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**Case study: Jahoselin Nohemí Álvarez Quillay and the involvement of the
immigration policy for minors from Mexico and Ecuador**

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Abstract

The illegal migration of unaccompanied Ecuadorian minors to the United States is a phenomenon that affects the development of society and is a consequence of the lack of employment, better living conditions and the desire to join migrant families. For this reason, minors are exposed to illegal travel and therefore to the multiple human rights violations that during this trajectory are presented, most of them end up losing their lives as happened with the Ecuadorian minor Jahoselin Nohemí Álvarez Quillay. The minor was of indigenous origin, a citizen of the Province of Cañar and her longing was to meet with her parents. However, after emigrating for the second time she lost her life on the US-Mexico border. The case of Jahoselin shocked the International Community, so thanks to the National Commission on Human Rights (CNDH) and the joint work of the countries of Mexico and Ecuador, the case did not remain in impunity. Despite the many violations of the rights that this migration process presents, this phenomenon continues to be practiced today and is bringing serious consequences to society, which should be analyzed deeply by the competent authorities of Ecuador to make decisions, affirmative action to help solve this problem and to help promote cooperation between countries on this issue. Key words: migration, law, politics, border, violation, integrity.

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Introduction

The United States is one of the most attractive developed countries for Ecuadorian migrants. The access to better living conditions through employment, health services and education is one of many attractions that the migrant identifies when planning to legally or illegally move to that country. The majority of Ecuadorian emigrants come from underdeveloped cantons with a high index of indigenous origin. El Tambo, a canton located in the Cañar province, is a prime example of this. Year after year the index of legal and illegal migrants to the U.S. increases, leaving families fragmented. The abandonment of children and adolescents have negatively affected the social development of El Tambo resulting in a series of complications related to the development of children in this community.

One of the main problems generated by migration is the illegal migration of unaccompanied minors. These are usually children of migrants who are left behind by their parents. Later, they are often forced to travel illegally in order to reunite with their families, improve their living conditions, educate themselves, or fulfill the "family tradition." Needless to say, children traveling alone are desperately vulnerable and become victims of human rights violations. Migrating illegally to the United States means going through one of the world's most violent migratory borders: the Mexico-United States boundary. These migrating children are faced with frequent abuse and violation of human rights by both "coyote" smugglers (involved in the illegal transit of migrants) as well as the authorities responsible for patrolling and monitoring border crossings.

This is the reality of several (many?) minors of El Tambo in their attempts to cross the border into the U.S. Jahoselin Nohemí Alvarez Quillay was 12 years old and living with her grandparents and cousin in El Rosario, a rural village in El Tambo, when her parents ordered her to travel to meet them in the United States. She lost her life during her second attempt. Jahoselin was intercepted by border authorities in Chihuahua, Mexico and was transferred to a shelter. During a stay of four days, she suffered from extreme post-traumatic stress as a result of the journey from El Tambo to Chihuahua and later died from mechanical asphyxia of external origin, provoked by herself.

The international community, through the Commission of National Human Rights (CNDH), requested for an investigation of the case and real cause of Jahoselin's death. As a result, Ecuador and Mexico began a joint effort to analyze and combat the problem of illegal child migration and to avoid possible bilateral tensions between the two countries. The duty of a government is to ensure the fulfillment of human rights which must be guaranteed for all the inhabitants of a country regardless of gender, origin, ethnicity or social class.

Chapter 1: The Migration of Unaccompanied Ecuadorian Children to the United States

1.1. Introduction

High-risk migration has been a part of Ecuador's social structure since 1960 as a result of economic, political and social conflicts the country has faced throughout its development. According to a study carried out by the Latin American Faculty of Social Sciences (FLACSO) directed by Adrián Bonilla and Mercedes Borrero, this migration increases significantly each year, placing Ecuador as the country of the Andean region with the highest influx of migrants. According to the table below, this increase can be verified from the year 1976 to the year 2007.

Table 1: Migrant Flow of Ecuadorians

	Period 1976-198							
	1976	1977	1978	1979	1980	1981	1982	1983
Entrance	920,0180	108,7190	125,0050	134,5280	146,2000	143,8750	112,9230	89,1620
Exit	117,3920	130,4721	147,8610	155,5300	160,6000	153,7300	119,4800	100,7100
Migratory balance	25,3740	21,7020	22,8560	21,0020	14,4000	9,8550	6,5570	11,5480
	Period 1984-1991							
	1984	1985	1986	1987	1988	1989	1990	1991
Entrance	100,949	112,091	130,994	143,585	128,747	14,607	157,667	172,252
Exit	115,262	134,249	152,989	160,525	155,836	17,228	181,206	198,132
Migratory balance	14,768	22,158	21,995	16,94	27,089	26,21	23,539	25,88
	Period 1992-1999							
	1992	1993	1994	1995	1996	1997	1998	1999
Entrance	190,37	204,709	232,346	237,366	244,756	289,692	234,26	294,547
Exit	216,27	235,392	269,695	270,512	274,536	320,623	274,995	385,655
Migratory balance	25,9	30,683	37,349	33,146	29,78	30,931	40,735	91,108
	Period 2000-2007							
	2000	2001	2002	2003	2004	2005	2006	2007
Entrance	344,052	423,737	461,396	456,295	536,779	598,722	656,309	752,684
Exit	519,974	562,067	626,611	581,401	606,494	660,799	740,833	795,083
Migratory balance	175,922	138,33	165,215	125,106	69,715	62,077	84,524	42,399

Source: Flacso- National Directorate of Migration Copyright 2008

By the year 2000 the country was facing the highest migratory flow in its history. This was caused by a strong economic crisis known as "Feriado Bancario." The Ecuadorian currency was devalued, deposits were frozen, and the country entered into an economic recession that greatly impacted the entire population.

Consequently, a high percentage of the population decided to seek better living conditions abroad. This study is reflected in Table 1, which presents data up until 2007. Although it

has not been possible to identify a current analysis of Ecuadorian migration from the last ten years, it is observed that this phenomenon is still latent in Ecuadorian society since remittances continue to be the second greatest source of national income in the country (Central Bank of Ecuador, 2016). According to *La Migración Internacional en Cifras (International Migration in Figures)*, in 2008 Spain registered a total of 46.9% of Ecuadorian emigrants, the United States 33.1% and Italy 9.4%. However, these figures have changed due to the economic crisis that has hit both Spain and Italy. As a result, many Ecuadorian migrants had to return to their country or migrate to the United States (Bonilla & Borrero, 2008).

The United States has been the preferred destination for the majority of Ecuadorian emigrants due to employment opportunities, high salaries, education and geographical location. The geographic location allows emigrants to travel by land, frequently hiring the services of “coyotes” or smugglers to guide them through Central American countries with the hope of successfully passing into the U.S.

In the beginning, migrants were older males and heads of households, who considering the difficulty of the journey, did not want to risk the lives and wellbeing of their families. However when women began to migrate with the men, children were abandoned and family structure altered. Consequently minors, living alone without the protection or provision of their families, also decided to travel ignorant of psychological and physical trauma of the journey (Bonilla & Borrero, 2008).

Table 2 demonstrates how the range of emigrants between 0-20 years increases significantly each year, inferring that parents, feeling the need to reunite with their families, are involving their children more in the migration process. This data reflects the year up until 2001. More current data must be collected in order to accurately justify the current growth of child migration

Table 2: Emigrants by Age Range and per Year

Age/Year	1996	1997	1998	1999	2000	2001	f.n.d	Total
Total 0-10	553	543	905	1942	2899	5033	721	12,606
Total 11-20	3,93	3,928	6,724	14,028	18,536	20,269	2,534	69,949
Total 21-30	7,579	7,701	14,612	35,201	46,664	40,947	4,644	157,348
Total 31-40	3,958	3,91	7,244	19,085	25,275	22,256	2,496	84,224
Total 41-50	1,342	1,327	2,476	6,325	8,69	8,799	928	29,887
Total 51-60	330	399	608	1,262	1,722	2,979	267	7,657
Total 61-70	126	116	192	298	397	1,25	91	2,47
More tan 70	65	84	105	202	280	779	64	1,579

Source: Flacso- National Directorate of Migration Copyright 2008

These are the daily experiences that many Ecuadorian children encounter, since Ecuador has not been able to negotiate a migratory policy of family reunification, nor create a greater awareness of its dangers. As a result, the experiences of the migrant children are more tragic than the dream of reuniting with their families. For this reason it is very difficult to analyze a specific case of this phenomenon and the position of the countries involved.

1.2. The Migration of Unaccompanied Ecuadorian Minors to the United States

Throughout the years, migration has been considered a key tool for the economic development of the most vulnerable and underdeveloped countries, states or communities. For this reason, this phenomenon is present throughout history as it relates to both destination and transit. Ecuador became a destination for migration in the year 1470 when the Incas from Peru colonized Ecuadorian indigenous peoples. They migrated in order to consolidate and expand their kingdom in South America, and Ecuador was a territory fit to fulfill this objective. Later, in 1543 the region of Ecuador faced a new wave of migration in the form of Spanish acquisition.

As a consequence of the migratory waves mentioned above, the indigenous population gradually faded and a new racial class “mestizaje” (people of mixed indigenous and Spanish decent) flourished. In the middle of the sixteenth and seventeenth century groups from Africa migrated as hired as labor for the construction of several buildings in Quito. Finally, these people expanded to the north of the country in what is now the province of Esmeraldas.

In the late nineteenth and early twentieth centuries during the cacao boom, Ecuador received a number of Lebanese, Syrian and Palestinian immigrants. According to a census that was conducted in the year 1890 in the city of Guayaquil, there were about 5,000 immigrants from these countries registered in Ecuador. In 1990 around 1,500 Lebanese lived in Quito with an influence so strong that two of the presidents who governed Ecuador and many of the country's best entrepreneurs are descended from this group of immigrants (Jokisch, 2007).

On the other hand, the emigration of Ecuadorians in this period of time was insignificant due to its economic prosperity. However, in the 90s when Ecuador took an economic turn for the worse many decided to migrate to new destinations such as Europe and the United States.

As Ecuadorians and other immigrants became an increasingly important part of the American workforce, they were granted legal permanent residency in the "The Immigration and Reform Control Act" of 1986 allowing families to settle in the United States (Jokisch, 2007).

Thus the influx of Ecuadorian migrants began to increase, but not all of them were given a permanent residence or visa to enter the country, and in turn many opted for illegal alternatives. Despite increased immigration controls at borders and legal entry increasingly more complicated to obtain, illegal migration has continued to grow. In 1999 alone, approximately 8,000 Ecuadorians were detained by the US Coast Guard (Jokisch, 2007).

The United States has always been the favorite destination for emigrants because it offers more opportunities for employment and economic growth. This can be seen in the number of remittances arriving in Ecuador. Unfortunately, this increased number of Ecuadorian immigrants has also increased the number of clandestine networks of the illegal trafficking of people.

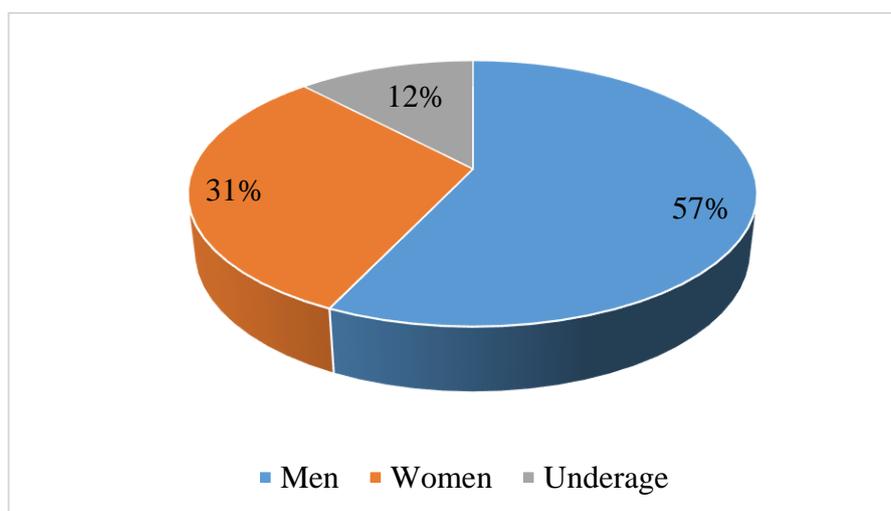
1.2.1 Ecuadorian Child Migrants

In Ecuador a person under the age of 18 is considered a minor, and consequently has special rights that guarantee and protect their life, and are not by law able to perform certain acts without the supervision of a legal representative. For this reason, minors in Ecuador are considered vulnerable and need special protection. The regulations that protect them are called the "Code of Childhood and Adolescence."

According to the Ministry of Foreign Affairs, Civil Registry and the Ministry of the Interior, minors are a protected group of the society on issues of human mobility, and therefore must meet certain requirements when leaving the country. However, this has not impeded the operation of clandestine networks of illegal trafficking of minors.

According to María Sol Corral, Consul of Ecuador in Mexico City, in the years 2013 (521 people), 2014 (611 people) and 2015 (522 people) a high percentage of Ecuadorian minors were identified within the total of migrants detained and repatriated (Corral, 2016). The above mentioned can be verified in the following graphs.

