%
Total	329	100%

Source: Diagnosis of the Situation of Institutions of Institutional Accession of Cuenca in the year 2012

Created by: Daniela Samaniego

Figure 8 Legalized measures.

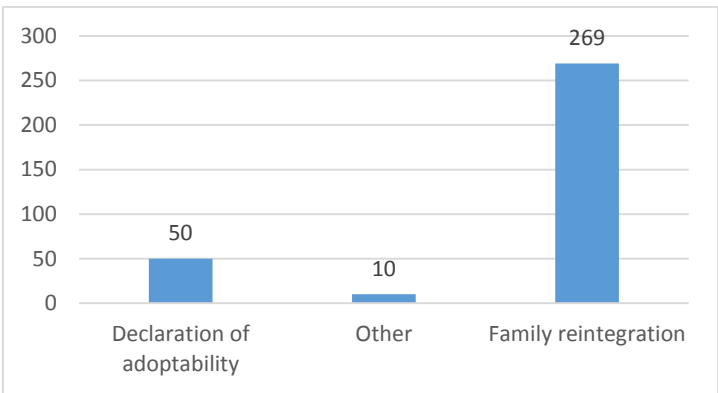


Source: Diagnosis of the Situation of Institutions of Institutional Accession of Cuenca in the year 2012

Created by: Daniela Samaniego

According to the intervention goals of the entities, it was evident that the efforts were aimed at achieving the family reintegration of 296 children and adolescents and the declaration of adoptability of 50 children and adolescents. In cases of the lack of legality of the foster care measure, the intervention was aimed at providing therapeutic or family support services.

Figure 9 Goals of Foster care.



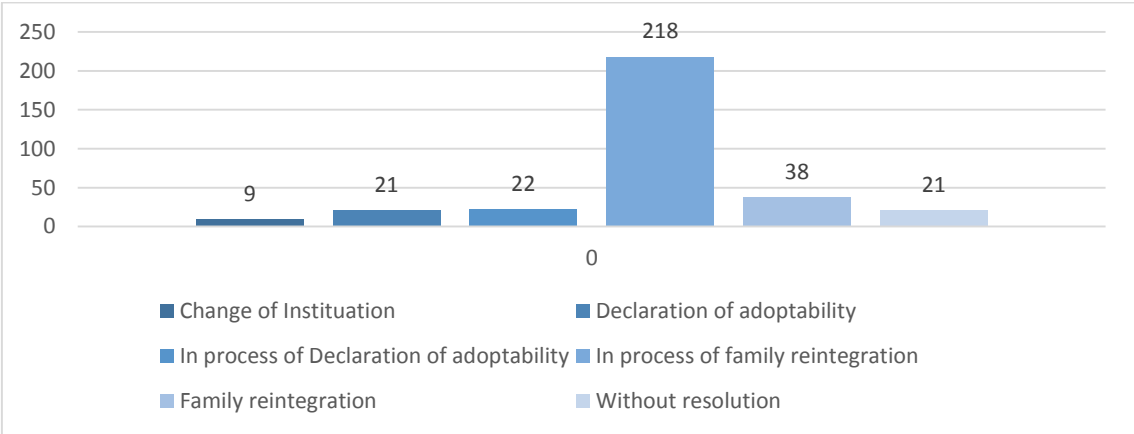
Source: Diagnosis of the Situation of Institutions of Institutional Accession of Cuenca in the year 2012

Created by: Daniela Samaniego

As a result of the efforts made to meet the goals during that year, of the 50 children and adolescents who had the goal of being adopted, only 21 were declared adopted, while 22 were still in the process of being declared. Of the 268 children or adolescents whose initial goal was family reintegration, only 38 have achieved this task, while 218 continued with the

process of reintegration, 9 were changed from institution and 21 children had no resolution. This shows us a low degree of fulfillment of the goals established by each entity. The lack of commitment of the families for the return of their children, as well as the lack of technical follow-up of the institution and of agility in the courts also contributes to this.

