

DOI: <https://doi.org/10.63332/joph.v5i6.2599>

The Parental Authority of the Minor and the Influence of Constitutional Guarantees in Ecuador: A Legal and Sociocultural Approach

Ab. María José Alcívar Quijano, Mg. Dc pc¹, Karina Alejandra Haro Tufiño², Hector Eduardo Rangel Urdanigo³

Abstract

In Ecuador, parental authority has evolved to align with international standards on children's rights, emphasizing the shift from a parental right to a responsibility focused on the child's best interest, as established by the Convention on the Rights of the Child. The primary objective of this study was to analyze the legal framework of parental authority in Ecuador and its influence on constitutional guarantees related to children's rights, using a qualitative methodology centered on document analysis. The research aimed to explore the dynamics between parental authority and constitutional guarantees, integrating legal and sociocultural perspectives through the review of relevant legislation, jurisprudence, and academic literature. The findings highlight a complex interaction between parental authority and constitutional guarantees in Ecuador, revealing a progressive orientation of parental authority towards the welfare and best interest of the child. This aligns with constitutional principles and international commitments undertaken by Ecuador. However, significant challenges were identified in implementing these principles within the Ecuadorian sociocultural context, underscoring the need for legislative and practical adjustments to effectively protect children's rights. The study concludes that the continuous adaptation of the legal framework and public policies, along with proper training for legal operators, is crucial to ensure the effective protection of children's rights and a proper balance between parental authority and constitutional guarantees in Ecuador.

Keywords: Parental Authority, Constitutional Guarantees, Children's Rights, Ecuadorian Legislation, Child Protection, Human Rights.

Introduction

Parental authority, defined as the compendium of rights and obligations that parents exercise over their unemancipated minor children, constitutes a backbone within Family Law. This principle, the subject of detailed debates and detailed legislation in Ecuador, is significantly linked to the constitutional guarantees focused on the protection of the rights of minors. The Constitution of the Republic of Ecuador (Steverson, 2002) (2008), established with the purpose of ensuring the interests and essential rights of children and adolescents, establishes a regulatory framework that has a direct influence on the implementation and management of parental authority. Despite the importance of this topic, there is a relevant gap in the field of legal and

¹ Docente de la Pontificia Universidad Católica del Ecuador-Manabí, Email: mjalcivarq@pucesm.edu.ec, ORCID: <https://orcid.org/0000-0002-7974-017X>.

² Docente de la Pontificia Universidad Católica del Ecuador-Manabí, Email: kaharot@pucesm.edu.ec, ORCID: <https://orcid.org/0009-0004-6670-5684>

³ Docente de la Pontificia Universidad Católica del Ecuador-Manabí, Email: herangel@pucesm.edu.ec, ORCID: <https://orcid.org/0009-0004-9354-1726>.



sociocultural research that comprehensively addresses the impact of constitutional guarantees on parental authority in the Ecuadorian scenario.

The family is defined according to the Universal Declaration of Human Rights as a fundamental and merely natural element within society, which has the total protection of the State (United Nations, 1948).

It is important in the first instance to refer to the family to develop issues of childhood and adolescence; either in social or legal research, since it is here that different legal figures are born, all of them in favor of protecting the rights of children and adolescents. The right to the family is one of the fundamental human rights. The family is considered the natural, universal and fundamental element of society, where the individual establishes his first social and cultural contacts: the first learning (walking, talking, relating to others) begins at home (Torres Caicedo, 2024).

In this context, there is an unavoidable need to analyze how Ecuador's constitutional guarantees influence the conceptualization and execution of parental authority, considering the legal particularities and sociocultural factors that characterize the country. Despite legislative progress and reforms aimed at protecting children's rights, gaps persist in the understanding and effective application of such regulations, particularly in relation to parental authority (Harper et al., 2010). This reality raises questions about the efficiency of the legislation in force and its ability to guarantee the well-being and rights of children in the family environment.

Ecuadorian legislation, in its effort to safeguard the rights of minors, has incorporated measures that seek to balance parental authority with the fundamental needs and rights of children and adolescents (Basantes & Moya, 2021). However, the adequacy of these laws to the current context and their coherence with constitutional principles require continuous scrutiny to ensure their effectiveness (Vera Viteri, 2020).

The need to address the deficiencies present both in the specialized literature and in legal and social praxis regarding parental authority and constitutional guarantees in Ecuador is clearly manifested (León & Suárez, 2022). An exhaustive analysis of parental authority, examined through the prism of constitutional guarantees, promises to unravel the intrinsic strengths and weaknesses of the Ecuadorian legal system, particularly with regard to the protection of the rights of minors.