Graph 1: Ecuadorians Repatriated from Mexico in 2013

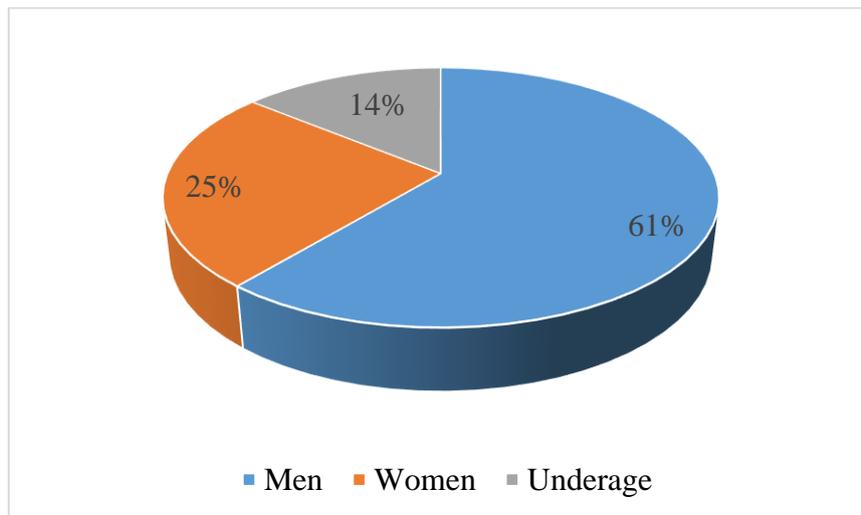


Source: Consulate of Ecuador in Mexico City

Realized by: Ordoñez, Marcela

As observed in the previous graph, in the year 2013 there were 61 children who were repatriated to Ecuador, 12% of the total number of Ecuadorians. Of these, 68% belonged to the province of Cañar, 19% to the province of Loja and 13% to the province of Imbabura.

Graph 2: Ecuadorians Repatriated from Mexico in 2014

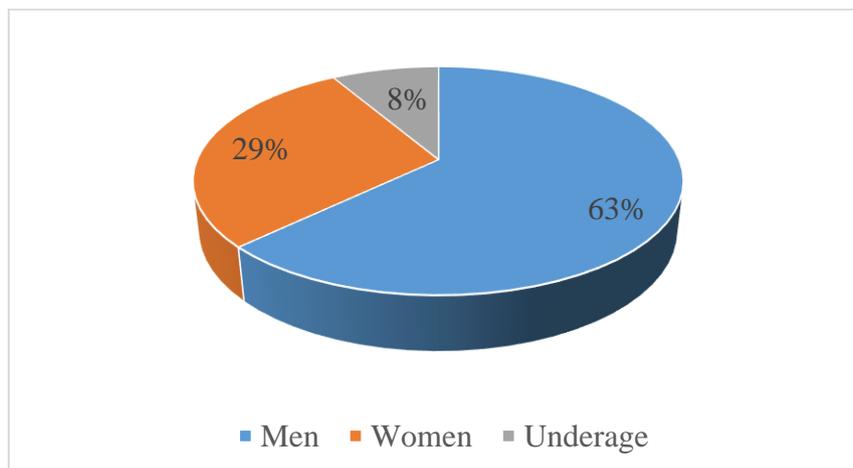


Source: Consulate of Ecuador in Mexico City

Realized by: Ordoñez, Marcela

According to Figure 2 in 2014, 72 children were repatriated to Ecuador, with an increase of 2% from the total number of Ecuadorians repatriated from the previous year. Of these 59% belonged to the province of Cañar, 23% to the province of Loja and 18% to the province of Imbabura.

Graph 3: Ecuadorians Repatriated from Mexico in 2015



Source: Consulate of Ecuador in Mexico City

Realized by: Ordoñez, Marcela

As demonstrated by the corresponding graph, in 2015, 8% of the total number of Ecuadorians repatriated were children, (44). This figure shows that it fell 6% compared

to 2014. Of these 52% belonged to the province of Imbabura, 36% to the province of Cañar and 12% to the province of Loja.

The migratory process leaves multiple traumas in victims which become obstacles for the normal development of a minor. This "violence by acceleration" occurs when minors act as responsible adults, losing the period of innocence and learning as a result of the responsibility they are forced to take on when they decide to migrate without understanding the abuse and danger which subsequently befall them. According to statistics presented in *Between Violence and Insensitivity*, 1 from 5 emigrants are underage (Alvarez & Guillot, 2012).

Children are completely unaware of the many dangers they face by taking the clandestine Ecuador-United States migratory route, the most dynamic and violent in the world. They endure hunger, psychological violence, sexual abuse, torture, abuse of power, human trafficking, drugs, child slavery, the danger of their organs being harvested and sold, disappearances and death; without any notice.

Furthermore, the trauma of the survivors generates violence and social alteration in the minor migrant's country of origin. Children who did not reach the goal of crossing to their desired country return with serious psychological problems, making them more prone to be part of social conflicts such as drug addictions, violence and delinquency. While, children who achieve their goal lose their identity and cultural roots.

1.2.1.1. Causes

Migration in minors is the result of adult migration since the motive for a child or adolescent to leave his or her country is based on three unique reasons: family reunification, desire for better lifestyle or escape from psychological, physical or sexual abuse. A child by himself is not fit to make a decision of that magnitude. Rather, it is the existence of relatives, friends or parents who induce them to migrate, without warning them of the real danger that cause these minors to undertake a journey that frequently has no return.

External factors also contribute: the situation of the Ecuadorian economy, the incapacity of national administration and the high level of corruption have all been key factor for Ecuadorians to choose migration in the hope of improving their lives.

Despite economic development, there has not been a significant decrease in migration as these programs have not been implemented according to the needs of migrants.

1.2.1.2. Consequences

The main consequences of migration are dysfunctional families that struggle daily with post-traumatic stress and thus disturb the normal development of their community. Likewise, all minors who face an illegal migration process have physical and psychological consequences regardless of whether they have reached their destination or not.

1.3. Legal Migration Process for Unaccompanied Ecuadorian Minors to the United States

Every Ecuadorian minor must comply with a series of requirements to begin a migration process. These begin with the issuance of a passport that is personally requested and is given by the Registry Civil of Ecuador. For the issuance of this personal travel document, the Civil Registry maintains the requirements that the Ministry of Foreign Affairs and Human Mobility mentions on its website and are as follows:

- Presence of the minor
- Original citizenship card of the minor, whose photograph must respond to the current physiology of that person.
- Presence of the father or mother, each with an original citizenship or identity card. In case of being nonresident, foreign parents should present the original copy of a valid passport; or for citizens admitted in Ecuador with the original document other than the passport.
- Free passport authorization form signed by parents and / or legal representatives.

In case of the absence of one of the parents:

- Special document or notarized authorization granting the passport to leave the country, or to obtain a passport; or,
- Judgment or judicial resolution that decides on parental authority (if applicable); or
- Father or mother death certificate.

With the passport and the power of exit of the country, minors can travel to any countries that do not require a visa.

1.4. Illegal Immigration Process for Unaccompanied Ecuadorian Minors to the United States

In order to enter the United States, all Ecuadorian citizens need a visa that validates their formal entry. Unfortunately due to U.S. policies many Ecuadorians don't receive authorization. This visa documentation is very difficult to obtain, much worse having a history of parents or relatives who have illegally migrated.

For this reason, people often request facilitators who illegally guide them to their desired country of immigration. When referring to an illegal trip to the United States, minors follow a process that is backed and directed by the "coyotes," smugglers who manage the illegal transit of people.

1.4.1. Interview with an Unaccompanied Illegal Migrant Minor

To obtain clear and accurate information on the illegal migration process faced by thousands of Ecuadorian minors, a minor who was part of this immigration procedure was interviewed.

The minor interviewee comes from an indigenous family from the community of Sisid, located in Ingapirca in the canton of Cañar. The name Maria will be used to safeguard her identity.

Maria tried to emigrate three times at the age of 13, 15 and 17 and in each attempt she paid large sums of money without obtaining results. Maria reports that on her first trip, the coyote offered her a false visa in exchange for USD 5,600.00 dollars, but when she arrived at José Joaquín de Olmedo Airport in the city of Guayaquil, They did not allow her to board her flight.

The second attempt she tried again to travel with a false visa, paying a similar fee to the same coyote, however, she was informed again that she had lost the flight and could no longer continue her journey.

María, still with the illusion of reuniting with her parents, tried to travel a third time and cross the Mexico-United States border. To begin the journey, María said that she needed to meet the following requirements:

- Passport and the documentation granted by her parents to leave the country.

- A payment of USD 13,000 to ensure her arrival to the country of destination, which was to be paid in different amounts. To start the trip, Maria's parents paid USD 6,000, when she arrived in Guatemala they had to pay \$1,000 in order for her to continue the journey to Mexico. Once she was in Mexico she had to pay another USD 3,000, finally when she arrived in the United States, she had to pay the rest of the balance.
- The coyote and her guides asked her to take a vitamin serum and different injections for hunger, dizziness, sleep, and an unnamed injection to function as a contraceptive.

After the injection of all these drugs and obtaining the required documents, María embarked on her journey. From Cuenca, she with several others with the same intent, took a taxi to Guayaquil. After several days she arrived at the first refuge, which cannot be identified. She stayed for two days eating only a little bread and some colada. For an entire week she rode on a bus traveling through Colombia.

Maria and the rest of the emigrants continued their trip to Honduras. There, they were divided into two groups and put into large trucks carrying shipments of goods. María said she began to feel terrified because the further they went the more people arrived and the living conditions became increasingly worse. After traveling in the trucks for more than two weeks they arrived in Nicaragua. With the increase of migratory surveillance, they exited the buses and had to walk on foot. Finally, after another bus they arrived in Honduras. Those in her group that could afford it took a plane with Maria to Guatemala, and those who didn't have the resources were put on "The Beast," one of the most dangerous trains in the world. Maria told the immigration security that she was visiting some friends, and had no problem boarding the plane.

Upon arriving in Guatemala, Maria was transferred to a house-hotel called "Piedras Negras" that belonged to one of the guides. Here, Maria and the rest of the group stayed for a full month in living conditions lacking water, food and light. In a second hotel in Guatemala Maria and her group were surprised by the sudden arrival of "the Zetas" which she believes were migration agents although she isn't sure. Regardless of age, Maria and the rest of her group were imprisoned, though soon after released. The journey continued by bus and on foot until they arrived in Coahuaila, Mexico. In Coahuaila she was found in by migration officers and taken a children's shelter along with other children from Colombia, Guatemala, Honduras and Ecuador. There she met other Ecuadorian minors, "Cristopher" a 13-year-old from Ambato and "Mayra" 15 from Azogues. María stayed at

the Lodge for 15 days. Throughout the entire journey, she was never once able to communicate with her grandparents in Ecuador or with her parents in the United States. Days later, Maria was deported to the city of Quito and was picked up by agents of the National Police Specialized Direction for Children and Adolescents (DINAPEN). She was taken to San Leonardo Murialdo Hostel to receive two months of physical and psychological treatment before being reincorporated into her community and reunited with her grandparents.

Despite the extreme hardships she experienced, María says that she would try again to reach the United States because her biggest dream is to be with her parents and have the legacy of a new life in the United States. Maria is currently waiting until she turns 18 so she can try again, regardless of the risk and difficulty.

In the interview with María, she clearly visualized the illegal immigration process that an Ecuadorian minor must face. This girl was very lucky not to lose her life or disappear during this ordeal.

1.5. Conclusion

Migration is a phenomenon that has existed for decades in different regions of the world. Ecuador is a country that has been most affected by this phenomenon because, as an underdeveloped country, citizens seek more opportunities for employment, health and education. Ecuador has established a series of requirements aimed at providing protection for citizens and preventing illegal migration from continuing. However, this has not sufficiently curbed the groups of smugglers invested in the illegal transit of people, including minors. Likewise, illegal migration has serious social, economic and political consequences. It can be observed that one of the causes of child migration is the desire for family unification that the parents of minors manifest. Children who have traveled and have not been able to reach their destination develop problems that directly affect their behavior in society, a product of the traumas experienced in that journey.

Likewise, minors who have arrived at their destination incur physical and psychological trauma which even time cannot erase.

Finally, migration must be analyzed in greater depth by the competent authorities of each country so that social and economic development projects can be proposed in those communities where illegal migration is normal. In this way, it is possible to prevent more children from believing that traveling to the United States is part of a tradition. They need to know that they have the opportunity and the right to develop freely in ordinance to public policies and actions aimed at their protection.

Chapter 2: Analysis of Ecuador and Mexico's Immigration Policy for Minors

2.1. Introduction

Each country is free and sovereign, creating its own policies to manage and resolve the issues related to migration. Among these include the management of entry and exit of people in each territory. The coinciding policies of Ecuador and Mexico will be analyzed to verify their success and application.

The immigration policies of Ecuador and Mexico are completely different. Ecuador's policy is open, allowing free entry for the majority of people in the world. Immigrants are considered to be important in the development of a society, and are therefore treated on equal terms to that of a national. On the other hand, Mexico has a closed migration policy, requiring a visa to enter in hopes of deterring illegal migration. In regard to the immigration policy of minors, the two countries have based regulations on respect for the fundamental rights of minors and have arranged a series of requirements for underage travelers in entering or leaving the country. However, these countries must take additional measures to combat the illegal migration of unaccompanied minors in both Ecuador, the country of exit, and Mexico, a transit country.

2.2. Analysis of Migration Policies for Minors

Giovanni Sartori defines the term *politics* as:

"An activity organized by systems with a clear totalitarian character, where a leader or a small group had control of society and imposed their criteria. Religious groups, monarchs, tyrants, or the military were the traditional structures that guided and regulated politics in a general sense. These modalities have not disappeared completely and continue to be the current model in many countries today" (Sartori, 2014).