Figure 10 Fulfillment of foster care goals



Source: Diagnosis of the Situation of Institutions of Institutional Accession of Cuenca in the year 2012

Created by: Daniela Samaniego

According to this research, it was determined that in terms of infrastructure, 90% of the caregivers did not have adequate infrastructure because they did not have enough rooms for the number of people taken in. This was due to the absence of green areas, recreational areas, signs, spaces not suitable for children and adolescents with disabilities, etc. As a result, only 10% met the minimum standards of quality and this this does not mean that they met all the standards, because according to the study, they did not have sufficient bathrooms (Oleas, Situation of the institutional fostering of children and adolescents with or without disability in the canton Cuenca - 2011, 2014, page 167).

On the other hand, although all the institutions had safety measures such as fire extinguishers, none of them presented smoke detectors, sirens or fences to protect the kitchen door, which is certainly a failure with regard to the principle of suitability that should govern these measures.

With regard to **human talent**, all the evaluated entities had a coordinator, a social worker, a psychologist, and kitchen assistant. However, there were cases in which there was evidence of a lack of lawyers or assistants with knowledge in human rights. A lack of definition of roles and responsibilities within institutions, as well as the constant changes in work teams were identified (Oleas, Situation of institutional care of children and adolescents with or without disabilities in the canton Cuenca - 2011, 2014, page 168).

As for the **professional performance**, it was observed that among the activities of the technical team, 80% of entities still maintained its office work that required the adaptation of families to the times and spaces of the institution. This is why during that time no strategies were generated that allowed an intervention according to the social and cultural environment of the family involved (Oleas, Situation of institutional fostering of children and adolescents with or without disabilities in the canton Cuenca - 2011, 2014, p.169). Here, a relevant aspect is that no institution performed home care as a strategy to avoid institutionalization but it was done basically after the child or adolescent was registered, which is why the application of the previously mentioned home care that was supposed to be prioritized, was non-existent.

On the other hand, there are cases in which there was no planning by the technical team or the educators, which did not allow for a register of the progress of institutionalized children to be recorded. This is why only 70% of entities indicated that they had the family plan and individual care plan. Finally, only 60% of the entities showed plans to train the team, plans to improve the institution and a procedure manual (Oleas, Situation of institutional fostering of children and adolescents with or without disabilities in the canton Cuenca - 2011 , 2014, p.170).

With the results obtained, there is evidence of deficiencies in the care services provided to children and adolescents in the canton, as well as deficiencies in the operational area of the entities and even a lack of agreement of its actions with the technical standards and guidelines of the United Nations. One of the main causes that the institutions interposed as the origin of their deficiencies was the lack of economic resource since only 10% of the organizations had enough resources to guarantee the rights of children and adolescents. The remaining 90% said they have a constant lack of resources (Oleas, Situation of institutional care of children and adolescents with or without disabilities in the canton Cuenca - 2011, 2014, page 170).

Additionally, according to an interview with Silvia Oleas, Executive Secretary of the Cantonal Council for the Protection of Rights of the canton of Cuenca, children or adolescents who are still in institutional care in the canton are still prone to an environment that lacks protection. This is because there are still children and adolescents who have been institutionalized for many years. On the other hand, there are no programs or projects that help them to become independent after they come of age, among other factors.

Although at a country level, as in the cantonal one, a process of deinstitutionalization has been carried out for more than a decade through the validity of the Code of Childhood and Adolescence that establishes institutional support as a last instance and as temporary measure. Yet, in practice, it has not restored the violated rights of all children and adolescents who have entered foster care because there is certain negligence on the part of some entities. For instance, there have been cases where children who have entered at the age of three years-old stay for more than 10 years in foster care and have not had a measure of deinstitutionalization.