The relevance of this study lies in its potential to enrich academic dialogue, encouraging critical reflection on how children's rights, parental responsibilities and constitutional guarantees are interrelated. It is hoped that this work will serve as a foundation for future research and for the development of strategies aimed at ensuring comprehensive protection of minors in Ecuador, in alignment with the principles and values enshrined in the Constitution. This approach resonates with the comments of Fidler and Bala (2010) who underline the importance of periodically reviewing and updating family legislation in order to ensure an effective safeguard of the rights of minors in the context of parental authority.

In addition, research on the interaction between parental authority and constitutional guarantees not only illuminates areas of opportunity to improve existing regulations and practices, but also highlights the need for continuing education and training for legal professionals. This includes judges, lawyers, and social workers, who play a crucial role in the application of these regulations and in the protection of children's rights (Emerson, 2017; Pecora et al., 2018).

Therefore, this research focuses on the following question: How do constitutional guarantees affect the application of parental authority in Ecuador from legal and sociocultural perspectives? To answer this question, the study aims to contextualize the legal framework of parental authority in Ecuador and its influence on constitutional guarantees related to the rights of minors.

Methodology

The methodology used in this study is based on a qualitative approach, enriched by descriptive and explanatory dimensions, and focuses essentially on documentary analysis. The selection of this methodology is intended to obtain an exhaustive understanding of how constitutional guarantees affect parental authority within the Ecuadorian context, covering both legal and sociocultural aspects.

The qualitative approach emerges as the backbone of this research, revealing the complexities inherent in constitutional regulations, their interpretation and their implementation in relation to parental authority. This approach facilitates the examination of perceptions, opinions and experiences of a variety of actors, including lawyers, academics, legal professionals and families, which provides an integrative perspective of the investigated topic.

From a descriptive perspective, the study is dedicated to cataloguing and specifying the current regulations, policies and practices related to parental authority and constitutional guarantees in Ecuador. Concurrently, in its explanatory aspect, it strives to elucidate the causes and consequences derived from the interaction between parental authority and constitutional guarantees, establishing essential patterns and connections.

Documentary analysis stands as the central axis of the methodology implemented, involving a detailed and careful review of a vast spectrum of relevant documents. This review covers:

- Current national legislation and legislative reforms that impact on parental authority and the rights of minors.
- Ecuador's significant jurisprudence, as well as international court decisions that have influenced local legal practice.
- Official documents and reports from international and national organizations concerning the rights of minors and practices relating to parental authority.
- Academic works, including previous research, articles from specialized journals and books that address the subject from legal and sociocultural approaches.

Subsequently, the inclusion and exclusion criteria for the selection of documents are established. The inclusion criteria include documents published in the last 20 years to ensure the timeliness of the information, studies and legislation specifically focused on parental authority and constitutional guarantees in Ecuador, and documentation in Spanish due to the jurisdiction of the study. The exclusion criteria indicate documents that do not directly address the relationship between parental authority and constitutional guarantees, research and legislation that, although relevant to the rights of minors, do not directly impact the issue of parental authority in Ecuador, and documents in languages other than Spanish without official or reliable translations.

This proposed methodology guarantees a rigorous and systematic analysis of the documentary sources chosen, enabling a deep and nuanced understanding of the influence of constitutional guarantees on the application and practice of parental authority in Ecuador. This methodological

approach not only allows identifying gaps in existing knowledge and areas for future research, but also contributes significantly to the field of Family Law and the protection of the rights of minors in Ecuador.

Theoretical Foundation

The study is structured around two central axes: parental authority and constitutional guarantees, specifically in the Ecuadorian context. This section aims to provide a solid conceptual and theoretical basis to guide research, based on a comprehensive review of academic literature, relevant legislation, and relevant jurisprudence.

Parental authority: Conceptualization and Evolution

The conceptualization and historical trajectory of parental authority stand as crucial pillars for understanding the complexities of family and legal relationships in contemporary society (Stearns, 1987). Initially, parental authority was understood as the accumulation of rights and obligations that parents exercised over their unemancipated minor children, with a primary focus on their protection, education, and comprehensive development (Aguilar Osornio, 2019; Suárez Fernández, 2023).