A policy is born with the purpose of safeguarding the rights of the citizens in a certain place, and in this way, it hopes to achieve common good and social justice. When we analyze immigration policy, we refer to a policy which was established to defend, watch, assist and protect the rights of people facing any type of migration be it work, illness, tourism, family union etc. This policy does not exclude any kind of migrant, including irregular or illegal migrants (Sartori, 2014).

Migration is a phenomenon that occurs around the world; no region, country, state or community is excluded, with developed countries experiencing more of the phenomenon of illegal or irregular migration generally with displacements from the south to the north. Other countries are transit destinations or connections for irregular migration (United Nations, Migration, human rights and governance, 2015).

Migration policies in Ecuador and Mexico are managed in the same way as other policies, that is, autonomously and independently. Each state is able to establish its own limits with respect to the free transit of people within its own territory. There are countries that are completely open to the idea of free transit, Ecuador being one of them (United Nations, Migration, human rights and governance, 2015).

Ecuador conducts a free mobility and transit policy, believing that human mobility is an inherent condition of the human being. Other countries, however, are against this postulate and manage a completely closed and restrictive policy, such as the United States and certain countries of the European continent that block their borders and do not allow foreign citizens to enter freely. Consequently, these policies generate a flow of illegal or irregular migrants (a term used for those who violate the immigration laws of other countries) (United Nations, Migration, human rights and governance, 2015).

In spite of the disparity of political ideas regarding immigration, all the migratory policies were created with a common purpose: to protect citizens and to enforce their rights.

Immigration policies strive to protect all the citizens of that country including one of the most vulnerable groups, minors. Some years ago, children were not considered to be as important in the migratory dilemma as they are today. Now, thankfully, illegal child trafficking is a global concern. It is clear that the importance given this issue by the government authorities is a consequence of the humanitarian crisis.

However, it is a problem that, as of yet, has no definite solution. This is due in part to the fact that countries have not been able to jointly manage policies to improve this ever-increasing phenomenon. Governments should focus on finding solutions to this problem by implementing a comprehensive migration policy aligned with existing migration programs and laws rather than with momentary political crises and diplomatic pressure (United Nations, Migration, Human Rights and Governance, 2015).

Human rights groups have attempted to take measures that directly affect illegal child migration, but by not conducting an in-depth comprehensive analysis of the affected countries, their solutions are not effective. Migration policies on the illegal migration of minors should be based directly on the fact that no minor would leave their country for any other purpose than to join their family.

2.2.1 Analysis of the Ecuadorian Immigration Policy for Minors

Ecuador from its beginnings has been a country that based its migration policy on an open ideology that allows different citizens of the world to enter and leave the country without inconvenience. In terms of migration, Ecuador is one of the few countries that acts as an emitter and a receiver. It has a large number of emigrants in different countries while also is known as one of the countries in Latin America that hosts the most refugees.

Ecuador conducts this kind of policy because it considers human mobility as an inherent human right, and “any contrary practice or attempt to minimize the rights of persons in mobility should be rejected from any point of view” (Peña, 2017).

Concerning human mobility, the constitution of Ecuador states in Articles 391 and 392 that:

- Art. 391.- The State shall generate and implement demographic policies that contribute to a balanced territorial and intergenerational development and guarantee the protection of the environment and the security of the population, within the framework of respect for self-determination of people and diversity (Constituent Assembly of Ecuador, 2008).
- Art. 392.- The State shall ensure the rights of persons with human mobility and shall exercise the remit of migration policy through the competent body in coordination with the different levels of government. The State shall design, adopt, implement and evaluate policies, plans, programs and projects, and coordinate the action of its agencies with that

of other States and civil society organizations working on human mobility at national and international levels. (Constituent Assembly of Ecuador, 2008).

Articles 391 and 392 essentially invalidate the word *illegal* in respect to human mobility as they clearly state that before the law all the citizens are equal. This policy also regulates the entrance, transit, residency and exit of the country, as well as the requirements necessary to obtain a temporary or permanent visa. Furthermore, it legalizes the ability to obtain protection from the Ecuadorian State, as well as allows for the right of the foreigners to obtain one of eight different migratory visas with equal conditions to have access to: social security, healthcare and education. (Undersecretariat of Migration and Consular Relations, 2007).

According to data obtained by the Ministry of Foreign Affairs, the foreign population that resides in the country is a total of 2.3% relating to the total of the Ecuadorian population and come from countries such as Venezuela, Cuba, Haiti, the United States, Peru, Spain, Colombia and others. Ecuador's immigration policy is based on a series of principles that safeguard the stability of its citizens both within Ecuadorian territory and around the world. These include all people, including the most vulnerable groups, and among them, minors who are more often victims of exploitation. The principles governing the Child Immigration Policy are the following:

1. Unrestricted respect for human rights 2. Shared responsibility 3. Consistency 4. Co-development 5. Right to migrate 6. Regulation of migratory flow

- *Unrestricted respect for human rights*

Since the Citizens' Revolution, which ended in 1912, human rights, international migration and development have been priorities of the Ecuadorian State. From these principles, policies such as the National Plan for Foreign Policy 2006-2020, the National Plan for Social, Productive and Environmental Development (PALESPE 2007-2010), and the Governmental Agenda on Migration and Development (Undersecretariat of Migration and Consular Relations, 2007) have been developed.

Ecuador, as an active participant in the international community, has promoted, participated and supported the adoption of recognized multilateral and bilateral commitments on migration, human rights and development issues. This was ratified at the XVI Ibero-American Summit of Heads of State and Government (Montevideo, November 4 and 5, 2006), where it was made imperative to protect and guarantee the human rights of migrants in the legal framework of each state, regardless of their status migration, ethnic origin, gender, age and nationality through immigration policy (Undersecretariat of Migration and Consular Relations, 2007).

On the other hand, at the VI South American Conference on Migration held in May 2006 in Asuncion, Paraguay, the Ecuadorian State committed itself to unrestrictedly respect the human rights of migrants, especially migrant women and unaccompanied minors, regardless of their immigration status. Within the legal framework of each country, and in accordance with universal principles, international and regional methods presented for the protection of all people. The conference also called on countries of the region, and other regions of the world, to consider signing, ratifying and / or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Undersecretariat for Migration and Consular Relations, 2007).

Shared Responsibility

The Ecuadorian foreign policy on migratory issues is based on the principle of shared responsibility between countries of origin, transit and destination as a means of resolving conflicts and taking action to combat smuggling of migrants and trafficking. The Foreign Ministry has taken steps to regularize its citizens abroad as well as foreigners with neighboring countries. For this reason, the Regularization Agreement with Peru came into effect (Subsecretaría de Relaciones Migratorias y Consular, 2007).

Principle of Coherence

The principle of coherence establishes that the country must guarantee its immigrants the same rights as its emigrants (Undersecretariat of Migratory and Consular Relations, 2007).

The Principle of Co-development

Ecuador has signed multiple projects that promote the principle of co-development and has focused on regions with the highest number of migrants with cultural differences. In the city of Cañar, the Cañar-Murcia Codesarrollo Project was signed, a pilot experience promoted by the Spanish Agency of International Cooperation (AECI) and the Undersecretariat of Migratory and Consular Relations of the Ministry of Foreign Affairs. The Provincial Council, the Municipality of Cañar and the Government of the Autonomous Community of the Region of Murcia also participated. This project was carried out with the objective of addressing the issues that migrations have within the province and thus improve the quality of life in migrants of origin (Cañar - Ecuador) and destination (Murcia - Spain).

This project presented three main points of action:

1. The integral improvement of living conditions and development possibilities in Cañar;
2. The development of projects to improve living conditions and the socio-labor reinsertion of immigrants in Murcia;
3. Enabling co-development work between both localities.

(Undersecretaries of Migration and Consular Relations, 2007).

However, despite the efforts of Ecuador and Spain to improve the situation, there are currently no well-structured projects based on comprehensive studies of the exact issues in order to successfully deal with these issues.

The Right to Migrate

In a world that is constantly evolving and a society that requires integration with other cultures and people, there must be free movement of people, goods, services and capital. The regularization of migrant benefits both the countries of origin and destination is important because it brings about development and respect for human rights (Undersecretaries of Migration and Consular Relations, 2007).

Regulation of Migratory Flows

The principle of regulation of migratory flows is a mechanism that enables legal, safe and orderly migration in the countries of destination that are normally listed as developed countries. Generally, countries that require labor to work in agricultural, livestock and production sectors are not occupied by their nationals. In addition to generating development in these sectors, it is essential to allow family reunification.

Ecuador has developed several conventions on migratory regulations, including the Regulation of Migratory Flows signed in countries, including Spain in May 2001, and as a result, has allowed many Ecuadorians to travel legally, protected by social security, and with the same guarantees of a citizen in that country (Undersecretaries of Migratory and Consular Relations, 2007).

This agreement also established the National Plan of Ecuadorians Abroad. This plan is considered to be the basis for the treatment of the migratory problem in a global context because it guarantees the fulfillment of the rights of citizens in any country. In addition, it generates aid to its relatives, establishes agreements with the receiving countries, facilitates family reunification, develops programs to regularize migratory documents, produces new agreements to combat human trafficking,, facilitates the productive investment of its savings in the national territory and promotes dynamic reincorporation in national development (Undersecretaries of Migratory and Consular Relations, 2007).

According to the undersecretary of migration and consular relations, the National Plan for Ecuadorians Abroad has been constituted on the following grounds:

1. To establish the presence of the National State in order to guarantee the validity of the fundamental rights of Ecuadorian emigrants abroad, to give the option of fully organizing their residence abroad under conditions of regularity, both in terms of their economic activity of survival as well as in relation to the process of positive integration in the receiving environment.
2. The Government of Ecuador, in accordance with its plans for social development and in collaboration with civil society and international technical cooperation agencies, will

present its competition for the preferential attention Ecuadorian families who emigrated abroad.

3. To strengthen its links with the receiving states of Ecuadorian emigrants, with the aim of developing coordinated and joint actions to design and implement programs in favor of communities of origin and destination.

(Under secretariat of Migration and Consular Relations, 2007).

2.2.2. Analysis of the Mexican Immigration Policy for Minors

Due to its border with the United States, Guatemala and Belize, Mexico faces the issue of the illegal migration of women and children on a much larger scale, making it a country of expulsion, transit, reception and return. According to data obtained by the International Organization of Migration (IOM), about 12.2 million immigrants pass the United States-Mexico migration corridor each year, facing multiple human rights violations (BBC Mundo, 2015).

All of these victims of illegal migration have become an essential part of several lucrative illegal businesses such as, co-operation and the trafficking of people, drugs and organs. In addition, immigrants face marked discrimination and xenophobia. As a result Mexico has implemented a rigid migration policy based on following principles:

Congruence

The Mexican State guarantees the fulfillment of the rights of its citizens abroad, admission, stay, transit or deportation of foreigners in Mexico. In addition, it guarantees the unrestricted respect of the human rights of migrants regardless of their migratory situation and with special attention to the most vulnerable groups including: minors, women, indigenous people, adolescents and the elderly (Sánchez Meneses, 2013).

Complementarity

It guarantees correct labor migration according to the places of labor in countries of the region. (Sánchez Meneses, 2013)

Equity

It ensures equity for both nationals and foreigners as regulated by the Political Constitution of the Mexican States (Sánchez Meneses, 2013). In addition, it promotes compliance with fundamental rights such as access to education, health, social security and justice that benefit migrants regardless of their migratory status.

On the other hand, Mexico has introduced stricter controls to stop the influx of migrants and prevent them from reaching the United States border. One of these measures is to establish a visa and residence policy where most foreigners require a visa in order to enter Mexican territory. According to the Mexican National Immigration Institute, only foreigners with the following profile are exempt from a visa:

- ✓ Document proving permanent residence in Canada, the United States of America, Japan, the United Kingdom of Great Britain and Northern Ireland, or any of the countries that make up the Schengen Area.
- ✓ Valid Visa of the United States of America.
- ✓ APEC Business Traveler Card (ABTC) approved by Mexico
- ✓ Certificate that accredits you as a member of the crew of the aircraft on which you are aboard.
- ✓ Book of sea, if you are a member of a boat crew that arrives to a Mexican port on an international voyage. If the crew member arrives via an area to join a ship in a national port, he / she must submit the data of the vessel and the Mexican port in which the vessel is located.

Despite the different measures taken by Mexico to prevent illegal migration, it has forgotten to create measures that protect and fulfill the rights of migrants. Of course, Mexico has previously signed agreements that seek to benefit migrants, however, the clauses were handled and controlled by the United States. Among these agreements was the first Agreement of Braceros signed on August 4, 1942, which was an agreement by the US Employment and Agricultural Commission created as a result of the pressure exerted by farmers in New Mexico, Arizona, Texas, and California. Its purpose was to investigate the real possibilities of the importation of a Mexican labor force (Roldán Dávila, 2012). In the 1970s, Mexicans saw an urgent need to establish programs to obtain information from Mexicans abroad, and with the help of the Secretariats of Public

Education, Foreign Affairs, Labor and the National Population Council, the first approaches were made with the children of migrants in the United States (Roldán Davila, 2012).

However, what Mexicans really needed were real solutions from the government, and in the late 1980s a more structured and firm management began for the benefit of both migrants in transit and Mexican migrants residing in the United States. All these actions were taken from an increase in the following actions that can be seen in the following excerpts from the *Mexican Migratory Policy Book*:

"The importance of remittances in the Mexican economy, the high increase in migration flows in Mexicans, the political actions of migrant and pro-migrant non-governmental organizations in Mexico and the United States, the demand for protection and defense of their rights, The sharpening of anti-immigration policy in the United States, the institutionalization of the relationship between Mexico and the United States through the Free Trade Agreement gave another connotation to the bilateral relationship and particularly to the issue of migration, the debate on the process of trade and financial integration with the United States, focused a great deal on the issue of migration "(Roldán Davila, 2012).