In some cases, there have not been any changes since the historic adoption of an institutional fostering model, which means that the institutions perpetuate a management system. Although deinstitutionalization is an accepted measure in the country, the entities responsible for this do not give guidelines, training, dissemination programs, preventive programs, etc., that help institutions generate a change in their management. This adds to the adverse conditions to achieve a type of protection that does not imply institutionalization, since a

technical team is needed to assist with the process through home assistance. The lack of resources and in some cases, the predisposition of the entities do not allow for this to happen.

As a result of this study based on institutions of foster care in the canton of Cuenca in 2012, followed the issuance of the United Nations Guidelines on Alternative Care for Children, it can be determined that at the national level, institutional fostering is the most widely used measure by the competent bodies for the restitution of the rights of children and adolescents who have lost or are at risk of losing their parental care.

Among the indicators presented, there was deficiencies in the infrastructure needed to provide a quality service for the needs of children and adolescents, as well as the lack of human talent and efforts to work in this area to achieve the deinstitutionalization. Also, the prevention of entry to the modality of institutional care is an obstacle as well. This shows a failure in the necessary conditions to generate the changes necessary, such as lack of resources, incentives guides or guidelines, lack of control by the State and in some cases, lack of interest in changing the management model.

CHAPTER IV: POLICIES OF SOS CHILDREN'S VILLAGES AS AN INTERNATIONAL COOPERATION AGENCY TO RESPOND TO "GUIDELINES ON ALTERNATIVE CHILD CARE"

4.1 SOS Children's Villages- Ecuador

SOS Children's Villages is an international social development organization founded in Austria in 1949 by Hermann Gmeiner with the aim of supporting children and adolescents who lost their families as a result of World War II. Since then, its vision, mission and management model have expanded to 134 countries, where it now brings aid to more than 450,000 children and adolescents who have lost their parental care or are at risk of losing it.

It has been applied in Ecuador for more than 50 years, creating strategies and programs for the rights of children, especially to protect their right to live with their families. It is present in six provinces of the country: Pichincha, Azuay, Esmeraldas, Guayas and Manabí, and is legally recognized by ministerial agreement No 1448 approved on June 14, 1994.

Its actions are aimed at preventing the loss of family care and encouraging children and adolescents to reintegrate into their families and protective communities. When these measures are not possible, they provide personalized care in alternative care modalities, which are temporary and pertinent to the individual situation of each child and adolescent in order to achieve their development within a protective family environment (SOS Children's Villages, 2016) .

In the period of 2013-2014, SOS-Ecuador Children's Villages proposed to give a programmatic turn to their management model, articulating their strategies to the National Public Policy and to the United Nations Guidelines on the alternative modalities of care of children. They presented the "Sustainability Project and Program Policy of SOS Children's Villages" (2014-2016), prioritizing a preventive care model as an alternative proposal to institutionalization where the rights are the basis of the projects of the organization and are its guiding principles (Infantiles Villages SOS- Cuenca, 2016):

- Strengthen a protective family environment, within the child or adolescent's family,
- Strengthen social support networks for children and adolescents,
- Ensure the best interests of the child in all decisions and actions that are promoted,
- Involve the children in the search for solutions that affect their lives (SOS Infantiles Villages, Cuenca, 2016, page 5).

According to this framework, the new action guidelines of SOS Ecuador Children's Villages are:

- 1) To prevent the violations of the rights of children and adolescents living in high risk families and communities,
- 2) Develop alternative forms of care that include projects focused on the protection of children in the short and medium term, guaranteeing and restoring their rights, but also complying with the principles of Suitability, Necessity and Superior Interest of the child.
- 3) To reduce progressively and respectfully the modality of in territory house SOS, adjusting it to the needs of long-term care.