With the advent of modern law, the interpretation of parental authority has undergone a paradigmatic shift, going from being seen as a manifestation of parental power to being conceived as a parental function focused on promoting the well-being and prioritizing the best interests of the child. This conceptual shift not only signals an evolution in the perception of children's rights, but also highlights the impact of human rights advances and the growing appreciation of the principles of equality and non-discrimination (Collins, 2017; Devine & McGillicuddy, 2016).

This shift reflects a global trend towards the recognition of children as full subjects of rights, a movement that has been endorsed by the 1989 Convention on the Rights of the Child, which reconfigures the notion of parental authority by framing it within the context of parental rights and duties aimed at meeting the basic needs and fundamental rights of minors (Invernizzi, 2016). The adaptation of legislation and public policies to these principles has required a detailed examination and constant re-evaluation to ensure that the application of parental authority in the different legal systems complies with international standards for the protection of children's rights.

The CRC determines that States have the obligation to promote support for families to fulfill their child-rearing responsibilities, to ensure the protection of their rights. To prevent violations of children's rights, States must improve family and community environments in order to effectively protect rights (Inter-American Commission on Human Rights, 2013).

Article 24 of the International Covenant on Civil and Political Rights (2004), as an international human rights treaty that establishes the civil and political rights of all persons, recognizes the rights of minors with interference over parents and guardians.

Article 24.- The States Parties to the present Covenant recognize the right of the child to enjoy such protective measures as may be necessary to ensure his or her well-being, taking into account the responsibility of parents, guardians or other persons exercising parental authority and, where appropriate, through them, of the rights and duties with respect to children (Commission on Human Rights, 2004, art. 24).

In Ecuador, the integration of these international principles into national legislation has generated a legal framework that seeks to balance the rights and responsibilities of parents with the protection of the fundamental rights of children and adolescents. The 2008 Constitution and the Organic Code for Children and Adolescents are clear examples of how Ecuadorian law has incorporated the contemporary vision of parental authority, in line with the global trend of strengthening the well-being and rights of minors (Code of Childhood and Adolescence, 2003; Constitution of the Republic of Ecuador, 2008).

The Constitution of the Republic does not directly address parental authority, referring to the rights of children and adolescents, but Article 69 promotes responsible maternity and paternity and the obligation of care (Montaleza, 2023).

In accordance with the above, Ecuador's legal regulations have undergone a significant process of evolution, incorporating into its legal corpus the principles of parental co-responsibility and the best interests of the child, in line with the international standards established by the 1989 Convention on the Rights of the Child. This normative integration has been manifested in jurisprudence and in the development of public policies, generating a legal framework aimed at promoting the harmonious and comprehensive development of minors, an initiative that has received academic and professional recognition for its contribution to child welfare (Constitution of the Republic of Ecuador, 2008).

According to the Plenary Session of the Council of the Judiciary (2021), the best interests of the child are framed in the doctrine of comprehensive protection, since its orientation focuses on the effective exercise of the set of rights of children and adolescents, to be considered in any decision of administrative and judicial authority. In accordance with the parameters of the United Nations Committee cited by the Plenary of the Council of the Judiciary (2021), the best interests of children and adolescents have a triple dimension since it constitutes a right (substantive), a principle (interpretative) and a rule of procedure (evaluation and determination of the best interests of the child), that is, The best interests protect the integral development of children and adolescents based on the doctrine of comprehensive protection.

Along the same lines, Uriondo (2021) assures that this principle regulates in particular the rights of children and adolescents based on the dignity of the human being. The doctrine of comprehensive protection constitutes the basis on which the rights of children and adolescents arise, it constitutes the parameter that avoids discretion on the part of the authorities in the adoption of decisions that refer to the rights of this social group, therefore, they constitute full subjects and holders of human rights, in general, and due to their age range of specific rights, in particular.

However, the implementation of these principles in the Ecuadorian scenario faces notable challenges, derived from the need to adjust the regulations to the diversity of family, cultural and socioeconomic contexts that characterize the country. Parental authority, under this new paradigm, requires an interpretation and application that respects and considers the plurality of family structures and cultural practices, without undermining the rights and well-being of minors. This challenge underscores the importance of a critical and constant review of current legislation and jurisprudence, with the aim of identifying those areas where there are legal or interpretative gaps that could compromise the effective protection of children's rights (Arts, 2014).

The task of harmonizing legislation with the socio-cultural reality of Ecuador implies a continuous effort on the part of legislators, jurists and civil society, to ensure that parental authority is exercised in a way that respects the principles of co-responsibility and the best interests of the child. This process of harmonization requires not only the adaptation of existing laws but also the creation of public policies and social intervention programs that respond effectively to the specific needs of minors in different family and sociocultural contexts.