These, and many other reasons, allowed for the implementation of programs for the benefit of migrants such as, the Paisano Program in 1989, the program for Mexican Communities Abroad (PCME) and Pronasol (International Solidarity) in 1990. All of these programs shared the common goal of supporting Mexican migrant's residents in the United States. The operation of the Working Group on Migration and Consular Affairs is an example of the Binational Commission (Roldán Dávila, 2012).

In 1993 the Mexican-American migration was analyzed, and in 1994 the State Offices of Attention to Orientals initiated activities to welcome migrants. Later, the National Human Rights Commission presented four reports on the migratory issue, two of which studied human rights violations of Mexican migrant workers in their transit to the northern border.

In 1993 a report on Mexican minors repatriated from the United States was analyzed, in 1995 on the human rights violation of the immigrants on the south border, and in 1998 the Law of No Loss of Mexican Nationality was instituted. In 2001 the creation of the

Presidential Office for the Care of Mexican Migrants Abroad was put into effect, and the North Border Affairs Commission was created on the northern border (Roldán Dávila, 2012).

In 2003 the Presidential Office for Migrant Care disappeared and the first Consultative Council of the Institute of Mexicans Abroad was born. In addition, efforts have been added from municipal plans with projects for the productive investment of remittances and plans to return home (Roldán Dávila, 2012).

According to the Mexican Secretariat of the Interior of the United States research on this issue has continued in order to obtain real solutions. On April 30, 2013 a special migration program in the Official Federal Gazette (DOF) was put into effect and will remain active until the year 2018. This program contains 26 strategies, 5 objectives, 195 lines of action and 11 indicators. In addition, the Ministry of the Interior of Mexican States reports that:

"The Special Migration Program monitors and guarantees the participation of the three State orders for specific actions on migration issues, and consolidates the effort that the government and civil society have drawn together to promote, monitor and evaluate the coordination and institutional coherence for the integral attention to the migratory phenomenon in Mexico as country of origin, transit, destiny and return of migrants" (Secretary of the Interior United Mexican States, 2015). A large amount of research was conducted with respect to public opinion through workshops, online consultations, and citizen forums abroad with participating migrants before putting the program into effect.

As a result, around 2,000 proposals were received from 900 participants; all were considered in the creation of the Special Migration Program. Among the proposals received was a visa policy for legal entry into Mexico and a system of deportation and immediate return to the country of origin for all illegal migrants (Secretary of the Interior United Mexican States, 2015).

These regulations were implemented for all people including minors. The issue of deportation and return to the country of origin is a policy too severe in reference to children and adolescents. The United Nations has expressed concern about the implementation of this rigid migration policy given the alarming number of children deported. According to reports by the UN special rapporteur on torture and other cruelty,

between 2014 and 2015, about 305,403 people were deported, of which 2,085 were from South and Central America (Nation, 2017). Minors who are deported have little or no chance of receiving asylum, many are detained indefinitely and because of their conditions, rather than waiting for asylum, they ask to be deported to their country of origin. Less than 1% of all children receive asylum in Mexico (Nation, 2017).

In addition, this immigration policy recognizes minors according to the following conditions:

- Minor migrants in transit: minors who only seek to cross the border and can be alone or accompanied.
- Transboundary minors: minors who have experienced constant displacement at the border or as part of their cultural dynamics, *modus vivendi*, often working as guides for border crossing.
- Minor returnees: minors who, when crossing the border between Mexico and the United States, are detained by US authorities and deported to their country of origin.
- Border minors: These are minors who have been eradicated temporarily or permanently (Olvera García, Montaya Arce, & Gonzales Becerril, 2014).

Mexican migration policy does not present a strategic plan on the subject of migrant minors, and it remains an issue that must be developed with priority given the fact that the flow of children traveling unaccompanied continues to increase. The World Summit for Children mentions with concern that, "the children of the world are innocent, vulnerable and dependent" (Olvera García, Montaya Arce, & Gonzales Becerril, 2014).

Although Mexico is known as a transnational state for its willingness to grant rights and policies in favor of migrants, in reality the treatment received by these people is very contrary to what is promised, and despite the implementation of strategies so restrictive for the transit of people, the rates of migrants has not declined. The number of Ecuadorian migrants who decide to travel irregularly to the United States have doubled, violating the law that they cannot enter without a visa to Mexico and/or the United States.

For this reason, it is evident that an increase in restrictive measures for entering countries does not decrease the number of migrants, but on the contrary allows networks in the illegal transit of people to increase and profit more, while migrants face more risks.

2.3. Conclusion

The immigration policy of a country tries to maintain and enforce the rights of all citizens arriving in its territory, including minors as a priority group. However, a restrictive policy only aggravates the difficult condition of migration since citizens who cannot obtain a document of entry to the country must seek out illegal migration services consequently leading to an increase of crime that violates human rights and alters relationships between states.

Therefore, in the case of Mexico and Ecuador, there should be a migration policy of reciprocity, in which Mexico allows the free entry of Ecuadorians and are therefore able to keep a registry that verifies the activity that Ecuadorians are carrying out in this state. This would largely combat the transit network of people in an irregular manner and ensure compliance with fundamental human rights.

Chapter 3: Case Analysis of Jahoselin Nohemí Álvarez Quillay from Canton El Tambo

3.1. Introduction

The canton El Tambo in the Cañar Province has been one of the sectors hit hardest by the migratory phenomenon that affects its population. For some years, minors have also joined this shift, generating several social problems that tend to be ignored.

Among these is the case of a girl named Jahoselin Nohemí Álvarez Quillay who came from El Rosario, which is in the canton El Tambo. This case has generated controversy at an international level as it clearly reveals the violation of human rights in the testimony of a child who, in trying to cross the US-Mexico border illegally and unaccompanied, lost her life.

The international community (CI) asked Ecuador and Mexico to investigate this case and punish those involved. Thanks to the joint work of both countries, the objectives of the IC were achieved. However, the illegal migration of minors continues to affect El Tambo every day generating greater problems within society that if not addressed in time, will lead to consequences that will affect Ecuador's future generations.

3.2. Social Analysis of the Risks of Child Migration in El Tambo

Migration negatively affects the Province of Cañar on a large scale, especially the canton El Tambo. This is affirmed by Dr. Jenny Vázquez, the prosecutor of El Tambo. This phenomenon is caused by a lack of employment, leading the inhabitants to leave their crops and migrate in order to support their families.

Recently, new social disadvantages have been encountered, among these problems is the incorrect structuring of the family group, given that in each family at least one member is an emigrant. El Telégrafo newspaper recognizes this phenomenon as 'Huerfanos a la Fuerza', a drama about the Cañari people, in which minors grow up with a mistaken image of family and absences of parents is normal (The Telegraph, 2011).

The migration of minors has brought a series of social disadvantages that are activated by the lack of authority in the family unit and have allowed children to grow up often exhibiting extreme and sometimes violent behavior due to their parents' abandonment.

3.2.1. Consequences of Child Migration in Society

In El Tambo, groups of adolescents who feel identified by the abandonment of their families, have started gangs that execute crime with armed force. According to the prosecutor of El Tambo, the majority of these adolescents have migrant parents, were migrants imprisoned at the border, or they are minors who lived in the United States.

These minors have been accustomed to, and therefore develop easily, irregular behavior such as robbery, rape, murder and armed crimes. Traumatic conditions faced by minors who fail to cross the border also aggravate the situation, as they often violently express their frustration. It has been observed in different educational institutions that month after month there are fewer students in the classroom as more frustrated and abandoned children decide to emigrate.

Many of them manage to reach the United States, and others are repatriated. When they return to their home country, they often adopt a completely aggressive behavior with the other students, teachers and society in general as a result of frustration.

Furthermore, when the migrants return to live with their children who they abandoned at an early age, the children suffer several traumas because they have not been prepared psychologically to be reunited with a family they do not know. This only serves to exacerbate the situation and their abnormal behavior.

The consumption of narcotics such as alcohol and drugs are increasing, causing the society of El Tambo to develop slowly because young people are not investing their time in self-cultivation. Another social problem in this canton is the lack of identity that exists. As mentioned, most of the population is indigenous, and as a product of migration, they have begun to adopt behavior that does not contribute positively to their development. The cultural identity of this province has been transformed in aspects of dress, language and tradition.

Consequently, there is an invaluable loss of the culture that identifies these people. A poor understanding of finances and investment is another problem. While it is true that each person should be free to spend their money on what they consider important, it would be very helpful if there were development programs that helped to better invest in remittances.

With dysfunctional families, many of the children are neglected and become easy prey for trafficking. Many girls in this area have disappeared and been taken to work as domestic servants in places like Chile and Argentina and, in most of the cases, are never seen again. Likewise, minors disappear and are used as drug traffickers, workers and employees in other countries. Tragically, because the people from this region are indigenous and living in vulnerable conditions, many of these cases are not known to the public (El Telégrafo, 2011).

These are some of the consequences of illegal migration in this canton. As a contribution to what has been discussed, a survey was carried out to the students of El Tambo National College where the majority have been direct or indirect victims of this phenomenon.

3.2.2. Survey Applied to the Students of El Tambo National School (institution where Jahoselin Nohemí Álvarez Quillay began her first years of study)

The survey was carried out on May 22 and 23, 2017 with the help of the rectors Lcdo. Leonardo Verdugo and Lcda. Nube Chogllo, director of the DECE department.

The total number of students enrolled in El Tambo National School is 988 including both day and night class schedules. Lcdo. Verdugo was able to say that in previous years the school consisted of about 1,500 students, but most of them have emigrated.

This survey was carried out to a total of 645 students since the other students were absent for extra-curricular activities. Although the survey is made up of simple questions, it generates relevant information on how migration affects students daily.

The following is the survey that was conducted at El Tambo National School:

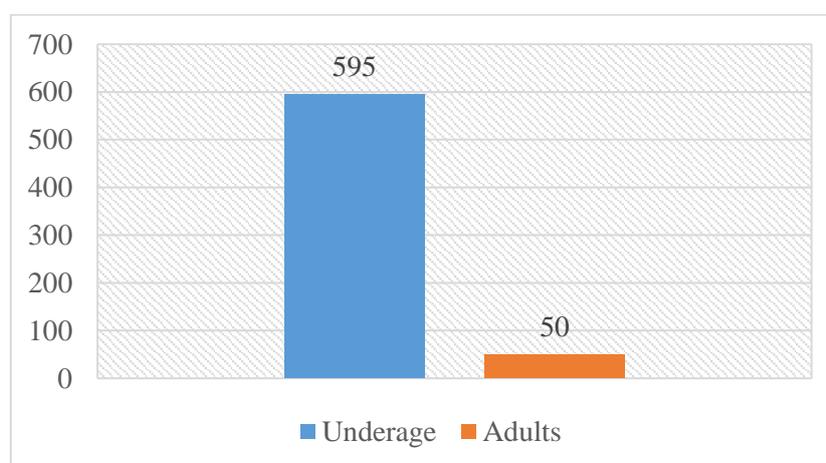
Survey
Objective -----
Age: -----
Degree or course: -----
Parallel: -----
1. Are any of your parents in the United States? Yes..... No.....
2. Who do you live with? Grandparents Neighbors ----- Uncles/aunts..... Cousins..... Alone ----- Other -----
3. Do you know your parents? Yes No.....
4. Have you ever tried to travel to the United States? Yes..... No..... If yes, please answer the following: How many times have you tried to travel? Date of last attempt.....
5. Have you had contact with anyone who has offered you travel services to the United States? Yes No.....

6. Do you think that migration is positive or negative for the development of society?

3.2.2.1. Results

The survey was carried out on a total of 645 students from both the day and night class schedule. Among the students were both adults and minors. The following graph shows the percentage of students belonging to the variables of age:

Graph 4: Students Surveyed at El Tambo National School



Source: El Tambo National School Survey

Realized by: Ordoñez, Marcela

As we can see in Graph 5, there are 645 students who were surveyed, of whom 595 are minors and 50 are adults.

Demonstrated below are the answers from question one, which was "Are any of your parents in the United States?" And had the following variables as answers: "Yes" and "No.

Table 3: Parents of Students in the US

Surveyed	Yes	No	No answer	Total
Underage	70%	29%	1%	100%
Adults	20%	78%	2%	100%

Source: Colegio Nacional El Tambo Survey

Realized by: Ordoñez, Marcela

Table 3 shows that of the total number of minors surveyed, 70% have at least one of their parents in the United States, while only 29% do not have parents in the US. On the other hand, among the adults surveyed, it can be observed that only 20% have parents in the US, while the remaining 78% have parents in the country. Finally, 1% of minors and 2% of the adults did not respond to the question.

The second question aimed to find out with whom the students currently live. The question was, "With whom do you live?" And had the following variables: "grandparents," "neighbors," "uncles," "cousins," "alone" and "other."

Table 4: Who do You Live With?

	Underage	Adults
Grandparents	17,1%	12,0%
Neighbors	0,2%	0,0%
Uncle/Aunt	6,2%	2,0%
Cousins	0,7%	0,0%
Alone	1,2%	20,0%
Others	59,3%	60,0%
No answers	15,3%	6,0%
Total	100,0%	100,0%

Source: Colegio Nacional El Tambo Survey

Realized by: Ordoñez, Marcela

In Table 4 it can be verified that of the total number of minors surveyed, 17.1% live with their grandparents, 0.2% live with their neighbors, 6.2% with their uncles/aunts, 0.7% with their cousins, 1.2% live alone, 59.3% with others and 15.3% left the answer blank. On the other hand, among the adults surveyed, 12.1% live with their grandparents, 0.0% live with their neighbors, 2% with their uncles, 0% with their cousins, 20% live alone, 60% with others and 6.0% left the answer blank.