4.2 SOS Children's Villages Cuenca.

The SOS Children's Villages Cuenca Program has been up and running since 1997 and is found in Ricaurte. During the last years of management, SOS Children's Villages Cuenca has been aligned with the guidance of the United Nations framework for the alternative care of children and adolescents. This gives greater emphasis to prevention and actions that allow the generation of a process of gradual deinstitutionalization, which has led to preventive projects in the territories with the highest vulnerability indexes that has led them to diversify their services in alternative modalities and outpatient care (Aldeas Infantiles SOS Cuenca, 2014).

For this purpose, the Cuenca program carried out a self-evaluation process in the programmatic, organizational and financial fields in order to progress towards the

definition of a resizing project with a new objective aimed at preventing, protecting, welcoming and restoring rights. As a result of this analysis, there were significant changes within the organization such as:

- Understanding the importance of strengthening the nuclear and extended families, in order to guarantee the children and adolescents the right to live with their families.
- The promotion of community links, constituting a support network for the family.
- The change of view of mothers and aunts SOS who now identify themselves as educators, their efforts are focused on working to strengthen the family.
- A technical team that determines the importance of providing accompaniment in the place of residence of the family.
- The service is adapted to the needs, customs, culture, economic and social reality of the family in its place of origin (SOS Children's Villages - Cuenca, 2016, page 5)

As a result, the following results have been identified:

- A considerable reduction of children in the traditional model of care in a closed circuit. As of September 2016, 32 children and adolescents were given care, from an initial population of 102 at the beginning of 2013.
- Children and adolescents living with their families achieve a better level of integral development, recovering their identity and sense of belonging to their place of origin.
- Development of alternative modalities that allow the full restitution of the rights of the child and their families, working in their community with their origin/extended families, in order to restore their right to live with their families (SOS Intantiles Villages, Cuenca, 2016, p. 6)

4.3 Preventive management model of the SOS Children's Villages Cuenca.

The SOS Children's Villages program policy emphasizes that "Every child belongs to a family and grows with love, respect and security" (SOS Children's Villages, 2016). This is

why the program works with different types of families of children and adolescents who have lost or are at risk of losing parental care, as well as the community to which these families belong. For this, the efforts are aimed at preventing the loss of parental care and in the event that it has been lost, they are offered care alternatives according to their needs.

Therefore they apply the following levels of protection:

4.3.1 Primary Prevention

The program works in prioritized territories, where it coordinates with local organizations for the formation of protective communities in order to reduce risk factors and behaviors and raise the protective factors of families (responsibility, care, affection), achieving an empowerment of social subjects (Aldeas Infantiles SOS, 2016).

Objective: "To promote the creation of protective communities of rights that prevent family separation and protect children and adolescents from all forms of violence, neglect and other threats or risks for their integral development through awareness-raising processes with children, their families, community leaders and the strengthening of the local protection system" (Intantiles Villages SOS- Cuenca, 2016, page 8)

In the case of SOS Children's Villages Cuenca, in 2016 in the canton of Sigsig, province of Azuay, a process of strengthening has been carried out with the people responsible in Childhood and Adolescence issues. This resulted with the formation of The Bureau of Analysis and Channeling Cases, which is led by the Cantonal Council for the Protection of Rights, and allows inter-institutional linkage for the integral restitution of rights and prevention of the loss of parental care and institutionalism, in cases where it is possible (SOS Intantiles-Cuenca, 2016, page 8).

4.3.2 Secondary Prevention

This program works with focused families and seeks to raise their capacities and helps to keep families of children and adolescents together. They do so through training and accompaniment processes according to the individual factors of each family. It also looks to generate community development strategies, so that SOS Children's Villages can develop (SOS Children's Villages, 2016):

Accompaniment to Families at Risk: This modality provides care to those who are at risk of losing family care. It does not apply in cases where the rights of children or adolescents have been violated.

Objective: "to strengthen care capacities and prevent children and adolescents from losing family care. This is carried out in the place of residence and community environment" (Aldeas Infantiles SOS-Cuenca, 2016, page 8).