In addition, the training and training of justice operators in these principles is essential to ensure a consistent interpretation and application of the regulations, which prioritize the well-being of minors in all decisions relating to parental authority. This integrative and respectful approach to cultural and family diversity promotes a system of protection of children's rights that is more effective and in line with the Ecuadorian reality.

Constitutional Guarantees and the Rights of Minors

The constitutional guarantees in Ecuador that protect the rights of minors play an essential role in the country's legal framework, establishing a comprehensive protection system that significantly influences the application of parental authority. The constitutional framework, in line with international obligations acquired through the ratification of human rights treaties, introduces a series of principles and norms aimed at ensuring the well-being and integral development of children and adolescents.

In this context, the principle of the best interests of the child is positioned as the central axis of all decisions and policies that concern them, prioritizing their rights and needs in all actions of both the State and private entities (Constitution of the Republic of Ecuador, 2008). This principle is complemented by measures that promote equality and combat discrimination, which are crucial elements for the effective protection of minors against any kind of exclusion or ill-treatment.

In addition, the Convention on the Rights of the Child, ratified by Ecuador, strengthens the Ecuadorian constitutional framework, underlining the importance of adopting all appropriate measures to ensure that the rights of minors are respected without discrimination of any kind (United Nations, 2011). This international commitment reflects Ecuador's dedication to meeting global child protection standards, integrating these principles into its national legislation and judicial practices.

The implementation of these constitutional guarantees and international commitments presents complex challenges, especially with regard to their practical application in the context of parental authority. It requires a coordinated effort among various State and civil society institutions to translate these principles into concrete actions that effectively promote and protect the rights of minors. Continuous education and training of legal and judicial professionals, as well as raising awareness of the rights of minors, are fundamental steps towards the consolidation of a protection system that is both comprehensive and effective.

Ecuador's ratification of the Convention on the Rights of the Child in 1989 has been a fundamental milestone in the evolution of the protection of children's rights at the national level (Cardona Llorens, 2012; Curihuinca Neira, 2020). This international treaty, considered one of the pillars in the definition of specific human rights for minors, has exerted a notable influence on Ecuadorian legislation. It has led to the implementation of legislative reforms and the development of public policies aimed at strengthening constitutional guarantees for children and

adolescents, setting a precedent in the country's commitment to international standards for the protection of minors (Bartlett et al., 2016; Tobin, 2005).

In the area of comprehensive protection of the rights of minors, Ecuador has demonstrated significant progress in key sectors such as education, health, identity and the right to live in an environment free of violence. These areas of action reflect the State's commitment to safeguarding the fundamental rights of minors, establishing a legal framework that delimits the responsibilities of parents or guardians. This framework is aimed at ensuring that parental decisions are aligned with the principles of the best interests of the child and comprehensive protection, thus establishing a balance between parental authority and the rights of the child (Finan et al., 2018).

In addition, the Constitution of Ecuador moves towards promoting the active participation of minors in family and social matters that concern them, guaranteeing their right to be heard and to have their opinions taken into account. This provision underlines a progressive approach towards considering the progressive autonomy of minors, reconfiguring the practice of parental authority towards a more inclusive and participatory model. This orientation reflects an evolution in the perception of children as active subjects of rights, capable of contributing significantly to the decisions that affect their lives (Kilkelly, 2017).

This legal and regulatory framework demonstrates Ecuador's intention to consolidate a system for the protection of children's rights that is consistent with international obligations and that adequately responds to the needs and realities of children and adolescents. However, the persistent challenge lies in the effective implementation of these provisions, ensuring that the principles of comprehensive protection and active participation of minors are translated into everyday practices in both the judicial and social spheres. This comprehensive approach is essential to foster an environment conducive to the full development of minors in Ecuador, in accordance with the fundamental principles and values recognized both nationally and internationally.

Interaction Between Parental Authority and Constitutional Guarantees

The intersection between parental authority and constitutional guarantees is a fundamental and complex aspect of family law in Ecuador. Constitutional legislation has a direct impact on the concept of parental authority, establishing a legal framework in which the rights and responsibilities of parents must be reconciled with the fundamental rights of minors. This interaction requires a meticulous balance that seeks simultaneously to safeguard the well-being and full development of children and adolescents, without undermining parental authority and responsibilities.