The third question aims to verify if the majority of respondents know their parents. The question asked was, "Do you know your parents?" The following variables were possible answers: "Yes" or "No." The following results were obtained: Table 5: Do you know your parents?

Table 5: Do You Know Your Parents?

	Yes	No	No answer	Total
Underage	80%	14,0%	5%	100%
Adults	86%	12,00%	2%	100%

Source: Colegio Nacional El Tambo Survey

Realized by: Ordoñez, Marcela

In Table 5 it can be verified that of the total number of minors surveyed, 80% know their parents, 14% do not know their parents and 5% preferred not to answer. Among the adults surveyed, it is observed that 86% know their parents, 12% do not know their parents and 2% didn't respond.

In order to obtain results for the number of children who have tried to travel to the United States, the following question was asked: "have you traveled to the United States?" "Yes" and "No" were variables. The results can be visualized in the following table.

Table 6: Have You Tried to Travel to the United States?

	Yes	No	No answer	Total
Underage	11%	89%	1%	100%
Adults	20%	80%		100%

Source: Colegio Nacional El Tambo Survey

Realized by: Ordoñez, Marcela

In Table 6 it can be verified that 11% of children surveyed have tried to travel to the United States, 89% have attempted and 1% didn't respond. Among the adults surveyed, it is observed that 20% have tried to travel to the United States and 80% have not tried to travel to the United States. According to the surveys, children who have attempted to travel to the US, have tried on average twice. The average date of the last attempt was 3-4 years ago.

To find out if there is contact between minors and illegal transit services, the following question was asked: "Have you had contact with anyone who has offered you travel services to the United States?" The following answers were variables: "Yes" and "No." The results can be seen in the following table.

Table 7: Have you had Contact with someone who has Offered You Travel Services to the United States?

	Yes	No	No answer	Total
Underage	18%	76%	6%	100%
Adults	50%	50%		100%

Source: Colegio Nacional El Tambo Survey

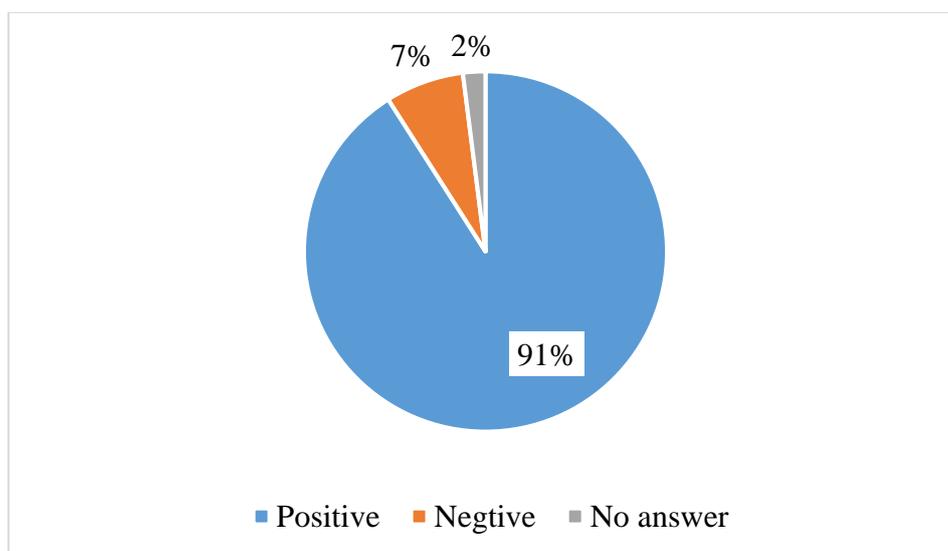
Realized by: Ordoñez, Marcela

Table 7 shows that 18% of the surveyed students had contact with someone who offered services to travel to the United States, 76% had no contact and 6% didn't respond. Among

the adults surveyed, it is observed that 50% have had contact with someone who has offered services to travel to the US and 50% have not.

Finally, in question six, respondents were asked to give an opinion on this phenomenon. The question was: “Do you think that migration is positive or negative for the social or economic development of society? Why?” The answers obtained are mostly synthesized in the following graph.

Graph 5: Opinion about the Migration



Source: Colegio Nacional El Tambo Survey

Realized by: Ordoñez, Marcela

This was an open question option for students to give their positive or negative opinion on migration. 91% of the students stated that migration is completely positive because in this way they can obtain better benefits in education, employment and living conditions. They also stated that if it were negative, their parents or relatives would not have decided to travel and settle in the United States.

On the other hand, the remaining 7% consider migration to be negative because the journey involved is high-risk and dangerous, and if they fail, they often lose a lot of money and can even lose their lives. Respondents repeatedly use the term "migra" which refers to border police or organized groups that often abuse and violate human rights.

A small number of students recognize that migration is negative because the country, family and community are abandoned. For this reason, it can be perceived that the desire of the majority is to be able to graduate from the school, to become adults and to embark on their journey. Furthermore, it can be observed that most students are unaware of the risks they would face on such a tumultuous trip; many do not even know the distance or location of the countries they want to reach.

In addition, very few students consider studying at university as an alternative in overcoming their situation. Their answers indicate that employment opportunities are few, and that what they could earn in the United States would be greater. With the data obtained through this survey it was possible to verify that the migration of minors is a latent problem in El Tambo and that if the country does not begin to implement measures to reduce its levels in the future, there will be serious conflict as a consequence.

El Tambo National School was chosen because it was where Jahoselin Noemi Alvarez Quillay was educated, which will be analyzed later. At the time of conducting the survey, absence of family and personal identity in the students could be noted. Teachers and school officials commented that it is difficult to work with students because they do not have support from their parents, which makes them less responsible in completing their homework. There are students who simply stop attending classes and over time it is later discovered that they embarked on a journey to the United States, some arriving, others disappearing, and some even losing their lives.

3.3. Chronological Writing of the Case of Jahoselin Noemi Alvarez Quillay

The irregular migration of Ecuadorian minors has brought a series of irreversible consequences to the country in the form of the death and disappearance of victims. Among these is the case of Jahoselin Noemi Alvarez Quillay, a minor who lost her life in a hostel located in the city of Juárez, Mexico, on March 11, 2014.

This case will be analyzed with data obtained from the prosecutor's office in El Tambo, through a document called "Judicial Actions" that recorded the case until its finalization.

Jahoselin Noemi Alvarez Quillay was a 12-year-old girl from the El Rosario community of El Tambo, in the province of Cañar. She lived with her grandparents Cipriano Quillay and Jesus Guaman, and her cousin Sara Quillay.

Jahoselin Noemi Alvarez Quillay will correspond to the initials of J.N.A.Q. in respect to her memory and dignity. J.N.A.Q. did not know her parents given to the fact that they migrated to the United States when she was only 7 months old. Her parents respond to the names of Jose Alvarez and Martha Quillay. J.N.A.Q. lived in the home of her grandparents and longed to be reunited with her parents. However, since they were irregular migrants in the United States, the option of getting a visa was impossible.

For this reason, her parents with the same desire to be reunited with their daughter, decided to hire the services of “coyotes,” a group dedicated to the field of illegal migration. Through this means J.N.A.Q. undertook her first illegal trip at the age of nine, but only managed to reach Colombia where the Colombian border police deported her back to Ecuador. After that first experience, J.N.A.Q. was no longer the cheerful girl she used to be, given to the multiple traumas she experience during her trip and the frustration she felt for not being able to fulfill the dream of being reunited with her parents.

Regardless of the first failure, the family decided to try again 3 years later when J.N.A.Q. was 12 years old. With much insistence on the part of her parents she made a second attempt, this time forced, since she no longer wanted to face the traumas related to the migratory journey.

Her parents hired the services of Mr. R.C.H., a man J.N.A.Q. already know. He provided illegal documents to the people in the community and gave her a false passport with the name "Jocelyn Alvarez Barzena." He communicated frequently with her grandparents to coordinate places and dates of travel; the payments for his services were made directly by J.N.A.Q.'s parents.

J.N.A.Q. began her second attempt on February 4, 2014 from the central park of El Tambo where she boarded a bus called Santa, along with her guide, an unidentified man. Although she had refused to travel and even asked her grandparents to keep her from

leaving, the pressure from her parents was so great that they felt that they had no choice. This was stated by the aforementioned documentation of the case.

In mid-February, Jose Alvarez Quillay the father of J.N.A.Q., received a telephone call from a "coyote" who informed him that his daughter had just arrived in Guatemala and was staying at the Hotel Escorial, and that he needed to make a transfer of USD 3,000.00 into the account of Mr. A.L.L. or his wife Mrs. G.M.D.

This same amount was requested again in order to transport J.N.A.Q. across the border in car and by foot. Jose Alvarez Quillay made the corresponding deposits and at the end of February received another call from Mr. A.L.L. informing him that the girl was in Mexico and that another transfer of USD 1,500.00 dollars needed to be deposited.

On the same day he received another call requesting the transfer to be made to Mexican account instead of Ecuadorian.

Immediately Jose Alvarez Quillay acquiesced only to receive another call from a man identified as "Alejandro," who asked him to make a deposit of USD 1,500.00 in order for his daughter to continue the trip by car, however; he didn't have sufficient funds to make a second transfer.

That same day "Alejandro" gave him a number with which he could use to communicate with his daughter and she confirmed that she was well. In the beginning of March, the parents received another call informing them that J.N.A.Q was still in Mexico and that in five or six days they would be reunited, but that first, they had to make a deposit of USD 3,000.00 dollars in order to cross the border into the US. However, Jose Alvarez agreed to make the deposit only when he was sure that his daughter had reached Arizona safely.

Days later he received another call informing him that J.N.A.Q. was already in the United States and that he needed to make a deposit of USD 7,000.00 in total which included all the expenses which had been agreed upon. Despite what he had been told, Jose Alvarez couldn't confirm that his daughter was in the US. From that day on the parents lost all communication with the coyote and their daughter.

Tragically, on March 11, 2014, the parents received a call from G.M.D. informing them that J.N.A.Q. had died at the Villa Esperanza in Juarez, Chihuahua, Mexico.

She had arrived at the shelter after Mexican authorities intercepted a citizen identified as D.F.U., who claimed to be hired to transport J.N.A.Q. to the United States. Despite the fact that he clearly engaged in illegal activities, the authorities released him and J.N.A.Q. was taken to the shelter Villa Esperanza.

According to results obtained by the autopsy in Mexico City and reautopsia in Ecuador, on April 14, 2014 it was confirmed that J.N.A.Q. died of mechanical asphyxia of external origin. The friction that caused the death was made from the outside and also presented cyanosis in the cheeks, auricular pavilions and lips.

She had bruising on her neck presented in a bluish black groove and strong wounds caused by a violation she had received. The State Attorney General's Office was aware of the case since it was published in the press with national and international attention due to its shocking nature. A preliminary investigation was demanded and subsequently carried out.

The relatives of J.N.A.Q. did not report the case because they were not sure if the news was real, and they feared coyote reprisal. Consequently, the designated authorities began with the investigation.

The first statements were made by her parents at the Ecuadorian consulate in New York where they reported the calls they had received, the payments made, and the last time they had spoken with their daughter, but they refused to give names of the people involved.

In the prosecutor's office in El Tambo, represented at this time by Dr. Romeo Gárate Pacheco and later by Dr. Jenny Vasquez Muñoz, the statements of both parties were received: testimonies of the parents, grandparents, cousin and acquaintances of the El Rosario community and also, the coyotes involved.

Thanks to international aid and direct intervention by the National Police, the traffickers involved in Mexico, Honduras, Guatemala and Ecuador were captured and punished accordingly.

In addition, it was possible to capture about 25 people who participated in the illegal operation of this migratory alley, and who were judged under the laws of each country. At present they are paying penalties of up to 15 years in prison, all directly involved with the death of J.N.A.Q.

The work that was accomplished due to international cooperation allowed the case of J.N.A.Q. not to go challenged.

Mexico was completely open to dialogues with the State Attorney General and collaborated with the sending of accurate and clear evidence of what was required for the analysis and the entire investigation process that the country needed to discover and track down this illegal network.

Due to a triangulation of calls received both by the grandparents and the parents of the minor, the location of the coyotes was detected and they were captured. Mr. A.L.L. was also found in Ecuador with his family and was arrested. The main coyotes involved in the case of J.N.A.Q. were R.C.H. and M.L.L. It was not possible to verify that Ms. G.M.D. was directly involved in the crime, it was only verified that she was a co-worker of Mr. A.L.L. It cannot be proven that she knew the coyote group actually operated, or that she had contact with anyone else involved.

In addition to this, given that J.N.A.Q. came from the indigenous community El Rosario, members of the community considered it pertinent that the case be tried under the indigenous justice system typified in the Constitution of the Republic of Ecuador, where, by means of a ceremony of ancestral baths, purification of the soul and punishment, the people involved were made clean of all that happened. However, the prosecution established that the constitution is clear and explicit when it typifies that indigenous justice will be exercised within the territorial scope of these indigenous communities, peoples and nationalities.

Illegal trafficking in migrants is an international or transnational crime because it includes migrant border traffic in at least two countries, and is consequently the responsibility of both the Republic of Ecuador and the United States of Mexico. The Constitutional Court of Ecuador declares that the jurisdiction and competence to hear, resolve, and punish cases that threaten the life of every person is an exclusive power of the Ordinary Criminal

Law, even in cases where the alleged perpetrators are citizens belonging to communities, peoples and indigenous nationalities.