In order to fulfill this objective in the first instance, a prior investigation process is conducted, that consists of the collection of information to determine the measures of protection and the most appropriate actions according to the risk factors and the context of the child or adolescent and the family involved.

Through this modality, from 2015 to August 2016 SOS Children's Villages Cuenca has prevented the deinstitutionalization of 121 children and adolescents, intervening in cases including: negligence, domestic violence (psychological violence, couple conflicts and/or extended family), poverty, alcoholism, etc.

Table 9 Prevention of institutionalization cases 2015-2016

COVERAGE	CAUSES OF INSTITUTIONALIZATION	PORCENTAGE
73	NEGLIGENCE	61%
23	INTRA-FAMILY VIOLENCE	19%

16	POVERTY	13%
5	ALCOHOLISM	4%
4	OTHER	3%
121	TOTAL	100%

Source: ARIEL Database System - Children's Villages SOS- Cuenca- 2016

The results obtained from these interventions are as follows:

- Institutionalization and the negative emotional effects on children and adolescents have been avoided due to the unnecessary separation of their families and their social and community environment
- Avoid the family's disengagement regarding their roles in care and protection.
- Prevent cultural uprooting by not feeling identified in the space in which they are.
- Working with the principle of necessity and suitability, as well as the analysis of causes with the active participation of the child, the adolescent and their families, the level of co-responsibility of the original and/or extended families.
- Empowerment of family members in their social and economic development.
- Through awareness raising, the community has been able to commit themselves and share responsibility with other actors in the system (SOS Children's Villages - Cuenca, 2016, page 9)

4.3.3 Tertiary prevention

This program works directly with children and adolescents who have lost family care through the implementation of actions aimed at restoring and repairing this violated right. For this purpose, SOS Children's Villages applies the current national and international regulations and defines alternative modalities that respond to the history, needs and conditions of each child or adolescent (SOS Children's Villages, 2016).

Among the measures used by Villages SOS Ecuador are:

SOS houses in the community: It is an alternative modality that responds to the needs of children and adolescents with long periods of institutionalization who for various reasons have not been able to go back to their biological families or because the declaration of adaptability has not been achieved.

Objective: "to reduce the negative effects generated by the loss of family care, the uprooting of the child or adolescent from their home environment, for which they seek a context that is closest to their reality, providing tools for skills development through their active participation in the community, generating resilience and acceptance of their life for the exercise of their autonomy, or reinsertion with their nuclear/extended family in the cases that it is possible, for which an accompaniment family is provided" (Children's Villages SOS- Cuenca, 2016, page 10)

SOS Children's Villages Cuenca has implemented three SOS Homes in the community, with a coverage of 13 children and adolescents, obtaining the following results:

- Children and adolescents remain in an environment similar to that of origin, regaining their sense of belonging.
- The local protection system has been activated and articulated.
- In cases where possible, it facilitates the involvement of the family of origin and/or extended family, to maintain and strengthen the bonds.
- The model allows the development of abilities and skills of the children and adolescents in order to exercise their autonomy.
- The children have clarity in the temporality of the service.
- The educators facilitate the processes of integral development.
- The service provides comprehensive care based on the needs and economic and social reality of the child or adolescent, and their family and environment.

SOS Home in the territory: It is a measure of protection applied when it is determined that the necessary conditions exist in the family and community environment for the reintegration. For this reason, it intervenes through a temporary accompaniment, in order

to guarantee suitable conditions for the integral development of the child or adolescent in their family and community.

Objective: "To identify and develop care and protection skills in the nuclear/extended family and community in order to ensure an adequate environment for the integral development of children and adolescents in their place of origin/residence" (SOS Children's Villages - Cuenca, 2016, page 11).