The Constitution of the Republic of Ecuador is a pioneer in integrating the principle of the best interests of the child as the guiding principle in the interpretation and application of all regulations affecting minors (Constitution of the Republic of Ecuador, 2008). This approach has created a legal environment that requires that any decision concerning parental authority go through a rigorous analysis to confirm that the rights of minors remain protected and prioritized.

In the field of jurisprudence, the role of the Ecuadorian courts has been decisive in clarifying and delineating this relationship. Through various judgments, situations of conflict between parental authority and the rights of minors have been addressed, setting fundamental precedents. A prominent case in this area is that of custody disputes, in which courts have emphasized the best interests of the child over the preferences or rights attributed to the parents. This judicial

practice is aligned with the principles established in both the Ecuadorian Constitution and the Convention on the Rights of the Child, ratifying the country's commitment to international child protection standards (Gallardo Chacha, 2022).

This legal approach underscores the responsibility of the legal system to ensure that the application of parental authority not only complies with national regulations, but also respects Ecuador's international commitments. The interpretation and application of these principles require constant updating to adapt to the new family and social realities, ensuring that the protection of the rights of minors remains an absolute priority. In this regard, Ecuadorian jurisprudence continues to evolve, always seeking the optimal balance between the protection of the rights of minors and the recognition of parental authority, in line with the fundamental principles and values of Ecuadorian society.

Likewise, Ecuadorian jurisprudence has proactively addressed situations in which the decisions taken by parents, protected by parental authority, are confronted with the fundamental rights of minors, such as the right to health, education or the free development of personality. In these contexts, the courts have stressed the importance of interpreting parental authority in a way that aligns with the constitutional guarantees aimed at the comprehensive protection of minors. This judicial interpretation insists that parental decisions must always favor the best interests of the child, promoting an environment that contributes positively to their development and well-being (Villarreal Auria & Lino Quirumbay, 2022).

This approach reflects a fundamental principle in the Ecuadorian legal framework: the conception of parental authority not as an unconditional right of the parents, but as a social responsibility that is subject to restrictions, which derive from the rights of the minors. In this way, constitutional guarantees are established as fundamental pillars in the interpretation and application of parental authority, guaranteeing a fair balance between parental authority and the essential rights of children and adolescents.

The dynamic between parental authority and constitutional guarantees, evidenced in the country's jurisprudence, highlights the need for permanent monitoring and analysis of these interactions. This ongoing scrutiny makes it easier not only to understand how constitutional principles apply in disputes concerning parental authority, but also to identify areas where conflicts may arise and explore opportunities for the creation of a more robust legal framework. A framework that, ultimately, promotes the well-being and comprehensive protection of minors within the family.

By advocating an interpretation of parental authority that is in line with the constitutional principles of child protection, case law promotes a progressive shift towards a broader understanding of parental responsibilities. This change emphasizes the importance of considering the rights and needs of children in all decisions that affect them, thus fostering a family environment that supports their optimal development. The evolution of this legal interpretation is crucial to ensure that Ecuador continues to make progress in the protection of children's rights, in line with national and international values and commitments (Bocagni, 2013).

Contemporary Challenges in the Application of Parental Authority

The application of parental authority in the Ecuadorian context faces significant contemporary challenges, derived from new family configurations, technological advances and sociocultural

changes. These factors raise complex questions about how existing regulations can be adapted to address these new realities, ensuring the protection of children's rights.

New family configurations, including single-parent families, blended families, and those with same-sex parents, challenge traditional conceptions of parental authority. These realities demand flexibility and openness on the part of the legal system to recognize and protect the diversity of family structures, ensuring that the rights of minors are maintained as the main consideration (Ravetllat Ballesté & Pinochet Olave, 2015). However, existing legislation often does not fully reflect this diversity, which can result in gaps in the protection of children's rights in these new family settings.

Technological advances, especially in the area of social media and digital communication, present additional challenges for parental authority. Minors are increasingly accessing a wide range of online content, some of which may be inappropriate or harmful. This raises questions about how parents can effectively exercise their parental authority in the digital environment, protecting minors from the risks associated with the use of technology, without infringing on their right to privacy and free development (Livingstone et al., 2017; López Muñoz, 2022).

In addition, socio-cultural changes, such as increased awareness of children's rights and an emphasis on their autonomy and participation in decisions that affect them, require a re-evaluation of traditional practices of parental authority. These changes reinforce the need for an approach that adequately balances parental authority with respect for the rights and voice of children (Sanders, 2008).