The administration of indigenous justice retains its jurisdiction to know and resolve internal conflicts that occur among its members within its territorial scope and that affect its community values.

3.3.1. Photos Related to the Case

Below are photographs showing the place where Jahoselin took her own life, as well as the scene in which the agents of the investigation verified that she was dead.

Image 1: Hostel Villa Esperanza



Source: Photo archive of the Prosecutor's Office of El Tambo, El Tambo-Cañar

Image 2: Hostel Villa Esperanza, place of the facts



Source: Photo archive of the Prosecutor's Office of El Tambo, El Tambo-Cañar

Image 3: Hostel Villa Esperanza, place of the facts



Source: Photo archive of the Prosecutor's Office of El Tambo, El Tambo-Cañar

Image 4: Hostel Villa Esperanza; the scene of death



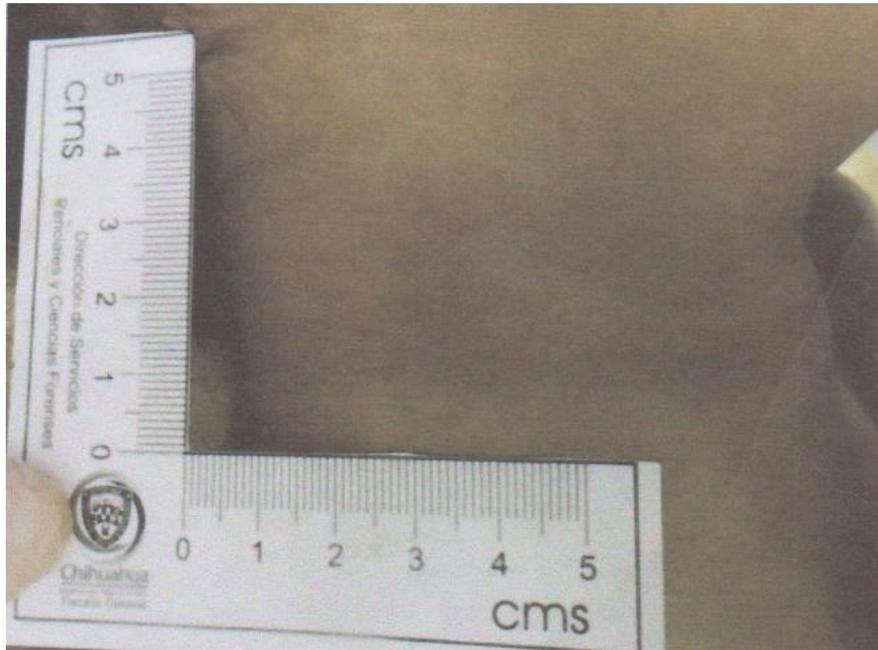
Source: Photo archive of the Prosecutor's Office of El Tambo, El Tambo-Cañar

Image 5: Cadaver of the Minor



Source: Photo archive of the Prosecutor's Office of El Tambo, El Tambo-Cañar

**Image 6: Bluish Black Bruising of Mechanical Asphyxia of External Origin,
Friction that Caused Death**



Source: Photo archive of the Prosecutor's Office of El Tambo, El Tambo-Cañar

3.3.2. Fiscal Report on the Death of Jahoselin Noemi Alvarez Quillay

The fiscal report compiled current data of the case and was used for the different proceedings that were carried out both nationally and internationally.

The following points were established:

- Reference Data

Criminis Report of death by an illegal migratory act which occurred in Mexico to a girl who responded in life to the name of Jahoselin Noemi Alvarez Quillay, and released by the Prosecutor's Office of El Tambo as requested by the international community at the beginning of a criminal investigation (Vasquez Muñoz, 2014).

The authorities of the city of Juárez, Chihuahua State, Mexico, found the girl on March 8, 2014 when she tried (along with the coyote) to cross the border of that country into the United States. She was transferred to the Villa Esperanza where her corpse was later found (Vasquez Muñoz, 2014).

- The Prosecution

Prosecution was initiated on behalf of the illegal trafficking of migrants, providing for the practice of measures that allow for the clarification of the facts. As a result, four Ecuadorian citizens were charged as the alleged perpetrators of the crime and with the joint efforts of the Mexican authorities, the other individuals implicated will be captured and punished according to the laws of each country (Vasquez Muñoz, 2014).

The fiscal folder contains documentary evidence that include 23 versions, among which the grandparents are highlighted, of which there are two indicators necessary for the prosecution of the accused. (Vasquez Muñoz, 2014).

The prosecution requested the recorded testimony of Jose Alvarez and Martha Quillay, the parents of the minor, who reside in the United States by working together with the Ecuadorian consulate in the United States. In addition, due to the need to receive basic information on the death of the child, on April 16, 2014, based on international agreements, international criminal assistance was requested to provide certified copies of the documents from the country where they were being processed. With the joint collaboration of the Attorney General of Mexico and the State Attorney General, the following documents were collected by the investigation:

- ✓ Necrosurgery Report
- ✓ Forensic Chemistry Report, on the samples taken from the vaginal and anal cavity of the victim by means of 3 swabs
- ✓ One of the statements of the girl rendered in the city of Juárez, Chihuahua, on March 8, 2014 at 3:00 pm before the public prosecutor
- ✓ A death certificate of the minor

• Diligence and Expertise

The steps that were carried out in Mexico and in Ecuador were the following:

- ✓ Recognition of the place of the facts; where the child began her journey (canton, El Tambo).
- ✓ Informative reports subscribed by the Judicial Police demonstrating the results of the investigations, through which evidence established responsibility of the accused
- ✓ Registration and interception of calls from hidden cell phones
- ✓ Allegations made to the alleged residencies of the accused

- ✓ Eye inspection technical report
- ✓ Recognition and appraisal of evidence seized both in the raid and in the possession of the prisoners
- ✓ Analysis of the second autopsy on the deceased minor by the prosecutor's office
- ✓ Analysis of the samples taken in the second autopsy
- ✓ Investigation of the incoming and outgoing calls to and from the numbers involved in the present investigation

- Indigenous Justice

El Rosario community which belongs to the community Molino Waiku, presented a report to the prosecutor's office of El Tambo providing information on the practice of indigenous justice is two of the accused who are part of the community. Although they requested the office to follow their prescribed punishment, the petition was rejected based on the framework of respect for the laws of Ecuador and supporting the full force of the ordinary rules in the present case, and a decision to delimit powers and support processing under the jurisdictional power was made.

3.4. Testimony from Relatives

Jahoselin Nohemí Álvarez Quillay resided in El Rosario community along with her grandparents and cousin, Mr. Cipriano Quillay, Mrs. Jesus Guamán and Sara Quillay. Her parents were Mr. José Alvarez and Mrs. Martha Quillay who reside in the United States. For this reason, Sara Quillay was interviewed only because the grandparents of the minor are protected by the indigenous leaders of the community and for security purposes were not located. Because of the information provided by both grandparents and parents, data was taken from the given testimonies for prosecution.

3.4.1. Testimony of the Case Narrated by Sara Quillay

Sara Quillay was J.N.A.Q.'s cousin and lived with her until her last days in Ecuador. At the moment, she resides in El Tambo where she was found and informed the investigators that she had known J.N.A.Q. since she was little. Both were abandoned by their migrant parents and grew up in the care of their grandparents. She also said that both were educated in El Tambo National School and worked with their grandparents in agriculture and livestock.

In addition, she mentioned that Jahoselin was a very shy girl, who missed her parents a lot and who dreamed of being able to meet them. Her parents had the same yearning for

Jahoselin as can be seen in their constantly asking her to travel to the United States to see them.

For this reason Jahoselin, only nine years old, tried to travel for the first time, only to be sent back from Colombia by the border control. However, her parents didn't give up and, by order of both grandparents and parents, Jahoselin traveled a second time to meet her death (Quillay, 2017). Sara commented, "Jahoselin did not want to travel, and her parents told her to try again, she cried and asked to be permitted to stay, but with a strict order, my grandmother and the coyote's wife packed the suitcase and sent her off" (Quillay, 2017).

Sara also explained that the parents were the ones who negotiated directly with the coyote because they trusted him and because Jahoselin knew him. From the moment that Jahoselin boarded the bus, they never heard from her again, even when her desperate grandparents sought information from the coyotes. Sara also stated that although the autopsy diagnoses shows that she had committed suicide, both Sara and her grandparents are not convinced. In their experience, Jahoselin was a calm girl and they do not think she would have been able to take her own life.

For this reason, Jahoselin's cousin and grandparents believe that she was suffocated and later hung at the scene so that she could not report the rape she had suffered. Despite everything, Sara concluded by pointing out that migration is positive because it is often the only solution that people have to overcome, that no one leaves with the intention of dying, and there are cases like that of Jahoselin that are uncontrollable. She ended by saying that there should be a family reunification policy for minors because there are multiple cases like that of her cousin and her in the community of El Tambo (Quillay, 2017).

3.4.2. Statement of the Father José Alvarez at the Ecuadorian Consulate in New York

The father's statement was obtained through judicial actions of the prosecutor of El Tambo through the collaboration of the Ecuadorian consulate in New York. Mr. José Álvarez, father of Jahoselin, testified that when the girl arrived in Guatemala, he received a call that was identified by the name of Alejandro, asking that he make a deposit to the name of A.L.L. or to that of his wife G.M.D. At this time the coyote also gave José Álvarez a number so that he could talk to his daughter, who told him that she was well.

Days later, he made a deposit of USD 3,000.00 for the girl to leave Guatemala and travel to Mexico. Upon arriving in Mexico, they received a new call from Ecuador, requesting that an additional deposit be made to the agreed upon in order for his daughter to be able to ride rather than go on foot across the border (judicial proceedings Nohemi Alvarez Quillay, 2016).

After making the deposit, he received a new call from Texas informing him that Jahoselin was already in the United States and demanding that he pay all of the agreed upon money with a total amount of USD 7000.00 dollars. Two hours later he talked to the child and knew that she was in a house for several days. With this information, the father deduced that she had never crossed the border, and that he was not going to send the payment without the assurance that Jahoselin was in the United States.

Eight days later, he received a call from the same person, informing him that Jahoselin had died and that this information was already of public. He could read a police report or look on international news to verify the story (Judicial proceedings Nohemi Alvarez Quillay, 2016).

The Prosecutor's Office at the time of obtaining information from José Álvarez asked the following questions:

<p>1. Who was hired at the beginning of the trip?</p> <p>“A woman who identified herself as Sara, but could have been Mrs. G.M.D.” (Judicial proceedings Nohemí Alvarez Quillay, 2016).</p>
<p>2. On when was the exact date the recruitment made?</p> <p>“Truthfully, I don’t remember. I want to leave all this behind. I want to rest; every time I touch this topic it hurts me mentally” (Judicial proceedings Nohemí Alvarez Quillay, 2016).</p>
<p>3. In which bank did you make the deposits?</p> <p>“I don’t have it. My wife threw it all away because she doesn’t want to remember.”</p>
<p>4. Did the person who called you to demand for the money speak to you or to your wife?</p>

“Most of them called and spoke with me, and sometimes with my wife. Sometimes I passed the phone to her to talk to our daughter” (judicial proceedings Nohemi Alvarez Quillay, 2016).

3.4.3. Declaration of the Grandmother of the Minor

The grandmother's statement was obtained through judicial proceedings of the El Tambo Prosecutor's Office. Mrs. Jesus Guaman, grandmother of the minor stated that she knew the person involved since she lived in the same community and was a direct relative of Jahoselin. She stated that she didn't think it was a good idea for Jahoselin to travel a second time because she was happy in El Rosario, but that there wasn't any option but to obey the order of Jahoselin's parents. In addition, she mentioned that the last time she saw her granddaughter was on the transport bus which she boarded in the company of a man who took her to the city of Quito. She didn't receive any information for the remaining of Jahoselin's journey (judicial proceedings Nohemi Alvarez Quillay, 2016).

The Attorney General's Office at the time of obtaining information from Mrs. Jesus Guamán asked the following questions:

1. Did Jahoselin's parents hire R.H.?

"Yes, we didn't know anything, nothing."

2. After the child traveled to the United States, did you have contact with R.H.?

"We sent her with them, because of the trust we have in the decisions of the family."

3. Who hired the coyote to take Jahoselin to the United States?

"My son-in-law and my daughter. We didn't know anything, my daughter said to send her daughter."

4. With what person did you send your granddaughter on the bus?

"A woman came to the house to help pack clothes, had Jahoselin take a bath. At seven at night, there were three people, a man came with another, and my husband went up to see them off. Jahoselin went with the man in the bus."

3.5. Opinions of Ecuadorian Authorities in Charge of the Case Based on Interviews

The institution responsible for this case was the Prosecutor's Office of the canton El Tambo, through its representatives, Dr. Romeo Gárate Pacheco; prosecutor in charge of

the case in 2014 and Dr. Jenny Vásquez Muñoz; current prosecutor in charge of the case.

The following questions were asked:

Interview to the authorities in charge of the case, Dr. Jenny Vasquez and Dr. Romeo Gárate
1. How has the migration of minors affected El Tambo?
2. How are coyote networks decreasing in the canton?
Case of Jahoselin Nohemi Alvarez Quillay
1. Is it true that the child previously traveled to the United States?
2. How did the minor die?
3. How did the prosecution become aware of this case?
4. What was Mexico's position on the case?
5. What was Ecuador's position on the case?
6. How many people related to the crime have authorities managed to capture?
7. Concluding remarks

In response to the first question, they mentioned that the migration of minors is a consequence of the excessive emigration the canton and the province have faced. Originally, the immigration process was almost exclusively men who generally were fathers or sons who met the basic needs of their families. Years later, women joined this process as they began to feel the need to meet with their spouses and increase their income.