In the territory, three houses have been established that provide attention to 11 children and adolescents with their respective families. The results observed are the following:

- It has represented a process of favorable adaptation of the minors to their families and environment, strengthening their development at an individual and family level.
- Notable improvement of children and adolescents in their physical and emotional state (weight and height, academic performance, decreased levels of aggressiveness of children).
- Activation and participation of the system at the community and cantonal level to support the process of family reintegration, which is a factor that favors it.
- Active participation and co-responsibility of the family, both economically, as well as health care, education and protection.
- The educator accompanies the development of skills and competences of the family for the care of the minor, based on the conditions and the family's reality.
- It avoids processes of dependence of the families and the children and adolescents on the educators and the institution.
- This service provides comprehensive care based on the needs and economic and social reality of the child, family and environment (SOS Intantiles Villages - Cuenca, 2016, page 11).

Other continuous improvement processes

Transition homes: it is a space in which children and adolescents remain no more than 3 months since their date of entry, during which the best intervention option is analyzed.

Objective: "To determine the service required by the children/adolescents and their families in the shortest possible time based on the investigation and analysis of causes" (SOS Children's Villages- Cuenca, 2016, page 11).

Accompaniment in the family reunification: temporary support is provided to nuclear/extended families of children and adolescents who are in the process of reinsertion, such as financial support, avoiding welfare and promoting co-responsibility, providing a livelihood for issues such as rent, health, education, enterprises, etc.

Objective: "to ensure that the conditions generated for the reintegration of children into their extended/origin family are sustainable by providing an adequate environment at the family and community level for their protection and care" (SOS Children's Villages, Cuenca, 2016, p.).

Currently SOS Children's Villages Cuenca provides support to 26 girls, boys and adolescents reinserted in their nuclear or extended families.

Accompaniment processes of youth autonomy

It is a measure that seeks to provide tools of resistance and resilience to adolescents over 16 years of age, with whom it has not been possible to specify an adoption process and who have not achieved reintegration into their families. As a result, they are offered psychological support, support for job inclusion and/or entrepreneurship, temporary economic support for education or housing and a guide in their path to become autonomous.

Objective: "Develop resilience skills and strengthen aptitudes in adolescents that allow them to exercise their autonomy and linking them to the work environment or generating income" (SOS Children's Villages-Cuenca, 2016, page 12).

As of August 2016, 11 young people in the process of autonomy have been accompanied.

Table 10 Summary of prevention care levels of SOS Children's Villages Cuenca- 2016.

DENOMINATION	MODALITY	CURRENT COVERAGE
SECONDARY PREVENTION		
	Family Accompaniment	87 children and adolescents
TERTIARY PREVENTION		
Alternative Modalities	SOS Home in the Territory	16 children and adolescents
	SOS houses in the Community	13 children and adolescents
Institutional Care	Closed circuit	32 children and adolescents
	Accompaniment Reinsertions	27 children and adolescents
	Autonomous Youths	11 children and adolescents
TOTAL COVERAGE		186 children and adolescents

Source: ARIEL Database System - Children's Villages SOS- Cuenca- 2016

It is evident that the process of reforming the management model of Ecuador's Children's Villages is directly related to one of the main objectives of the United Nations Guidelines on Alternative Childcare. This refers to the generation of efforts for child to remain under the care of their own family, where as it was evidenced, they intervene through a primary prevention in the territory to strengthen family and community capacities for the containment of children and adolescents.

On the other hand, its management model is compatible with the Guidelines as it seeks to adapt to the social, cultural and contextual conditions of the families of the children or adolescents supported, trying to generate specific responses for each case. This does not correspond only to a differentiated intervention when the institutional measure has been determined, but from the secondary prevention that starts from the identification of risk factors and intervention.

In addition, one positive aspect is that it seeks to generate processes of deinstitutionalization where its intervention is not limited to the reinsertion of children and adolescents, but a complete intervention is given in order to restore the violated right, carrying out programs of family support, financial support, as well as accompanying processes of youth autonomy. With regard to national legislation, it is directly related to the need to implement institutional care as a last measure and to promote other alternative measures of parental care.