This analysis reveals gaps in legislation and jurisprudence that need attention to ensure that parental authority is exercised in a way that comprehensively protects the rights of minors. Opportunities are identified to strengthen the legal framework and judicial practices, such as the enactment of laws that recognize and adapt to diverse family configurations, the development of guidelines for parental supervision in the use of technologies by children, and the promotion of mechanisms that encourage children's participation in family decisions in ways that are appropriate to their age and maturity.

Legal Framework and Public Policies

The legal framework and public policies are crucial elements in shaping the child protection system in Ecuador, especially with regard to parental authority. This analysis focuses on the evaluation of the coherence between the laws in force, the policies implemented, and the constitutional guarantees, with the aim of determining their effectiveness in the promotion and protection of the rights of minors.

By ratifying the Convention on the Rights of the Child and other international human rights treaties, Ecuador has committed itself to ensuring the comprehensive protection of the rights of minors. This commitment is reflected in the Constitution of the Republic of Ecuador (2008), which establishes an advanced regulatory framework in terms of rights and guarantees for children and adolescents, including the principle of the best interests of the child as a guiding principle (Constitution of the Republic of Ecuador, 2008).

At the legislative level, the Organic Code for Children and Adolescents (CONA) is the main legislation governing parental authority, outlining the rights and duties of parents, as well as special protection measures for minors at risk. However, the effective implementation of these legal provisions faces challenges, such as lack of resources, limited training of justice operators,

and cultural barriers, which can undermine the effective protection of children's rights (Sepulveda Carmona, 2014).

With regard to public policies, the Ecuadorian State has developed various strategies and programmes aimed at the protection of minors. These policies seek not only to prevent situations of vulnerability, but also to promote the integral development of children and adolescents, through education, health, recreation and participation. Despite these efforts, coordination among different government entities and the allocation of sufficient resources remain critical aspects that require improvement to ensure the effectiveness of these policies (Repetto, 2010).

Coherence between laws, public policies and constitutional guarantees is essential to create an enabling environment that ensures the protection and promotion of the rights of minors in Ecuador. The assessment of this coherence reveals that, although the legal framework establishes a solid foundation for the protection of minors, there are areas of opportunity to improve the implementation of laws and public policies. These improvements could include strengthening oversight and accountability mechanisms, improving the training of justice operators and professionals working with children, and increasing investment in programmes to protect and promote children's rights.

Conclusion

A detailed exploration of the interaction between parental authority and constitutional guarantees in the Ecuadorian context has revealed the complexity and depth of this issue within the field of family law. This study has provided a comprehensive view of the evolution and conceptualization of parental authority, evidencing a paradigmatic shift towards a parental function focused on the well-being and best interests of the child, marked by a global recognition of minors as subjects full of rights.

Ecuadorian legislation has demonstrated a firm commitment to the incorporation of international principles of child protection, reflected in the harmonization of its legal framework with the standards established by the Convention on the Rights of the Child. This legislative effort seeks to balance the rights and responsibilities of parents with the protection of the fundamental rights of children and adolescents. However, the implementation of these principles faces significant challenges, given the diversity of family and socioeconomic contexts present in the country, which underscores the importance of constantly adapting legal regulations and practices to ensure effective protection of minors in the exercise of parental authority.

Ecuadorian jurisprudence has played a crucial role in elucidating the relationship between parental authority and constitutional guarantees, advocating for an interpretation of parental authority that promotes the best interests of the child. This approach reflects the need to balance parental authority with the fundamental rights of minors, emphasizing the social responsibility of parental authority subject to limitations for the protection of minors.

Finally, it is essential to carry out a continuous and detailed analysis of the dynamics between parental authority and constitutional guarantees in order to understand their practical application and to identify areas for improvement in the legal framework. The task of harmonizing legislation with the principles of parental co-responsibility and the best interests of the child is not only a constant challenge but an imperative necessity to promote the integral well-being of minors in Ecuador.