Consequently, there became a shortage of parents and from this point children experiencing the decomposition of their family begin to see and compare the different realities of a united family. From this moment, the migration of minors was generated, bringing with it a host of social problems including family abandonment, high-risk migration, etc. Of the total number of complaints made in El Tambo, the majority belong to infractions committed by minors. Of the complaints filed in the last 4 years, 60% came from children or adolescents who reside with someone other than their parents.

In question two, they stated that the serious problem with "coyoterismo" is that it is a crime that occurs through an agreement of wills; the migrant hires the coyote to be able to travel illegally to the US in exchange for a high amount of money. The risk and danger

associated with this kind of this business dealing are only discussed when the migrants fail to reach their destination and are not returned their money. Even in such circumstances often times nothing is said for fear of the coyotes. The prosecution can only act when they are denounced. In addition, they clarified that as a prosecution they are not in charge of combating this problem but rather of giving solution to the cases presented.

However, it is a complex issue to deal with because those involved are specific to the communities, and victims are often afraid to report abuse.

Questions Related to the Case of Jahoselin Nohemí Álvarez Quillay

In response to the first question related to the case of J.N.A.Q., the prosecutors mentioned that the girl had tried to reach the United States for a second time and that the competent authorities in charge of the border did not report their exit in the migratory movement, given to the fact that the coyotes use a different identity on each trip.

Responding to question two, it was established that according to the results obtained by the autopsy performed in Mexico and the re-autopsy in Ecuador, the death was the result of an asphyxiation provoked from outside. The second autopsy was requested because contradictions began to appear in the results given, and it was necessary to confirm that the information sent by Mexico was real. The bluish black furrow of an asphyxiation was almost lost by the time the body arrived in Ecuador. In addition, it was identified that Jahoselin was cruelly raped days before her death.

In response to the third question, they consider the case of J.N.A.Q. to be controversial. They received a complaint when the case was published by the media at the national and international levels requesting that the evidence be analyzed by arranged to work groups in order to find a solution. As a result, an analysis was requested by the international community through the National Human Rights Commission.

Image 7: Article Publishing the Death of J.N.A.Q



Source: Photo archive of the prosecutor's office of El Tambo, El Tambo- Cañar

Image 8: Article Publishing the Death of J.N.A.Q



Source: Photo archive of the prosecutor's office of El Tambo, El Tambo- Cañar

At the time of this publication, four prosecutors were working on the case, and due to the collaboration of Mexican authorities were provided with truthful information concerning J.N.A.Q.'s death. Dr. Galo Chiriboga worked directly with the prosecutor of Mexico and in the arrest of the majority of criminals involved in the traffic of J.N.A.Q. who were captured through an extensive investigation in all the places that she had visited.

In the fourth question it was affirmed that the position of Mexico was completely open after Ecuador requested a truthful investigation of the subject. In the fact, they did not

proceed with the investigation that was required and only provided an expert report of the autopsy and with that the case had been archived. However, per request, Mexico prepared to work jointly with Ecuador and collaborated with the required information.

In response to question five, the prosecutors affirm that Ecuador's position was that the crime would not be filed until the people involved were arrested and the family members were given answers.

In the response to the sixth question there was a disagreement. One prosecutor stated that there were about 17 involved in the crime while the other mentioned 70 people. However, according to the documents of prosecution, it was verified that there were 25 arrested in relation to J.N.A.Q.'s death.

In their final remarks the interviewees stated that the case of J.N.A.Q. shocked the country as well as the world because the victim was totally vulnerable to, and not aware of the abuse and violation of human rights that she faced. Through all that she suffered it should be understood that illegal migration of minors is a latent problem in society. In addition, the prosecutors mentioned that after this case, for a period of one year, complaints about the transit of minors to the United States were reduced, but that now, similar cases are being reported again. It is of the utmost importance that the authorities become involved in this reality that confronts Ecuadorian society and start to propose effective solutions.

3.6. Cause of the Case

The main cause of this case was the desire for family reunification. Jahoselin and her parents had been separated for nearly Jahoselin's entire life and wanted to be together again. Realizing that it would be impossible for her to travel on a legal visa, they looked for alternative, and less than legal, means of travel.

The United States annually receives countless illegal immigrants from around the world, and its immigration policy carries family reunification programs only for those who have become citizens or permanent residents.

In the case Jahoselin's parents, along with other illegal immigrants, it is impossible to request family reunification. This means that thousands of people, like Jahoselin, daily

decide to expose themselves to the abuse and violation of rights that occur on the US-Mexico border in order to reunite with their families.

J.N.A.Q.'s parents initially decided to migrate in order to find better opportunities. Belonging to a poor indigenous community, they could not develop according to the pressure required by the globalized world. In order to seek a better education for their children and a higher income for their family, they decided to leave as a very young couple, oblivious to the fatal ending their family would face.

3.7. Consequences Relating to the Case

This case has had negative and positive consequences. The main negative consequence was the death of a vulnerable child, indigenous person and woman, who without consent had to confront the decisions of adults and expose herself to a complete violation of her rights.

A positive result, if it can still be analyzed from this perspective, is the detention of an international network of illegal traffickers operating from Ecuador to Mexico. Since this tragic event, Mexico and Ecuador have begun the negotiation of a Reciprocity Agreement on the issue of opening borders to Ecuadorians because Ecuador does not require for a visa for Mexican citizens and considers it pertinent that Mexico, being reciprocal with Ecuador, withdraws the visa application.

The former Vice Minister of Human Mobility, Maria Landázuri, commented in an interview that the illegal transit of people could be combated, controlling their departure and entry to verify their immigration status and thus reduce illegal migration. In addition, the Mexican Ambassador to Ecuador, Jaime de Arenal, said in an interview that he was able to confirm that this negotiation is intended to improve bilateral relations between countries and safeguard the interests and rights of Ecuadorians and Mexicans in order to give more pertinence to this issue that irreversibly affects society.

3.8. Current Situation of the Case

The investigation of the case of J.N.A.Q. has been carried out by the Attorney General of Mexico and the Attorney General of Ecuador, where through the Ecuadorian consulates both in Mexico and the United States it has been possible to obtain the necessary information. Since 2014, investigations have intensified and about 25 people have been captured.

The current situation of the case is the detention in Ecuador and Mexico of 25 people who were involved. After the respective investigation and the different stages of the trial, four people were sentenced in Ecuador, and in Mexico, 21. At present, the trial is on appeal (Vásquez Muñoz, 2017).

3.9. Conclusion

The phenomenon of Child Migration is a real problem facing El Tambo which has resulted from a lack of coordination, statistical research, analysis, preventive measures and affirmative action by the authorities and which, as a consequence, is causing inconveniences in the development of society.

The case of Jahoselin Nohemí Alvarez Quillay who left her country for a second time, and as a victim of trafficking and rape died due the extreme trauma she experienced, is a prime example of the devastation caused by illegal Child Migration.

As a minor, the decision to undertake the trip was made without her consent. During this journey she suffered severe physical, psychological and emotional abuse from the coyotes and authorities who were in charge during her stay at the shelter. For this reason, it is necessary for countries to take effective measures to combat this issue.

In Ecuador's case, a reform should be made to the Comprehensive Criminal Code where all those involved in the transfer of an unaccompanied migrant minor from their immediate family to the people facilitating their travel should be punished. With this as a consequence, relatives will not so readily incite minors to travel.

Similarly, the government should implement programs of national administrative policy on agro industrial and livestock development, placing emphasis on compliance in vulnerable areas of migration such as El Tambo in the province of Cañar to give economic incentive for the return of migrants. This return would mean the reunification of families in their natural home resulting in subsequent economic and family recovery.

Chapter 4. Analysis of the Involvement of the Immigration Policy of Minors from Ecuador and Mexico in this Case

4.1. Introduction

This case was made visible due to the attention it received internationally that, through the National Commission of Human Rights (CNDH), requested that it be properly investigated by Ecuador and Mexico. This request was based on the principles that are in

place to fulfill the guarantee of human rights for all people regardless of their condition, age or gender. This international pressure led Ecuador and Mexico to obtain accurate results of the death of J.N.A.Q. and achieve the objectives set.

4.2. Position of the CNDH in the Case

In the international field, specifically on migratory issues, human rights are protected almost entirely by international and regional policies adopted since the mid-twentieth century. In the Inter-American System, Organization of American States (OAS) and the universal system, Organization of the United Nations (UN), it was established that human rights should be perpetually protected.

Therefore, the condition or nationality of a person should not be a valid criterion for recognizing and guaranteeing fair treatment; but within each jurisdiction of a given country, the life of an individual should be safeguarded and respected (International Organization for Migration, 2016). In ancient times, by means of Classical International Law, the protection of human rights within a territory depended on each country, based on its position in respect to territorial sovereignty, and its principles of non-interference in internal affairs. In other words, each country protected its own citizens.

Because of this approach, the internationalization of human rights is still seeking to overcome legal and territorial barriers of each country in order to establish political and legal mechanisms for the protection of each individual (International Organization for Migration, 2016). The rights of migrants have since gained ground on the international scene, based fundamentally on the International Human Rights Law (DIDH), where the development of a universal conception took place. The international community decided to establish international political and legal mechanisms that enshrined rights for all humankind.

Since this establishment, the rights of migrants are protected in the following general policies of the universal system:

- ✓ Universal Declaration of Human Rights (UDHR)
- ✓ International Covenant on Civil and Political Rights (IPDC)
- ✓ International Covenant on Economic, Social and Cultural Rights (ICESCR)
- ✓ Convention on the Rights of the Child (CRC)

- ✓ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Convention against Torture, Cruel, Inhuman or Degrading Treatment, Convention on the Elimination of All Forms of Racial Discrimination (CERD)

With these changes, a new order was consolidated in the former absolute sovereign countries, where they have articulated forces to be integrated into multilateral systems with not only a positive affirmative perspective but also with a universal predetermination, recognizing the fundamental rights of humans beyond the membership of individuals to a particular international political community (International Organization for Migration, 2016).

These rights were established for the classic concept of state sovereignty, restricting the application of self-determination or foreign non-intervention, which argues for the abuse of human rights. With this they move from an absolute notion to a relative sovereignty, although this does not imply that a state cannot exercise its sovereign right to control borders when it has committed itself to respect human rights (International Organization for Migration, 2016).

In addition, it was established that the measures that are part of its migration policy must implement complete respect for human rights, since it has been acquired as a promise in international polices.

From these changes, different organizations have worked on regulations that protect the right of the migrants, some of which can be observed in the following chart:

Table 8: Treaties and Agreements for the Protection of the Human Rights of Migrants

Year	Organ	Document
1986	Human Rights Committee	General Comment No. 15 "The situation of foreigners under the agreement"
1999	Human Rights Committee	General Comment No. 27 "Freedom of movement"
2004	Committee on the Elimination of Racial Discrimination	General Comment No. 30 "On discrimination against non-citizens"

2005	Committee on the Rights of the Child	General Comment No. 6 "Unaccompanied or separated children outside their country of origin"
2008	Committee on the Elimination of the Discrimination against Women	General Recommendation N.26 "Migrant workers"
2014	Committee on the Elimination of the Discrimination against Women	General Recommendation N.32 "On gender dimensions of refugee status, asylum, nationalization and the statelessness of women"

Source: Migration, Human Rights and Migration Policy, 2016, International Organization for Migration.

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As can be seen in Table 8, regulations, which have been in place since 1986, focus on the needs that exist, such as unaccompanied or separated children outside their country of origin. From these multiple needs the CNDH was formed. An organization which is dedicated to protecting the human rights of vulnerable people who are controlled within the Mexican Ministry of the Interior and the General Directorate of Human Rights.

The CNDH safeguards and validates human rights in such situations that could disturb the peace and security of people in Mexico (Contreras, 2016).

The following threats are emphasized:

- Torturing journalists and civilian defenders
- Women's affairs and equality between men and women
- Child and family issues
- Attention to migrants
- Attention to the victims of crime
- General attention to the disabled, people presumed missing, and indigenous people and communities

- Human trafficking
- HIV / AIDS and human rights

(Contreras, 2016)

With reference to the issue of migrant care, which is the primary concern in the case of J.N.A.Q., the CNDH began the investigation which had come to the hands of the Attorney General of the Republic and the Governor of the State of Chihuahua. J.N.A.Q., a minor, was transported from Ecuador to the Mexico-United States border, accompanied by different individuals, not one of which was responsible for her care and wellbeing. She was an unaccompanied child migrant.

On April 16, 2014 the Embassy of the Republic of Ecuador in Mexico, through a diplomatic note, indicated to the Ministry of Foreign Affairs that the missing minor was of Ecuadorian origin, native of the province of Cañar (National Commission of Rights Human Rights, 2015). Mexican authorities investigated the report concerning J.N.A.Q., and on March 6, 2014 determined that she had been a victim of crime on the issue of migration. According to the Administrative Procedure of Protection, J.N.A.Q was a at risk and helpless victim of crime given to the fact that she was an unaccompanied migrant female under the age of 18 (National Commission on Human Rights, 2015). In an legal analysis, human rights were violated through violation of the right to humane treatment, the right to due process and the right to access of a life free of violence (National Commission on Human Rights, 2015).

- *The Right of Personal Integrity*

This right is provided for in Article 5.1 of the American Convention on Human Rights and Article 7 of the International Covenant on Civil and Political Rights, where it is constituted as a guarantee for all human beings not to be the victim of harmful actions whether they be physical, psychological, physiological or any other alteration that affects the person temporarily or permanently, and that is caused as a guilty or malicious activity of third parties (National Commission of Human Rights, 2015).