However, it should be emphasized that although important changes of the management model are being made in territories where they have been implemented, it does not have an official policy instrument. This is because the policy that SOS Children's Villages is subjected to on a global level was created in 2009 prior to the creation of the Guidelines, where basically a model of intervention is consolidated through institutionalization.

According to an interview with Rene Zalamea, the former director of SOS Children's Villages Cuenca, in practice, it is the only institution that is innovating and generating transformation processes to become an eminently preventive program that focuses on the child and their superior interests. This is because the intervention is relevant according to the specific situation of each child, where the need is first analyzed and then an adequate response is

applied. In addition, the measures are being carried out in the territory, which means "if the child is from Sigsig, I'm going to Sigsig."

On the other hand, Elizabeth Bueno, director of SOS Children's Villages-Cuenca, comments that institutions that have tried to change their management model to generate processes of deinstitutionalization and prevention of foster care are almost non-existent. One of the main causes for this is the lack of control of the MIES, plus the lack of investment of economic resources by institutions and governments on special protection issues. She states that there is still much to be done in the area, showing that it is useful to work together with other institutions in order to consolidate a prevention model, but not an institutionalization.

CONCLUSIONS

Objective 1: To determine the international normative framework that guarantees the rights of children and adolescents to live with their families.

- The right of children and adolescents to live with their families is enshrined in the Convention on the Rights of Children (1989), which, as a binding instrument, establishes the obligation of the signatory States to ensure the protection and special assistance to children and adolescents who are temporarily or permanently deprived of their family environment (Article 20). It also created a new system of protection of children and adolescents' rights in the sense that it grants them a status of subject of rights, but not a condition of protection as had been done previously. Additionally, the family entity acquires importance as an indispensable means for the development of children and adolescents that not only meets the immediate needs but also the emotional needs.
- The CRC, in the international regulations framework, determined for the first time the actions that must be taken, and the aspects to be considered in order to provide children and adolescents deprived of their family environment with special assistance by States. It establishes that foster care, adoption and placement in institutions are alternative measures.
- The United Nations Guidelines on Alternative Care for Children (2009) are enshrined as a set of guidelines that contribute to fulfilling the obligations of the signatory states, which guides the steps to be taken in both the policy and practice in order to ensure the protection of children and adolescents who have lost or are at risk of losing parental care. The Guidelines prioritize that the efforts are directed at keeping the minors under the care of their own family, and while solutions are sought for their condition, they must be granted adequate conditions that allow their integral development.

Objective 2: To determine the norms and public policies that Ecuador has implemented to respond to the international commitments with respect to the "Guidelines on the alternative modalities of care of children".

- In regards to the current national laws and regulations corresponding to the 2008 Constitution and the 2003 Code of Children and Adolescents, it can be determined that

the Ecuadorian State assumes its responsibility to comply with the CRC and to protect children, adolescents and their right to live with their families.

- The 2008 Constitution has taken a big step in the area of childhood and adolescence, where it is established that they should be granted the conditions and resources necessary for their integral development, which means the passage of a doctrine of "Irregular situation of the child" to a doctrine of integral protection, which considers them primarily as subjects of rights. Thus, the 2008 Constitution adapts in a better way to the CRC that founded and promotes this vision in matters of international standard.
- The 2003 Children and Adolescents Code establishes the institutions responsible for promoting and guaranteeing the rights recognized in the country with regard to children and adolescents, thus establishing a series of institutional, administrative and economic conditions for the declared standards. For this, the measures, actions and procedures that must be carried out are established in a specific way to protect and guarantee the right of children to live with their families. Thus, for the first time, it introduced alternative measures of foster care in the country (foster care, institutional foster care and adoption), rather than determining the aspects to be considered, such as the entities responsible for determining the measure, the conditions of care that must be given to the child, the obligations to be fulfilled by the entities and persons involved, etc.
- The set of public policies issued before and after the Guidelines are basically aimed at keeping more and more families together and the strengthening of special protection programs to provide children and adolescents with an integral development in both alternative modalities of foster care, as well as within their own family.
- The public policies analyzed are related to the Guiding Principles of the Guidelines, such as the principle of necessity and suitability, since they seek, in the first instance, to prevent that foster care be a necessary measure, as well as to generate standards of quality to provide an efficient attention to the different special protection programs or entities.
- The National Decentralized System for the Integral Protection of Children and Adolescents (SNDPINA) is positioned as the governing body for the protection and exercise of children's and adolescents' rights in the country. It is through the Ministry of Economic and Social Inclusion (as part of SNDPINA) that special protection services are