References

- Aguilar Osornio, E. (2019). The complexity and legal implications of the loss of parental authority. [Master's Degree in Law, Universidad Autónoma de Querétaro]. <https://ri-ng.uaq.mx/handle/123456789/10252>
- Arts, K. (2014). Twenty-Five Years of the United Nations Convention on the Rights of the Child: Achievements and Challenges. *Netherlands International Law Review*, 61(03), 267–303. <https://doi.org/10.1017/S0165070X14001272>
- Bartlett, S., Hart, R., Satterthwaite, D., Barra, X. de la, & Missair, A. (2016). *Cities for Children*. Routledge. <https://doi.org/10.4324/9781315539447>
- Basantes, N. R., & Moya, W. B. (2021). The constitutional principle of the best interests of the child and the deprivation of liberty of mothers who have the care of their children. [Master's Degree in Constitutional Law. University of Otavalo.]. <https://repositorio.uotavalo.edu.ec/handle/52000/541>
- Boccagni, P. (2013). Migration and The Family Transformations It “Leaves Behind”: A Critical View From Ecuador. *The Latin Americanist*, 57(4), 3–24. <https://doi.org/10.1111/tla.12007>
- Cardona Llorens, J. (2012). The Convention on the Rights of the Child: meaning, scope and new challenges. *Educatio Siglo XXI*, 30(2), 47–68. <https://revistas.um.es/educatio/article/view/153681>
- Code of Childhood and Adolescence, Official Gazette 737 of 03-Jan-2003 (2003). <https://platform.who.int/docs/default-source/mca-documents/policy-documents/law/ECU-AD-28-01-LAW-2017-esp-CODIGO-DE-LA-NINEZ-Y-ADOLESCENCIA.pdf>
- Collins, T. M. (2017). A child’s right to participate: Implications for international child protection. *The International Journal of Human Rights*, 21(1), 14–46. <https://doi.org/10.1080/13642987.2016.1248122>
- Commission on Human Rights (2004). *International Covenant on Civil and Political Rights*.
- Inter-American Commission on Human Rights (2013). *Resolution of the Inter-American Court of Human Rights of May 22, 2013*.
- Constitution of the Republic of Ecuador (Last Reform 25-01-2021), Official Gazette 377, 25-01-2021 (2008). <https://biblioteca.defensoria.gob.ec/handle/37000/3390>
- Constitution of the Republic of Ecuador, Official Gazette 449 (2008). https://corporativo.cnt.gob.ec/wp-content/uploads/2015/05/Constitucion_Republica_del_Ecuador_2008_RO.pdf
- Curihuinca Neira, E. (2020). Convention on the Rights of the Child and its application from the Az Mapu. *Revista de Derecho (Coquimbo)*, 27, e4569. <https://doi.org/10.22199/issn.0718-9753-2020-0020>
- Devine, D., & McGillicuddy, D. (2016). Positioning pedagogy—a matter of children’s rights. *Oxford Review of Education*, 42(4), 424–443. <https://doi.org/10.1080/03054985.2016.1197111>
- Emerson, R. M. (2017). *Judging Delinquents*. Routledge. <https://doi.org/10.4324/9780203787854>
- Fidler, B. J., & Bala, N. (2010). Children resisting postseparation contact with a parent: Concepts, controversies, and conundrums. *Family Court Review*, 48(1), 10–47. <https://doi.org/10.1111/j.1744-1617.2009.01287.x>
- Finan, S., Bromfield, L., Arney, F., & Moore, T. P. (2018). Assessing the quality and comprehensiveness of child protection practice frameworks. Australian Centre for Child Protection. <https://apo.org.au/node/180856>
- Gallardo Chacha, G. P. (2022). Shared custody: a new system to protect the rights of children and adolescents in Ecuadorian legislation. [Complex Exam prior to obtaining the Title of Lawyer of the Courts of the Republic, Universidad Regional Autónoma de los Andes "UNIANDES"]. <https://dspace.uniandes.edu.ec/bitstream/123456789/17342/1/PEXCUPAB%200019-2022.pdf>
- Harper, C., Jones, N., & Tincati, C. (2010). Opportunities and challenges in promoting policy- and practice-relevant knowledge on child rights .