J.N.A.Q. was found in the company of individuals who were involved in illegal trafficking, and who were later detained by authorities. J.N.A.Q. was transferred to the Department of Social Work of the Municipal Public Security Secretariat in the city of Juárez-Chihuahua.

In this place she was recognized as a minor in a condition of risk and helplessness, the reason being why Mexico exerted the Guardian of the State and transferred her to a shelter to be properly cared for until her return to Ecuador.

In the four days she spent in this shelter the Office of the Federal Government (DIF) was in charge of ensuring her right to psychological integrity. However, this was violated by failing to adequately control the services offered by this hostel (National Commission on Human Rights, 2015). The CNDH, through multiple statements obtained by the Public Prosecutor's Office of Chihuahua, established that J.N.A.Q. was not properly cared for or supervised, since the witnesses who testified to the events when she was found lifeless were aware that she entered the bathroom alone and stayed for 20 minutes while the door was secured with a tie.

There was a gross and oversight in the supervision and responsibility of this minor especially while being in an unfavorable emotional state as a result of multiple traumas. This incorrect monitoring, lack of care, and omission along with the state of lassitude in which it was, influenced the psychological integrity of the victim, which caused her to end her life by provoking asphyxia, as reported in the opinion of Criminalistics and Forensic Medicine (National Commission on Human Rights, 2015).

The witnesses, workers in charge of the shelter, commented that J.N.A.Q. was a very quiet, sad and hermetic girl, did not like to socialize with the other children and even mentioned, in an interview with the psychologist in charge, that she was afraid to return to Ecuador to see her grandparents (National Commission on Human Rights, 2015).

In such cases, the CNDH once again points out that the state DIF, as a state agent, must provide care to its victims and guarantee the care and protection of individuals. For this reason, J.N.A.Q. was under the public protection of the state through the state DIF, but materially housed in a shelter that is not operated directly by the department but rather performs its functions through an agreement between the state DIF and the civil association that operates the shelter. Supposedly the shelter is subject to the guidelines for the operation and surveillance of such establishments that provide services of social assistance in the State of Chihuahua.

The CNDH established that the violation of the right of psychological integrity of the girl was not only by omission but also occurred through the conduct carried out by public

servants of the Attorney General's Office and the state DIF, given to the fact that the child received two visits from ministerial staff to take her statement and obtain her signature and fingerprints.

This testimony was mainly obtained from the person in charge of the hostel at that time who confessed that during her stay, a doctor and a social worker came to request the transfer of J.N.A.Q. to another location in order to print her information. When they were denied permission to take the minor from the shelter, the agent behaved aggressively which in turn altered the psychological condition of the girl. He then mentioned that he would return in 20 minutes but did not return until 2:00 am in the morning requesting to enter the bedroom in order to talk to Jahoselin. She was awakened in the middle of the night by the person in charge, and fearfully answered the agent's questions.

This testimony served as a solid base for experts in the psychological field of the National Institute to affirm that all these behaviors deteriorated the child emotionally, leading her to a state of terror at the interrogation, and in the state of such fear decided to take her own life. It is unnecessary for a child in this state of vulnerability to be visited in the middle of the night and to be subjected to an interrogation of such magnitude. It is therefore considered a violation of the right of personal integrity as defined by the CNDH. (National Commission on Human Rights, 2015).

Right to Due Process

Article 1.1 of the American Convention on Human Rights states that it is the obligation of states to guarantee the effective enjoyment of human rights and to provide effective judicial remedies to victims of the violation of these rights. The Convention on the Rights of the Child also recognizes the right of a child to enjoy the opportunity to be heard in an administrative or judicial process.

Likewise, it is established that in addition to being heard, authorities are obliged to provide favorable conditions to obtain the testimonial information they require and not to obligate children by causing them emotional or physical stress (National Human Rights Commission, 2015). Similarly, the Inter-American Court of Human Rights mentions that the conditions, when participating in an administrative and judicial procedure, are not the same as those of an adult and accepting these inequalities allows specific and protective

measures to be taken to achieve the effective development of the enjoyment of measures that guarantee the condition of equality.

In the legal case of J.N.A.Q., there were two administrative processes: one that was the responsibility of authorities of the Attorney General's Office to investigate the crime against the immigration law, and the process handled by the Deputy Assistant Attorney for Legal Assistance and Social of the state DIF.

The CNDH establishes that the right to due process was violated by failing to take into account the best interests of the child and to treat her differently because of her vulnerability by informing her of her right to express her opinion with the option of being heard by a representative and in the presence of more people in a trustworthy and supportive environment (National Human Rights Commission, 2015). Unfortunately, the testimony that J.N.A.Q. was able to give was forced, in conditions that were not conducive to a minor with emotional alterations of that kind, resulting in a violation of her right to due process (National Commission on Human Rights, 2015).

Right of Access to a Life Free of Violence

The Convention on the Rights of the Child provides that minors have the right to a life free of violence, where countries take appropriate measures in educational, social, legislative and administrative matters, which are under the protection of their parents or any other person who is a legal representative. (National Commission on Human Rights, 2015).

J.N.A.Q. suffered violence from authorities who interviewed her in an uncompromising manner, regardless of her condition was had been subject to physical, psychological, and sexually abuse. As a result, the CNDH verified that the aforementioned rights were violated in the case of J.N.A.Q.

The CNDH has special interests according to the vulnerability group it is facing, among which is:

• **Superior Interest in Children**

The United Nations Committee on Children's Rights, as well as the American Convention on Human Rights, stipulate that it is the obligation of every country to respect the rights of all people and to take whatever measures necessary to protect these rights especially in regard to more vulnerable groups such as minors. In particular cases, such as those of unaccompanied illegal migrant minors, a clear and effective investigation of their identity is required. It is important to analyze aspects such as: ethnicity, cultural and linguistic background, upbringing, lived experiences, education, degree of maturity, and state of vulnerability (National Commission of Human Rights, 2015). When referring to the recommendations of the CNDH, it can be concluded that the managers of the shelter where J.N.A.Q. was staying during the last days of her life did not adequately fulfill their duty to value the best interest of the child. They not only refrained from giving her appropriate psychological help, but there was a general lack of interest on the part of the authorities to recognize J.N.A.Q.'s situation and needs and provide her with the corresponding help.

• **Restitution for Damage Down to the Victim**

The countries involved have the responsibility to repair the damage caused to the victim, by complying with certain demands including: rehabilitation, compensation, satisfaction, restitution and guarantees of non-repetition (National Commission on Human Rights, 2015). In the case of J.N.A.Q., the following damage was inflicted: breaching a child's right to personal integrity, due process and access to a life free of violence, as well as the lack of authority interest to analyze the specific characteristics of J.N.A.Q.'s condition. Compensation was provided in the aid needed for the investigation, the capture of those involved, the transfer of the corpse to Ecuador, the documentation required, and psychological support for relatives; all of which was provided free of charge and adapted to the family's situation.

In addition, the responsible owners of each institution offered public apologies recognizing their institutional irresponsibility as a reason for violating the human rights of the victim (National Commission on Human Rights, 2015).

Consequently, it can be verified that the position of the CNDH in the case was clear, effective and advantageous, due to pressure from an international body the case was analyzed correctly and thoroughly instead of remaining in impunity. Likewise, the CNDH's request for investigation allowed those involved to comply with all appropriate sanctions.

4.3. Position of Ecuador in this Case

Ecuador's position was clear; as the victimized country it requested that the family be compensated for their loss, and that those involved be punished. In addition, Ecuador asked the United Mexican States to provide real answers concerning case in order to provide the necessary assistance to the family members of the victim.

President Rafael Correa, Ecuador's president during the time of the case, traveled to the United States to meet with the parents of the child to talk about the assistance that they would be granted.

Likewise, former Vice Minister of Human Mobility, María Landázuri, traveled to Mexico in July of 2014 to assist with case managers in Mexico in the capture of the criminals involved (Galván Serrano & Córdoba Luna, 2017).

4.4. Position of Mexico in this Case

The position of Mexico, as seen in the request made for the investigation and involvement of the CNDH, was completely open and positive. Mexico opened its doors to the government of Ecuador so that together they could give answers necessary to solve the case. In itself, one could say that Mexico felt indebted to Ecuador, and through its public agencies carried out research projects to verify the real causes of death.

When it was discovered that the deceased victim was of Ecuadorian nationality, Mexico and Ecuador joined forces in order to be able to give a concrete and quick response to what happened. Furthermore, it was through the joint efforts of the investigation that the arrest and punishment of the majority of the gang involved was possible. Together Mexico and Ecuador were able to achieve a solution to the case based on what is stipulated by law.

4.5 Solutions that Were Established for the Case

The solutions that were established for the case of J.N.A.Q. were the following:

- Prison sentence of 12 to 15 years for the Ecuadorians implicated and proven guilty of the crime of illegal migration
- Corrective sanctions for an agent who proceeded to interview the minor in an incorrect manner
- Sentence for the Mexicans implicated and proven guilty of the crime of illegal migration according to what is stipulated by Mexico law
- Payment of the repatriation of the corpse and all expenses incurred in the investigation of the case
- Psychological support and service for the direct relatives of the minor (Vásquez Muñoz, 2017)

4.6. Conclusion

The joint involvement of Mexico and Ecuador in the case of J.N.A.Q. kept it from remaining in impunity. Both countries joined forces to face this social injustice and punish those responsible.

Likewise, effective collaboration on the part of the international community can be verified when reference is made to the upholding of human rights. This case should be the solid basis and motivation for both countries to continue the work they started on reducing illegal migration of migrants. While not every victim dies as in the case of J.N.A.Q their trauma affects the social, political and economic development of the countries.

Unfortunately, the bilateral relations of states begin to fail when they face an ongoing problem. For this reason, the authorities must focus on this issue now, more than in previous years. Although progress has been made in the form of a negotiation that would allow the free entry of Ecuadorians into Mexican territory, it is still in process. The authorities of each country should put more interest in this negotiation, as it would greatly benefit both parties involved more efficiently controlling the movement of migrants in and out of Mexico.

Closing Remarks

The case of J.N.A.Q. brought to light the dangers and consequences of the phenomenon of migration in minors. It was a case that affected the world, especially Ecuadorian society, with irreparable consequences. For this reason, coordination, statistical research, analysis, preventive measures and affirmative action must be taken by authorities responsible for combating illegal migration of unaccompanied minors, a phenomenon which almost always results from the abandonment of parents.

Migration has been increasing year after year, and more minors are deciding to leave their studies and embark on a journey that due to the high-risk of traveling through the US-Mexico migratory alley—especially as a minor—can lead to their death. This is what happened to Jahoselin Nohemí Alvarez Quillay, an indigenous female Ecuadorian minor who attempted to travel illegally to the US by order of her migrant parents, and on her second try, being victim of multiple violations of human rights, lost her life. The minor left the country with a false document to aid in her travels.

Furthermore, it is important to note that in the second attempt, J.N.A.Q. traveled without her consent and consequently in fear, stress, and mistrust. She had already experienced some of the difficulties of the journey the first time she tried to meet her parents three years prior. When found by Mexican border officials, they took her to a shelter where she was again a victim of verbal aggression that accompanied with a tense atmosphere, caused her to take her life. Like Jahoselin, there are many Ecuadorian minors who risk their lives or who are psychologically affected by the consequences of migration. As a result, authorities need to put more emphasis on understanding this issue. This generation of minors is the future; if, as in the case of El Tambo, they are children of migration, all sorts of problems in the development of a society can arise, making it essential to root out this problem as soon as possible.

In addition, at the international level, agencies must ensure equal treatment of people, regardless of their country of origin, color, race or language. This must be an honest priority in order to improve the lives of victims of human rights abuses.

The rights of Jahoselin Nohemí Álvarez Quillay were violated, mainly by her parents and grandparents, who risked her life to fulfill a dream that only brought death, and also by authorities, who because of their lack of interest did not realize that she had left the country alone for the second time. Likewise, she was a victim of aggression by the authorities of the shelter to which she was admitted.

After her death, both the Ecuadorian and Mexican governments worked together so that the case would not remain in impunity, and due to the involvement of the international community, the truth was revealed and the case resolved.

From the international migratory perspective, a great difference that exists between the immigration policies concerning minors in both Ecuador and Mexico. The Mexican immigration regime is restrictive for Ecuadorian citizens which results in the development of illegal transit networks that agree to minors in exchange for high sums of money resulting in unscrupulously violating fundamental human rights.

Recommendations or Proposals

Based on the case analyzed, the following recommendations are given in order to impact the migratory apparatus of the country in order to combat the illegal migration of minors.

The first recommendation is a reform of the Criminal Code which would punish all those involved in the transfer of an unaccompanied migrant child, including their immediate family members and those who facilitate their travel.

The second recommendation is that the government should implement national administrative policies to promote agro industrial programs and livestock development. Emphasis should be placed in vulnerable areas such as El Tambo in the province of Cañar, in order to give an incentive for the return of migrants and therefore family reunification, consequent economic improvement and family recovery.

Finally, the third recommendation is that Ecuadorian authorities place greater emphasis on dialogues with Mexican authorities for the negotiation of the free entry of Ecuadorian

citizen. The free and legal travel of Ecuadorians would unravel illegal traffic and transit networks.

In the particular case of Jahoselin Nohemí Álvarez Quillay, there are no recommendations because authorities and investigators fulfilled their duty, which was a correct investigation of the case and a solution. However, this case should serve as a reminder for the devastation caused by the illegal migration of minors and be the main base for national and international authorities to take real measures to reduce cases like this one from occurring in the future.

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