provided in Ecuador for priority attention groups whose rights have been violated, such as children and adolescents who have lost or are at risk of losing their family care.

- The MIES, as the guiding entity of the alternative modalities of parental care, establishes, through technical standards, the definition and quality standards that the institutional foster care services must have. These technical standards are one of the main instruments to respond to the Guidelines on alternative care for children and adolescents. As a result, it has been possible to determine that, although they are broadly in line with the Guidelines, the technical norms create a system, which based on the condition of vulnerability of the host, is conceived basically as a subject of protection, limiting the involvement of the minor in the regulation of his or her condition.
- The technical standards of the MIES are basically aimed at regulating the intervention actions within the foster care institutions. These are deficient in providing guidelines to work on prevention processes or action with families after their reinsertion, which perpetuates a system that invests a greater amount of efforts in the care and not so much in the prevention of it.

Objective 3: To identify the situation of the exercise of the rights of children and adolescents to live with the family with respect to alternative cases of parental care in the canton of Cuenca.

- In the country and in the canton of Cuenca, since the CRC was put into force and until today, the mediation of institutional care is the most common tool applied. As a result, it has been excessively applied, since in some cases it was determined as the only measure of restitution of the violated rights, even in cases where such intervention was not necessary.
- There are some shortcomings in institutional care, such as prolonged institutionalization, lack of control of the causes for determining the measure, lack of adequate infrastructure, lack of trained human talent, lack of programs that allow the independence of Adolescents, etc. This, in turn, can be attributed in one way or another to the absence of the necessary conditions to carry out a correct application of laws and international regulations, such as lack of resources, lack of an institution to regulate and generate

processes of meticulous control of foster care institutions, as well as in some cases a lack of commitment and predisposition of the institutions.

- Regarding alternative measures to institutional foster care, it has been observed that, historically, no significant progress has been made to implement other strategies such as family fostering, where there is evidence of a lack of a concrete system that allows for its regulation and functioning. On the other hand, there are few institutions that make efforts to generate more appropriate alternatives for children and adolescents, such as family support, working in the territory, follow-up after deinstitutionalization, etc.
- Although the United Nations Guidelines on alternative care for children establishes the need to carry out actions that allow the child or adolescent to remain in the care of his family, historically in Ecuador specific strategies have been developed that try to prevent the causes that lead to the loss of parental care, so that it intervenes primarily in the restitution of the violated right.

Objective 4: Analyze the policies of SOS Children's Villages as an international cooperation agency to respond to the "Guidelines on alternative care modalities"

- Although the intervention policies of SOS Children's Villages in Ecuador refers to May 2009, prior to the issuance of the Guidelines, the reforms to the management model for the period 2014-2016 are relevant to one of the main objectives of the United Nations Guidelines on Alternative Child Care Arrangements. This includes the generation of efforts to ensure that the child or adolescent remains under the care of his or her own family, which promotes minors to remain with their families and to further strengthen social support networks in the community.
- In addition, the management model responds to the need to adapt the intervention to the social, cultural and contextual conditions of families and children and adolescents intervened, seeking to generate relevant and respectful responses for each case.
- SOS Children's Villages Cuenca is taking measures to generate a gradual process of deinstitutionalization, based on one of the main objectives of both the country's public policies and the United Nations Guidelines.

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