- Invernizzi, A. (2016). *The Human Rights of Children* (J. Williams, Ed.). Routledge.
<https://doi.org/10.4324/9781315557007>
- Kilkelly, U. (2017). *Children's Rights* (U. Kilkelly & L. Lundy, Eds.). Routledge.
<https://doi.org/10.4324/9781315095769>
- León Gonzalez, I. T., & Suárez Cruz, J. J. (2022). Increase in custodial sentences as a mechanism to contain the crime of rape of children and adolescents, contemplated in art. 171 of the COIP, province of Santa Elena year 2021. <https://repositorio.upse.edu.ec/handle/46000/8602>
- Livingstone, S., Ólafsson, K., Helsper, E. J., Lupiáñez-Villanueva, F., Veltri, G. A., & Folkvord, F. (2017). Maximizing Opportunities and Minimizing Risks for Children Online: The Role of Digital Skills in Emerging Strategies of Parental Mediation. *Journal of Communication*, 67(1), 82–105.
<https://doi.org/10.1111/jcom.12277>
- López Muñoz, I. (2022). Comprehensive protection of children in the face of the use of information and communication technologies in Mexico. *Latin American Journal of Human Rights*, 33(2), 145–164.
<https://doi.org/10.15359/rldh.33-2.7>
- Montaleza Neira, A. S. (2023). Analysis of Judgment 28-15-in-21 issued by the Constitutional Court of Ecuador, in relation to parental authority.
- United Nations. (2011). *Convention on the Rights of the Child* (United Nations).
https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.OPSC.USA.2_sp.pdf
- United Nations Organization (1948). *Universal Declaration of Human Rights*.
- Pecora, P. J., Whittaker, J. K., Barth, R. P., Borja, S., & Vesneski, W. (2018). *The Child Welfare Challenge*. Routledge. <https://doi.org/10.4324/9781351141161>
- Plenary Session of the Council of the Judiciary (2021) Resolution 012-2021.
<https://www.funcionjudicial.gob.ec/resources/pdf/resoluciones/2021/012-2021.pdf>
- Ravetllat Ballesté, I., & Pinochet Olave, R. (2015). The best interests of the child in the framework of the international convention on the rights of the child and its configuration in Chilean civil law. *Revista Chilena de Derecho*, 42(3), 903–934. <https://doi.org/10.4067/S0718-34372015000300007>
- Repetto, F. (2010). Social protection in Latin America: the search for a comprehensive approach with a rights-based approach. *CLAD Journal of Reform and Democracy*, 47, 89–139.
<https://www.redalyc.org/pdf/3575/357533679004.pdf>
- Sanders, M. R. (2008). Triple P-Positive Parenting Program as a public health approach to strengthening parenting. *Journal of Family Psychology*, 22(4), 506–517. <https://doi.org/10.1037/0893-3200.22.3.506>
- Sepulveda Carmona, M. (2014). De La Rettrica a La Prctica: El Enfoque De Derechos En La Protecciin Social En Ammrica Latina (From Rhetoric to Practice: Rights-Based Approach Social Protection in Latin America). *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2438720>
- Stearns, P. N. (1987). The Problem of Change in Emotions Research: New Standards for Anger in Twentieth-Century American Childrearing. *Symbolic Interaction*, 10(1), 85–99.
<https://doi.org/10.1525/si.1987.10.1.85>
- Steverson, J. W. (2002). *Child vs. State* (J. W. Steverson, Ed.). Routledge.
<https://doi.org/10.4324/9780203390290>
- Suárez Fernández, L. (2023). Parental authority extended in Cuba. Essential assessments for its standardisation. *Chilean Journal of Law and Political Science*, 6(3), 37–63.
<https://doi.org/10.7770/rchdcp-V6N3-art1002>
- Tobin, J. (2005). Increasingly Seen and Heard: The Constitutional Recognition of Children's Rights. *South African Journal on Human Rights*, 21(1), 86–126.
<https://doi.org/10.1080/19962126.2005.11865129>

- Torres Caicedo, J. N. (2024). Legal analysis of the suspension of parental authority, causes and effects (Bachelor's thesis, Universidad Estatal de Bolívar).
- Uriondo, A. (2021). International child abduction in times of COVID-19 pandemic. *Hispano-Luso-American Yearbook of International Law*, vol. 25. <https://ihladi.net/wp-content/uploads/2021/12/13.-Arti%CC%81culo-AmaliaUtiondo-Martinoli.pdf>
- Vera Viteri, L. V. (2020). Gender Approach, Gender Violence and Public Policies: An Approach from the Social Sciences to the Ecuadorian Legal Framework. *Journal of Humanistic and Social Sciences (ReHuSo)*, 1(5), 21–36. http://scielo.senescyt.gob.ec/scielo.php?script=sci_arttext&pid=S2550-65872020000100021
- Villarreal Auria, H. A., & Lino Quirumbay, M. E. (2022). Constitutional principle of the best interests of the child: custody in cases of divorce of the parents under the rules of article 106 of the Organic Code of Children and Adolescents, year 2020 [Curricular integration project prior to obtaining the title of Lawyer of the Courts and Tribunals of the Republic of Ecuador, Santa Elena Peninsula State University.]. <https://repositorio.upse.edu.ec/handle/46000/7648>